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**PUBLIC HEARING**

before

**ASSEMBLY COUNTY GOVERNMENT COMMITTEE**

on

**ASSEMBLY BILL 556**

(Permits counties to require developers to contribute to off-tract improvements)

**ASSEMBLY BILL 2260**

(Expands the powers of county planning boards; appropriates \$1,050,000)

**ASSEMBLY BILL 2504**

(Makes various changes in the county planning laws and amends the Municipal Land Use Law to reflect those changes)

May 22, 1986  
Room 334  
State House Annex  
Trenton, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

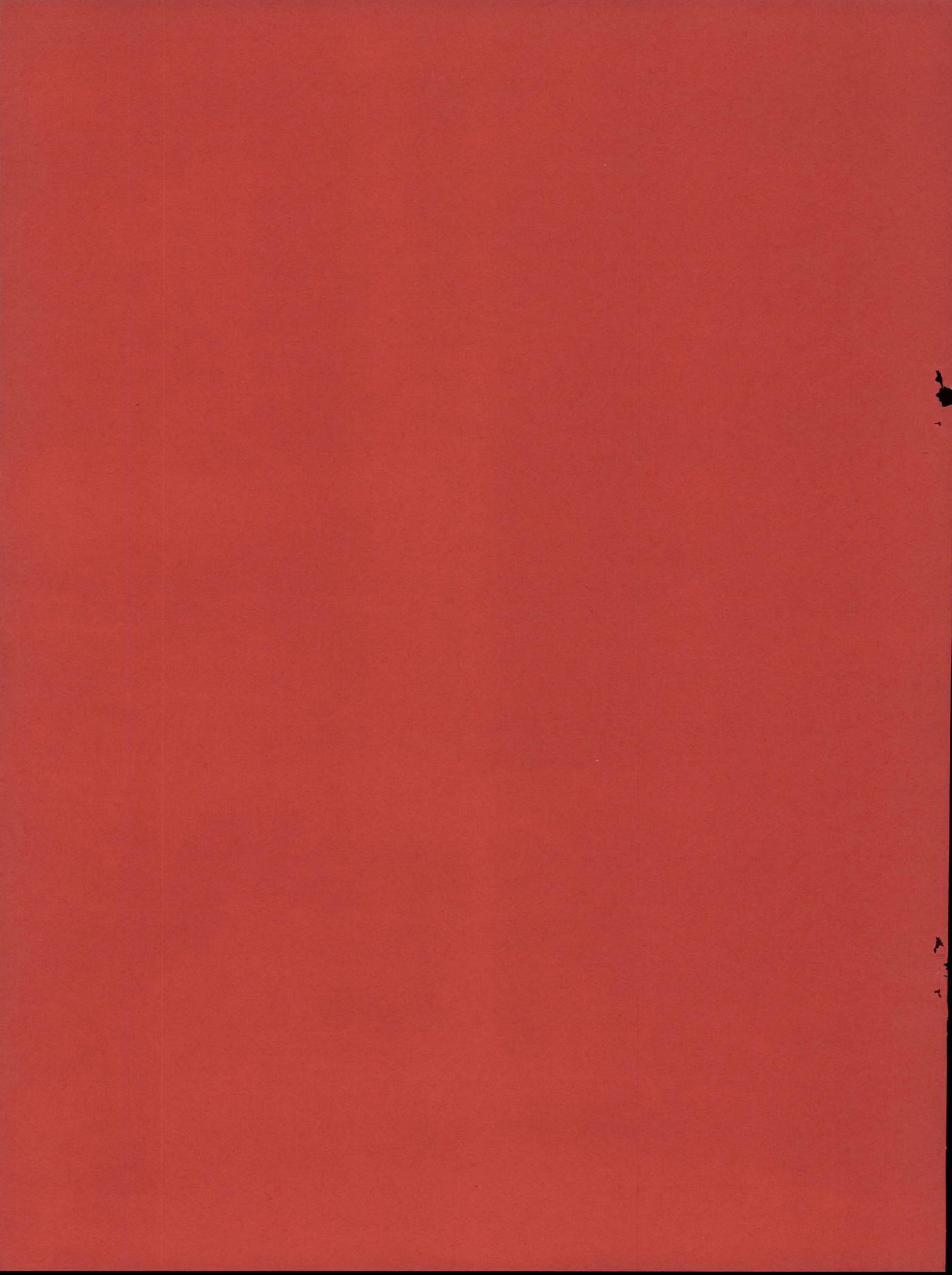
- Assemblyman John Penn, Chairman
- Assemblyman John T. Hendrickson, Vice Chairman
- Assemblyman J. Edward Kline
- Assemblyman Frank M. Pelly
- Assemblyman Harry A. McEnroe

**ALSO PRESENT:**

- David Sallach
- Aide, Assembly County Government Committee

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Hearing Recorded and Transcribed by  
Office of Legislative Services  
Public Information Office  
Hearing Unit  
State House Annex  
CN 068  
Trenton, New Jersey 08625





JACK PENN  
 Chairman  
 T. HENDRICKSON, JR.  
 e-Chairman  
 EDWARD KLINE  
 RRY A. McENROE  
 ANK M. PELLY

**New Jersey State Legislature**  
**ASSEMBLY COUNTY GOVERNMENT COMMITTEE**  
 STATE HOUSE ANNEX, CN-068  
 TRENTON, NEW JERSEY 08625  
 TELEPHONE: (609) 292-1596

M E M O R A N D U M

TO: MEMBERS OF THE ASSEMBLY COUNTY GOVERNMENT COMMITTEE  
 FROM: ASSEMBLYMAN JACK PENN, CHAIRMAN  
 DATE: MAY 16, 1986  
 SUBJECT: COMMITTEE MEETING - MAY 22, 1986

(Address comments and questions to David L. Sallach, Committee Aide)

The Assembly County Government Committee will meet on Thursday, May 22, 1986, at 9:30 a.m. in Room 368 of the State House Annex. Bills to be considered at this meeting will be as follows:

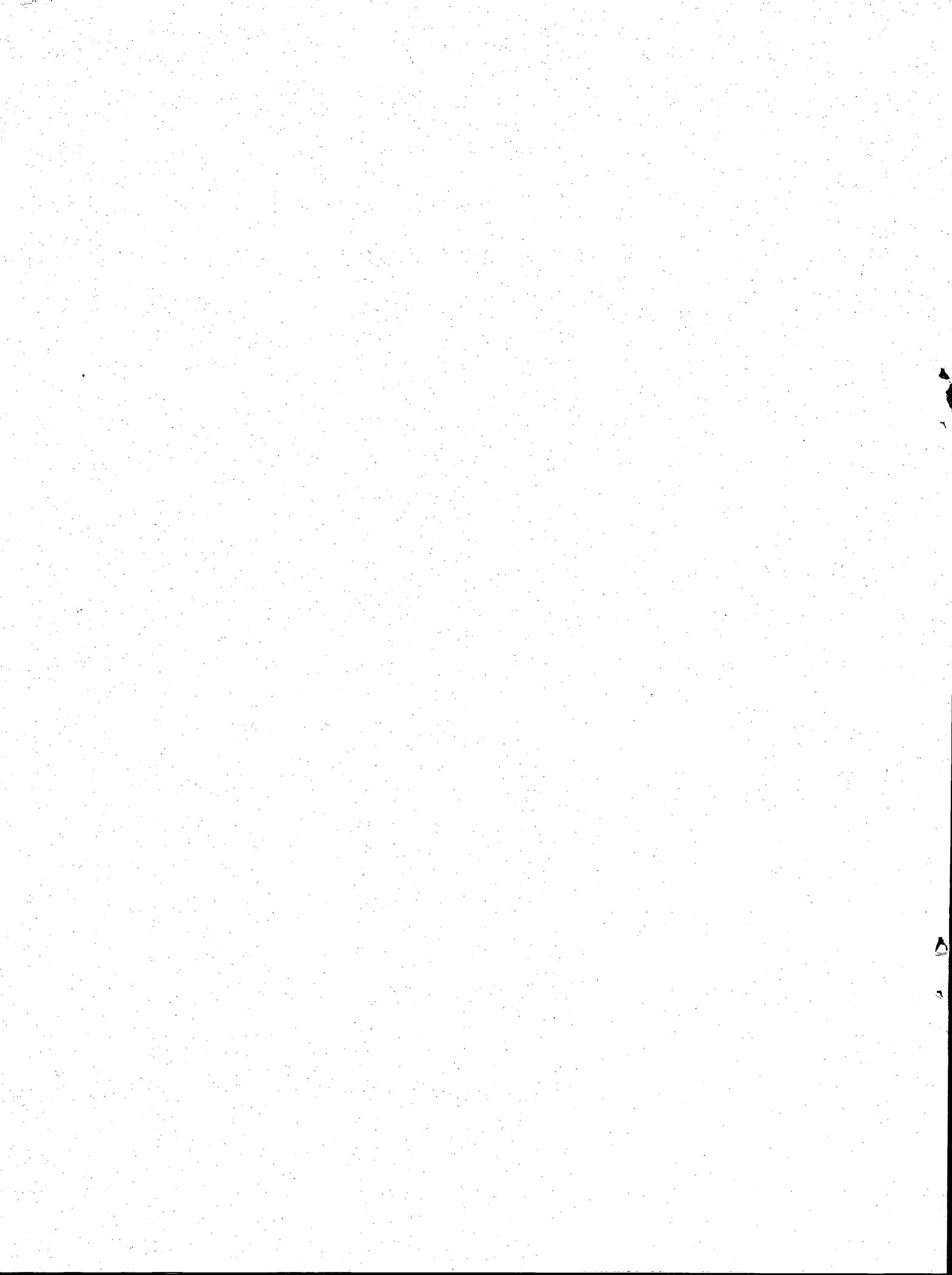
- A-1126 Ogden Amends "Local Public Contracts Law" to permit 20 year contracts for collection of methane gas from sanitary landfills.
- A-2564 Penn/Kavanaugh Provides for salary increases for members of county boards of taxation and county tax administrators.

The Committee will also discuss the following county planning bills at 10:00 a.m.:

- A-556 Penn Permits counties to require developers to contribute to off-tract improvements.
- A-2260 McEnroe Expands the powers of county planning boards; appropriates \$1,050,000.
- A-2504 Albohn Makes various changes in the county planning laws and amends the "Municipal Land Use Law," to reflect those changes.

Various municipal representatives have been invited to appear before the Committee and to participate in the discussion of county planning issues.

(Representatives of other interested parties will be invited to appear before the Committee at future meetings.)



# ASSEMBLY, No. 556

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman PENN

# ASSEMBLY, No. 3888

# STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1985

By Assemblymen PENN, KAVANAUGH, ZECKER, FELICE,  
ROONEY, KLINE, SHINN, MILLER, MARTIN and PATERO

AN ACT concerning contributions to counties for certain off-tract  
improvements and amending P. L. 1968, c. 285.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 4 of P. L. 1968, c. 285 (C. 40:27-6.2) is amended to  
2 read as follows:

3 4. The **[board of freeholders]** *governing body* of any county  
4 having a county planning board shall provide for the review of all  
5 subdivisions of land within the county by said county planning  
6 board and for the approval of those subdivisions affecting county  
7 road or drainage facilities as set forth and limited hereinafter in  
8 this section. Such review or approval shall be in accordance with  
9 procedures and engineering and planning standards adopted by  
10 resolution of the **[board of chosen freeholders]** *governing body*.  
11 These standards shall be limited to:

12 a. The requirement of adequate drainage facilities and ease-  
13 ments when, as determined by the county engineer in accordance  
14 with county-wide standards, the proposed subdivision will cause  
15 storm water to drain either directly or indirectly to a county road,  
16 or through any drainageway, structure, pipe, culvert, or facility  
17 for which the county is responsible for the construction, mainte-  
18 nance, or proper functioning;

19 b. The requirement of dedicating rights-of-way for any roads  
20 or drainageways shown on a duly adopted county master plan or  
21 official county map;

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

22 c. Where a proposed subdivision abuts or directly affects a  
23 county road, or where additional rights-of-way and physical im-  
24 provements are required by the county planning board, such im-  
25 provements shall be subject to recommendations of the county  
26 engineer relating to the safety and convenience of the traveling  
27 public and may include additional pavement widths, marginal  
28 access streets, reverse frontage and other county highway and  
29 traffic design features necessitated by an increase in traffic volumes,  
30 potential safety hazards or impediments to traffic flows caused by  
31 the subdivision;

32 d. The requirement of performance guarantees and procedures  
33 for the release of same, maintenance bonds for and more than two  
34 years duration from date of acceptance of improvements and agree-  
35 ments specifying minimum standards of construction for required  
36 improvements. The amount of any performance guarantee or  
37 maintenance bond shall be set by the planning board upon the  
38 advice of the county engineer and shall not exceed the full cost  
39 of the facility and installation costs or the developer's proportion-  
40 ate share thereof, computed on the basis of his acreage related  
41 to the acreage of the total drainage basin involved plus 10% for  
42 contingencies. In lieu of providing any required drainage ease-  
43 ment a cash contribution may be deposited with the county to  
44 cover the cost or the proportionate share thereof for securing  
45 said easement. In lieu of installing any such required facilities  
46 exterior to the proposed plat a cash contribution may be deposited  
47 with the county to cover the cost of proportionate share thereof  
48 for the future installation of such facilities. Any and all moneys  
49 received by the county to insure performance under the provisions  
50 of this act shall be paid to the county treasurer who shall provide  
51 a suitable depository therefor. Such funds shall be used only for  
52 county drainage or county road and related transportation projects  
53 or improvement for which they are deposited unless such projects  
54 are not initiated for a period of 10 years, at which time said funds  
55 shall be transferred to the general fund of the county, provided that  
56 no assessment of benefits for such facilities as a local improvement  
57 shall thereafter be levied against the owners of the lands upon  
58 which the developer's prior contributing had been based. Any  
59 moneys or guarantees received by the county under this paragraph  
60 shall not duplicate bonds or other guarantees required by municipi-  
61 palities for municipal purposes.

62 e. Provision may be made for waiving or adjusting requirements  
63 under the subdivision resolution to alleviate hardships which would  
64 result from strict compliance with the subdivision standards.

65 Where provision is made for waiving or adjusting requirements  
66 criteria shall be included in the standards adopted by the [board  
67 of chosen freeholders] governing body to guide actions of the  
68 county planning board.

69 *f. (1) The requirement of payment of a developer's pro rata*  
70 *share of the cost of providing only reasonable and necessary off-*  
71 *tract drainage road or other traffic design improvements, located*  
72 *outside the property limits of the development but necessitated or*  
73 *required by construction or improvements within the development.*  
74 *The regulations for the payment of this contribution shall be based*  
75 *on engineering and planning standards established in the site plan*  
76 *review resolution of the governing body.*

77 *(2) A developer may be assessed under this subsection with*  
78 *respect to a particular improvement without regard to the physical*  
79 *proximity of the improvement to the developer's development,*  
80 *provided that there are reasonable grounds to conclude that the*  
81 *development will contribute to the need for the improvement. The*  
82 *governing body of any county may provide, by resolution or*  
83 *ordinance, that each developer's pro rata share of the cost of the*  
84 *improvement shall be in proportion to the extent to which the*  
85 *development will contribute to the need for the improvement.*

86 Notice of the public hearing on a proposed resolution of the  
87 [board of chosen freeholders] governing body establishing proce-  
88 dures and engineering standards to govern land subdivision within  
89 the county, and a copy of such resolution, shall be given by delivery  
90 or by certified mail to the municipal clerk and secretary of the  
91 planning board of each municipality in the county at least 10 days  
92 prior to such hearing.

93 *Where a developer pays the amount determined as his pro rata*  
94 *share under protest, he shall institute legal action within one year*  
95 *of the payment in order to preserve the right to a judicial determi-*  
96 *nation as to the fairness and reasonableness of the amount.*

1 2. Section 8 of P. L. 1968, c. 285 (C. 40:27-6.6) is amended to  
2 read as follows:

3 8. The governing body of any county having a county planning  
4 board may provide for the review of site plans for land develop-  
5 ment along county roads or affecting county roads or county drain-  
6 age facilities as provided in subsection e. of this section and for the  
7 approval of such development as hereinafter set forth and limited  
8 for the purpose of assuring a safe and efficient county road system.  
9 Such review and approval shall be in conformance with procedures  
10 and standards adopted by resolution or ordinance as appropriate of  
11 the governing body. Notice of the public hearing on a proposed

12 resolution or ordinance of the governing body establishing proce-  
13 dures and standards to govern the review and regulation of land  
14 development along *or affecting* county roads or affecting county  
15 drainage, *or county road and related transportation* facilities as  
16 provided in subsection e. of this section, and a copy of such resolu-  
17 tion or ordinance, shall be given by delivery or by certified mail to  
18 the municipal clerk, secretary of the planning board and secretary  
19 of the board of adjustment of each municipality in the county at  
20 least 10 days prior to such hearing. These procedures and  
21 standards shall be limited to:

22 a. The submission of a site plan, prior to the issuance of a  
23 municipal building permit, drawn in accordance with standards in  
24 the resolution or ordinance for any proposed land development,  
25 excluding single family residential development but including  
26 proposed commercial, industrial, multi-family structures containing  
27 five or more units, or any other land development requiring off-  
28 street parking area or producing surface runoff in excess of stan-  
29 dards set forth in the site plan review and approval resolution or  
30 ordinance of the governing body.

31 b. The requirement of dedication of additional right-of-way in  
32 accordance with the county master plan adopted by the county  
33 planning board or an official county map adopted by the governing  
34 body. Where by reason of special or unusual conditions said total  
35 additional right-of-way is to be secured from just one side of an  
36 existing road, only one-half of the additional right-of-way may be  
37 required to be dedicated.

38 c. The requirement of physical improvements subject to recom-  
39 mendations of the county engineer relating to the safety and  
40 convenience of the traveling public, including drainage facilities,  
41 or other highway and traffic design features as may be deemed  
42 necessary on such county road or roads in accordance with the  
43 engineering and planning standards established in the site plan  
44 review and approval resolution or ordinance of the governing body.

45 d. The requirement of performance and payment guarantees and  
46 procedures for the release of same, maintenance bonds of not more  
47 than two years' duration from the date of acceptance of improve-  
48 ments, cash contributions, and agreements specifying minimum  
49 standards of construction for required improvements. Procedures  
50 for, and limitations on the requirement of such guarantees or cash  
51 contributions shall be governed by the provisions of this act.

52 e. (1) The requirement of adequate drainage facilities and ease-  
53 ments when, as determined by the county engineer in accordance  
54 with county-wide standards, the proposed site plan will cause storm

55 water to drain either directly or indirectly to a county road or  
56 through any drainage-way, structure, pipe, culvert or facility for  
57 which the county is responsible for the construction, maintenance  
58 or proper functioning.

59 *(2) The requirement of adequate road facilities and easements*  
60 *when, as determined by the county engineer in accordance with*  
61 *county-wide standards, the proposed site plan will generate traffic*  
62 *which will directly or indirectly impact upon county road and*  
63 *related transportation facilities.*

64 *f. The requirement of payment of a developer's pro rata share*  
65 *of the cost of providing only reasonable and necessary off-tract*  
66 *drainage, road or other traffic design improvements, located outside*  
67 *the property limits of the development but necessitated or required*  
68 *by construction or improvements within the development. The*  
69 *regulations for the payment of this contribution shall be based on*  
70 *engineering and planning standards established in the site plan*  
71 *review resolution of the governing body.*

72 Site plans for land development not along a county road that  
73 include less than one acre of impervious surfaces are exempt from  
74 county site plan review.

75 *Where a developer pays the amount determined as his pro rata*  
76 *share under protest, he shall institute legal action within one year*  
77 *of the payment in order to preserve the right to a judicial deter-*  
78 *mination as to the fairness and reasonableness of the amount.*

1 3. This act shall take effect immediately.

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#### STATEMENT

This bill permits counties to require developers to contribute to off-tract improvements. Section 30 of P. L. 1975, c. 291 (C. 40:55D-42) permits municipalities to require these contributions.

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# ASSEMBLY, No. 2260

## STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1986

By Assemblyman McENROE

AN ACT concerning county planning and amending R. S. 40:27-1, R. S. 40:27-2, R. S. 40:27-5, P. L. 1968, c. 285 and P. L. 1975, c. 291, supplementing chapter 27 of Title 40 of the Revised Statutes and making an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 40:27-1 is amended to read as follows:

2 40:27-1. The **[board of chosen freeholders may]** *governing body*  
3 *of each county shall create a county planning board of not less than*  
4 *five nor more than nine members. The members of such planning*  
5 *board shall be [the director of the board of chosen freeholders,*  
6 *one member of the board of chosen freeholders, to be]* appointed  
7 *by the [director.] governing body, shall include two members*  
8 *appointed by the governing body from among its number, and*  
9 *shall include the county engineer, if the board exceed six in num-*  
10 *ber, and other citizens who may not hold any other county office*  
11 *[and who shall be appointed by such director of the board of*  
12 *chosen freeholders with the approval of that body]. One of the*  
13 *[remaining] members shall be appointed for two years, two shall*  
14 *be appointed for three years, and all additional remaining members*  
15 *shall be appointed for four years, and thereafter their succes-*  
16 *sors shall be appointed for the term of three years from and*  
17 *after the expiration of the terms of their predecessors in office.*  
18 *All members of the county planning board shall serve as such*  
19 *without compensation, but may be paid expenses incurred in the*  
20 *performance of duties.*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

1 2. R. S. 40:27-2 is amended to read as follows:

2 40:27-2. The county planning board shall make **[and]**, adopt  
3 *and amend, as appropriate*, a master plan for the physical de-  
4 velopment of the county. The master plan of a county, with the  
5 accompanying maps, plats, charts, and descriptive and explana-  
6 tory matter, shall **[show the county planning board's recom-**  
7 **mendations for the development of the territory covered by the**  
8 **plan, and may]** include, among other things**[**, the general location,  
9 character, and extent of streets or roads, viaducts, bridges, water-  
10 way and waterfront developments, parkways, playgrounds, for-  
11 ests, reservations, parks, airports, and other public ways, grounds,  
12 places and spaces; the general location and extent of forests,  
13 agricultural areas, and open-development areas for purposes of  
14 conservation, food and water supply, sanitary and drainage facil-  
15 ities, or the protection of urban development, and such other fea-  
16 tures as may be important to the development of the county**]**:

17 *a. A statement of objectives, principles, assumptions, policies*  
18 *and standards upon which the constituent proposals for the phys-*  
19 *ical, economic and social development of the county are based;*

20 *b. A land use plan element: (1) taking into account the other*  
21 *master plan elements and natural conditions, including, but not*  
22 *necessarily limited to, topography, soil conditions, water supply,*  
23 *drainage, flood plain areas, wastewater management, wetlands,*  
24 *marshes, and woodlands; (2) showing the existing location, extent*  
25 *and intensity of development of land to be used in the future*  
26 *for varying types of residential, commercial, industrial, agricul-*  
27 *tural, recreational, and educational purposes; (3) showing the*  
28 *existing location of any airports and the boundaries of any air-*  
29 *port hazard areas delineated pursuant to the "Air Safety and*  
30 *Hazardous Zoning Act of 1983," P. L. 1983, c. 260 (C. 6:1-80*  
31 *et seq.); and (4) including a statement of the standards of popu-*  
32 *lation density and development intensity recommended for the*  
33 *county;*

34 *c. A housing plan element, including, but not limited to, an*  
35 *inventory of the condition and availability of housing for all*  
36 *income groups in the county;*

37 *d. A circulation plan element showing the location and types*  
38 *of facilities for all modes of transportation required for the*  
39 *efficient movement of people and goods into, about, and through*  
40 *the county;*

41 *e. A utility service plan element analyzing the need for and*  
42 *showing the future general location of water supply and distribu-*

43 tion facilities, drainage and flood control facilities, sewerage and  
44 waste treatment, solid waste disposal and provision for other  
45 related utilities;

46 f. A community facilities plan element showing the location and  
47 type of educational or cultural facilities, historic sites, libraries,  
48 hospitals, firehouses, police stations and other related facilities,  
49 including their relation to the surrounding areas;

50 g. An open space plan element showing the location of public  
51 recreational facilities and providing for the preservation, con-  
52 servation, and utilization of natural resources, including, to the  
53 extent appropriate, open space, water, forests, soil, marshes, wet-  
54 lands, harbors, rivers and other waters, fisheries, wildlife and  
55 other natural resources;

56 h. An energy conservation plan element which systematically  
57 analyzes the impact of each other component and element of the  
58 master plan on the present and future use of energy in the county,  
59 details specific measures contained in the other plan elements de-  
60 signed to reduce energy consumption, and proposes other measures  
61 that the county may take to reduce energy consumption and to  
62 provide for the maximum utilization of renewable energy sources;  
63 and

64 i. Appendices or separate reports contain the technical  
65 foundation for the master plan and its constituent elements.

66 The master plan and its plan elements may be divided into sub-  
67 plans and subplan elements projected according to periods of  
68 time or staging sequences and shall include a specific policy state-  
69 ment indicating the relationship of the proposed development of  
70 the county, as developed in the county master plan, to (1) the  
71 master plans of contiguous counties, (2) the master plans of  
72 municipalities located in the county, and (3) the State Develop-  
73 ment and Redevelopment Plan prepared pursuant to P. L. 1985,  
74 c. 398 (C. 52:18A-196 et al.).

75 The county planning board shall encourage the cooperation of  
76 the local municipalities within the county in any matters whatso-  
77 ever which may concern the integrity of the county master plan  
78 and to advise the [board of chosen freeholders] governing body  
79 with respect to the formulation of development programs and  
80 budgets for capital expenditures.

1 3. R. S. 40:27-4 is amended to read as follows:

2 40:27-4. a. Before adopting the master plan or any part thereof  
3 or any amendment thereof the county planning board shall hold  
4 at least one public hearing thereon, notice of the time and place

5 of which shall be given by one publication in a newspaper of  
6 general circulation in the county and by the transmission by de-  
7 livery or by certified mail, at least 20 days prior to such hearing,  
8 of a notice of such hearing and a copy of the proposed master  
9 plan, or part thereof or any proposed amendment thereof to the  
10 municipal clerk and secretary of the planning board of each mu-  
11 nicipality in the county. The adoption of the plan or part or  
12 amendment thereof shall be by resolution of the board carried  
13 by the affirmative vote of not less than  $\frac{2}{3}$  of the members of the  
14 board. The resolution shall refer especially to the maps and  
15 descriptive and other matter intended by the board to form the  
16 whole or part of the plan or amendment and the action taken  
17 shall be recorded on the map and plan and descriptive matter  
18 by the identifying signature of the secretary of the board. An  
19 attested copy of the master plan or any amendments thereof  
20 shall be certified to the [board of chosen freeholders,] *county*  
21 *governing body*, to the county park commission, if such exists, and  
22 to the legislative body of every municipality within the county.

23 b. In order to maximize the degree of coordination between  
24 municipal and county plans and official maps, the *clerk of each*  
25 *municipality in the county shall notify the county planning board*  
26 [shall be notified] in regard to the *proposed* adoption or amend-  
27 ment of any municipal master plan, official map or ordinance  
28 under the [“Municipal Planned Unit Development Act (1967).”]  
29 “*Municipal Land Use Law*,” P. L. 1975, c. 291 (C. 40:55D-1 et  
30 seq.). A copy of any such proposed plan, map or amendment shall  
31 be forwarded to the county planning board for review and report  
32 at least 20 days prior to the date of public hearing thereon.

33 c. Within 30 days after the adoption of a zoning ordinance,  
34 subdivision ordinance, master plan, official map, capital improve-  
35 ment program, or amendments thereto, a copy of said document  
36 shall be transmitted to the county planning board for its informa-  
37 tion and files.

1 4. R. S. 40:27-5 is amended to read as follows:

2 40:27-5. The [board of chosen freeholders in any] *governing*  
3 *body of each county after receiving the advice of the county plan-*  
4 *ning board [is hereby empowered to] shall adopt and establish*  
5 *and thereafter as often as the [board] governing body may deem*  
6 *it for the public interest, to change or to add to an official county*  
7 *map, showing the highways, roadways, parks, parkways, and any*  
8 *other features contained in the county master plan adopted pur-*  
9 *suant to R. S. 40:27-2, including sites for public buildings or*

10 works, under county jurisdiction, or in the acquisition, financing  
11 or construction of which the county has participated or may be  
12 called upon to participate. Such map shall be deemed to have been  
13 established to conserve and promote the public health, safety, con-  
14 venience, and welfare. Before acting thereon in the first instance  
15 and before adopting any amendments thereto such [board of  
16 chosen freeholders] *governing body* after notice of time and place  
17 has been given by one publication for each of three successive  
18 weeks in a newspaper of general circulation in the county and  
19 after written notice to the county engineer, county planning board,  
20 county park commission, if such exists, and such other county  
21 officers and departments as the [board] *governing body* shall  
22 designate and to the municipal clerk and secretary of the planning  
23 board of each municipality in the county, shall hold a public  
24 hearing or hearings thereon at which such representatives en-  
25 titled to notice and such property owners and others interested  
26 therein as shall so desire shall be heard.

27 Before holding any such public hearing such [board of chosen  
28 freeholders] *governing body* shall submit such proposed change  
29 or addition to the county planning board for its consideration  
30 and advice and shall fix a reasonable time within which such  
31 county planning board may report thereon, not, however, less  
32 than 20 days; upon receipt of such report from the county plan-  
33 ning board or upon the failure of such board to report within  
34 the time limit so fixed such [board of chosen freeholders] *gov-*  
35 *erning body* may thereupon act upon the proposed change, but  
36 any action adverse to the report of the county planning board  
37 shall require the affirmative vote of the majority of all the mem-  
38 bers of such [board of chosen freeholders] *governing body*.

39 When approved in whole or part by the [board of chosen free-  
40 holders] *governing body* in any county, such county official map  
41 or part thereof shall be deemed to be binding upon the [board  
42 of chosen freeholders] *governing body* of the county and the  
43 several county departments thereof, and upon other county boards  
44 heretofore or hereafter created under special laws, and no ex-  
45 penditure of public funds by such county for construction work  
46 or the acquisition of land for any purpose enumerated in [section]  
47 *R. S. 40:27-2* [of this Title] shall be made except in accordance  
48 with such official map.

49 Nothing herein prescribed shall be construed as restricting or  
50 limiting the powers of [boards of chosen freeholders] *governing*  
51 *bodies* from repairing, maintaining and improving any existing

52 street, road, viaduct, bridge or parkway not shown on such official  
53 maps, which does not involve the acquisition of additional land  
54 or of park commissions as otherwise provided by law.

1 5. Section 4 of P. L. 1968, c. 285 (C. 40:27-6.2) is amended to  
2 read as follows:

3 4. The [board of freeholders] *governing body* of [any] every  
4 county [having a county planning board] shall provide for the  
5 review of all subdivisions of land within the county by [said] the  
6 county planning board and for the approval of those subdivisions  
7 [affecting county road or drainage facilities as set forth and  
8 limited hereinafter in this section], *which would, in the estima-*  
9 *tion on the county planning board, have a significant impact on*  
10 *the future growth and development of the surrounding region.*  
11 *This determination shall be based upon the description and recom-*  
12 *mendations contained in the county master plan.*

13 Such review [or] and approval shall be in accordance with pro-  
14 cedures and engineering and planning standards adopted by reso-  
15 lution or ordinance, as appropriate, of the [board of chosen free-  
16 holders] *governing body.*

17 These standards shall *include but not* be limited to:

18 a. The requirement of adequate drainage facilities and ease-  
19 ments when, as determined by the county engineer in accordance  
20 with county-wide standards, the proposed subdivision will cause  
21 storm water to drain either directly or indirectly to a county road,  
22 or through any drainageway, structure, pipe, culvert, or facility  
23 for which the county is responsible for the construction, main-  
24 tenance, or proper functioning:

25 b. The requirement of dedicating rights-of-way for any roads  
26 or drainageways shown on a duly adopted county master plan or  
27 official county map;

28 c. Where a proposed subdivision abuts a county road, or *would,*  
29 *in the opinion of the county planning board, have a significant*  
30 *impact on the traffic flow on a county road which does not abut*  
31 *the subdivision, and* where additional rights-of-way and physical  
32 improvements are required by the county planning board, such  
33 improvements shall be subject to recommendations of the county  
34 engineer relating to the safety and convenience of the traveling  
35 public and may include additional pavement widths, marginal  
36 access streets, reverse frontage and other county highway and  
37 traffic design features necessitated by an increase in traffic vol-  
38 umes, potential safety hazards or impediments to traffic flows  
39 caused by the subdivision;

40 d. The requirement of performance guarantees and procedures  
41 for the release of same, maintenance bonds for not more than two  
42 years duration from date of acceptance of improvements and  
43 agreements specifying minimum standards of construction for re-  
44 quired improvements. The amount of any performance guarantee  
45 or maintenance bond shall be set by the planning board upon the  
46 advice of the county engineer and shall not exceed the full cost  
47 of the facility and installation costs or the developer's propor-  
48 tionate share thereof, computed on the basis of his acreage related  
49 to the acreage of the total drainage basin involved plus 10% for  
50 contingencies. In lieu of providing any required drainage ease-  
51 ment a cash contribution may be deposited with the county to  
52 cover the cost or the proportionate share thereof for securing  
53 said easement. In lieu of installing any such required facilities  
54 exterior to the proposed plat a cash contribution may be deposited  
55 with the county to cover the cost of proportionate share thereof  
56 for the future installation of such facilities. Any and all moneys  
57 received by the county to insure performance under the provisions  
58 of this act shall be paid to the county treasurer who shall provide  
59 a suitable depository therefor. Such funds shall be used only for  
60 county drainage projects or improvement for which they are de-  
61 posited unless such projects are not initiated for a period of  
62 ten years, at which time said funds shall be transferred to the  
63 general fund of the county, provided that no assessment of bene-  
64 fits for such facilities as a local improvement shall thereafter be  
65 levied against the owners of the lands upon which the developer's  
66 prior contribution had been based. Any moneys or guarantees  
67 received by the county under this paragraph shall not duplicate  
68 bonds or other guarantees required by municipalities for munic-  
69 ipal purposes[.]; and

70 e. Provision may be made for waiving or adjusting requirements  
71 under the subdivision resolution *or ordinance* to alleviate hard-  
72 ships which would result from strict compliance with the sub-  
73 division standards. Where provision is made for waiving or ad-  
74 justing requirements criteria shall be included in the standards  
75 adopted by the [board of chosen freeholders] *governing body*  
76 to guide actions of the county planning board.

77 Notice of the public hearing on a proposed resolution *or ordi-*  
78 *nance of the* [board of chosen freeholders] *governing body* estab-  
79 lishing procedures and engineering standards to govern land sub-  
80 division within the county, and a copy of such resolution *or ordi-*  
81 *nance*, shall be given by delivery or by certified mail to the munic-

82 ipal clerk and secretary of the planning board of each municipality  
83 in the county at least 10 days prior to such hearing.

1 6. Section 5 of P. L. 1968, c. 285 (C. 40:27-6.3) is amended  
2 to read as follows:

3 5. Each *complete* subdivision application shall be submitted to  
4 the county planning board *at the time the complete application is*  
5 *filed with the municipality* for review and, where **[required]**  
6 *appropriate*, approval prior to approval by the local municipal  
7 approving authority. County approval of any subdivision applica-  
8 tion **[affecting county road or drainage facilities]** shall be limited  
9 by and based upon the rules, regulations and standards estab-  
10 lished by and duly set forth in a resolution **[adopted by]** *or ordi-*  
11 *nance, as appropriate, of the [board of chosen freeholders] gov-*  
12 *erning body of the county.* The municipal approval authority shall  
13 either defer taking final action on a subdivision application until  
14 receipt of the county planning board report thereon or approve  
15 the subdivision application subject to its timely receipt of a fav-  
16 orable report thereon by the county planning board. The county  
17 planning board shall report to the municipal authority within  
18 **[30]** 45 days from the date of receipt of the application. If the  
19 county planning board fails to report to the municipal approving  
20 authority within the **[30-]** 45-day period, said subdivision applica-  
21 tion shall be deemed to have been approved by the county planning  
22 board unless, by mutual agreement between the county planning  
23 board and municipal approving authority, with approval of the  
24 applicant, the **[30-]** 45-day period shall be extended for an addi-  
25 tional 30-day period, and any such extension shall so extend the  
26 time within which a municipal approving authority shall be re-  
27 quired by law to act thereon.

1 7. Section 7 of P. L. 1968, c. 285 (C. 40:27-6.5) is amended to  
2 read as follows:

3 7. The county recording officer shall not accept for filing any  
4 subdivision plat unless it bears the certification of either approval  
5 or of review and exemption of the authorized county planning  
6 board officer or staff member indicating compliance with the pro-  
7 visions of this act and standards adopted pursuant thereto, in  
8 addition to all other requirements for filing a subdivision plat  
9 including compliance with the provisions of "The Map Filing  
10 Law" (P. L. 1960, c. 141). In the event the county planning board  
11 shall have waived its right to review, approve or disapprove a  
12 subdivision by failing to report to the municipal approval author-  
13 ity within the **[30-]** 45-day period or the mutually agreed upon

14 30-day extension period, as outlined in section 5 above, the sub-  
15 division shall be deemed to have county planning board approval,  
16 and at the request of the applicant, the secretary of the county  
17 planning board shall attest on the plat to the failure of the county  
18 planning board to report within the required time period, which  
19 shall be sufficient authorization for further action by the municipal  
20 planning board and acceptance thereof for filing by the county  
21 recording officer.

1 8. Section 8 of P. L. 1968, c. 285 (C. 40:27-6.6) is amended to  
2 read as follows:

3 8. The governing body of **[any]** every county **[having a county**  
4 **planning board may]** shall provide for the review of site plans  
5 for land development **[along county roads or affecting county**  
6 **drainage facilities as provided in subsection e. of this section]**  
7 *within the county by the planning board* and for the approval of  
8 **[such development as hereinafter set forth and limited for the**  
9 **purpose of assuring a safe and efficient county road system.]** *those*  
10 *site plans for developments of more than 60 residential units or*  
11 *20,000 square feet of commercial or industrial space. For the pur-*  
11A *poses of this section, a group of structures under common owner-*  
11B *ship on contiguous parcels which provides in combination at least*  
11C *60 residential units or 20,000 square feet of commercial or indus-*  
12 *trial space shall require county planning board approval of a site*  
13 *plan. The governing body shall provide for the approval of site*  
14 *plans for smaller developments upon the recommendation of the*  
15 *county planning board, provided that the planning board can dem-*  
16 *onstrate that the proposed development would:*

17 (1) *have a significant impact on the future growth and develop-*  
18 *ment of the surrounding region; or*

19 (2) *significantly affect the realization of any particular standard*  
20 *or recommendation for the development of the county contained*  
21 *in the county master plan.*

22 Such review and approval shall be in conformance with pro-  
23 cedures and standards adopted by resolution or ordinance as  
24 appropriate of the governing body. Notice of the public hearing  
25 on a proposed resolution or ordinance of the governing body  
26 establishing procedures and standards to govern the review and  
27 regulation of land development **[along county roads or affecting**  
28 **county drainage facilities as provided in subsection e. of this**  
29 **section]** *within the county*, and a copy of such resolution or ordi-  
30 nance, shall be given by delivery or by certified mail to the munic-  
31 ipal clerk, secretary of the planning board and secretary of the

32 board of adjustment of each municipality in the county at least  
33 ten days prior to such hearing. These procedures and standards  
34 shall *include, but not* be limited to:

35 a. The submission of a site plan, prior to the issuance of a  
36 municipal building permit, drawn in accordance with standards  
37 in the resolution or ordinance for any proposed land develop-  
38 ment], excluding single family residential development but in-  
39 cluding proposed commercial, industrial, multi-family structures  
40 containing five or more units, or any other land development  
41 requiring off-street parking area or producing surface runoff in  
42 excess of standards set forth in the site plan review and approval  
43 resolution or ordinance of the governing body].

44 b. The requirement of dedication of additional right-of-way in  
45 accordance with the county master plan adopted by the county  
46 planning board or an official county map adopted by the govern-  
47 ing body. Whereby reason of special or unusual conditions said  
48 total additional right-of-way is to be secured from just one side  
49 of an existing road, only one-half of the additional right-of-way  
50 may be required to be dedicated.

51 c. The requirement of physical improvements subject to recom-  
52 mendations of the county engineer relating to the safety and  
53 convenience of the traveling public, including drainage facilities,  
54 or other highway and traffic design features as may be deemed  
55 necessary on such county road or roads in accordance with the  
56 engineering and planning standards established in the site plan  
57 review and approval resolution or ordinance of the governing body.

58 d. The requirement of performance and payment guarantees and  
59 procedures for the release of same, maintenance bonds of not more  
60 than two years' duration from the date of acceptance of improve-  
61 ments, cash contributions, and agreements specifying minimum  
62 standards of construction for required improvements. Procedures  
63 for, and limitations on the requirement of such guarantees or cash  
64 contributions shall be governed by the provisions of this act.

65 e. The requirement of adequate drainage facilities and ease-  
66 ments when, as determined by the county engineer in accordance  
67 with county-wide standards, the proposed site plan will cause  
68 storm water to drain either directly or indirectly to a county road  
69 or through any drainage-way, structure, pipe, culvert or facility  
70 for which the county is responsible for the construction, main-  
71 tenance or proper functioning.

72 [Site plans for land development not along a county road that  
73 include less than one acre of impervious surfaces are exempt from  
74 county site plan review.]

1 9. Section 9 of P. L. 1968, c. 285 (C. 40:27-6.7) is amended  
2 to read as follows:

3 9. The municipal or other local agency or individual with author-  
4 ity to approve the site plan or issue a building permit shall [defer  
5 action on], *upon receipt of any complete application, submit the*  
6 application requiring county approval pursuant to section [7] 8  
7 of this act [until the same shall have been submitted] to the  
8 county planning board for its approval [of the site plan]. The  
9 county planning board shall have [30] 45 days from the receipt  
10 of a site plan to report to the appropriate local authority. In  
11 the event of disapproval, such report shall state the specific  
12 reasons therefor. If the county planning board fails to report to  
13 the municipal approving or issuing authority within the [30-]  
14 45-day period, said site plan shall be deemed to have been ap-  
15 proved by the county planning board. Upon mutual agreement  
16 between the county planning board and the municipal approving  
17 authority, with approval of the applicant, the [30-] 45-day period  
18 may be extended for an additional 30-day period. *The appropriate*  
19 *local authority shall either defer taking action on a site plan*  
20 *application until receipt of the county planning board report*  
21 *thereon or approve the site plan or issuance of a building permit*  
22 *subject to the timely receipt of a favorable report thereon by the*  
23 *county planning board.*

1 10. Section 12 of P. L. 1968, c. 285 (C. 40:27-6.10) is amended  
2 to read as follows:

3 12. In order that county planning boards shall have a complete  
4 file of the planning and zoning ordinances of all municipalities in  
5 the county, each municipal clerk shall file with the county planning  
6 board a copy of the planning and zoning ordinances of the munici-  
7 pality in effect on the effective date of this act and shall notify  
8 the county planning board of the introduction of any revision or  
9 amendment of [such an ordinance which affects lands adjoining  
10 county roads or other county lands, or lands lying within 200 feet  
11 of a municipal boundary, or proposed facilities or public lands  
12 shown on the county master plan or official county map] *those*  
13 *planning and zoning ordinances.* Such notice shall be given to  
14 the county planning board at least 10 days prior to the public  
15 hearing thereon by personal delivery or by certified mail of a  
16 copy of the official notice of the public hearing together with a  
17 copy of the proposed ordinance.

1 11. Section 13 of P. L. 1968, c. 285 (C. 40:27-6.11) is amended  
2 to read as follows:

3 13. The county planning board shall be notified of any applica-  
4 tion to the board of adjustment under [Revised Statutes 40:55-39  
5 in such cases where the land involved fronts upon an existing  
6 county road or proposed road shown on the official county map  
7 or on the county master plan, adjoins the other county land or  
8 is situated within 200 feet of a municipal boundary] section 56  
9 of P. L. 1975, c. 291 (C. 40:55D-70). Notice of hearings on such  
10 applications shall be furnished by the appellant in accordance with  
11 [P. L. 1965, c. 162 (C. 40:55-53)] section 7.1 of P. L. 1975, c. 291  
12 (C. 40:55D-12).

1 12. Section 15 of P. L. 1968, c. 285 (C. 40:27-6.13) is amended  
2 to read as follows:

3 15. Whenever a hearing is required before a zoning board of  
4 adjustment or the governing body of a municipality in respect to  
5 the granting of a variance or establishing or amending an official  
6 municipal map [involving property adjoining a county road or  
7 within 200 feet of an adjoining municipality], and notice of said  
8 hearing is required to be given, the person giving such notice  
9 shall also, at least 10 days prior to the hearing, give notice thereof  
10 in writing by certified mail to the county planning board. The  
11 notice shall contain a brief description of the property involved,  
12 its location, a concise statement of the matters to be heard and the  
13 date, time and place of such hearing.

1 13. Section 28 of P. L. 1975, c. 291 (C. 40:55D-37) is amended  
2 to read as follows:

3 28. Grant of power; referral of proposed ordinance; county  
4 planning board approval. a. The governing body may by ordi-  
5 nance require approval of subdivision plats by resolution of the  
6 planning board as a condition for the filing of such plats with the  
7 county recording officer and approval of site plans by resolution  
8 of the planning board as a condition for the issuance of a permit  
9 for any development, except that subdivision or individual lot  
10 applications for detached one or two dwelling-unit buildings shall  
11 be exempt from such site plan review and approval; provided that  
12 the resolution of the board of adjustment shall substitute for that  
13 of the planning board whenever the board of adjustment has  
14 jurisdiction over a subdivision or site plan pursuant to subsec-  
15 tion 63 b. of this act.

16 b. Prior to the hearing on adoption of an ordinance providing  
17 for planning board approval of either subdivisions or site plans  
18 or both or any amendment thereto, the governing body shall refer  
19 any such proposed ordinance or amendment thereto to the plan-  
20 ning board pursuant to subsection 17 a. of this act.

21 c. Each application for subdivision approval, where required  
22 pursuant to section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), and each  
23 application for site plan approval, where required pursuant to  
24 section 8 of P. L. 1968, c. 285 (C. 40:27-6.6) shall, *at the time*  
25 *the complete application is submitted to the municipal planning*  
26 *board*, be submitted by the applicant to the county planning board  
27 for review or approval, as required by the aforesaid sections,  
28 and the municipal planning board shall condition any approval  
29 that it grants upon timely receipt of a favorable report on the  
30 application by the county planning board or approval by the  
31 county planning board by its failure to report thereon within the  
32 required time period.

1 14. (New section) Within one year of the effective date of this  
2 amendatory and supplementary act, each county which has not  
3 adopted a master plan shall adopt a master plan pursuant to  
4 the provisions of R. S. 40:27-2 and, thereafter, every county  
5 shall amend and revise its master plan as necessary.

1 15. (New section) The governing body of a county may, by  
2 resolution, adopt a county planning and management plan to be  
3 submitted to the Director of the Division of Local Government  
4 Services in the Department of Community Affairs, in addition  
5 to any other information the director may require, as an appli-  
6 cation for funds. The plan shall include:

- 7 a. A statement of specific goals and objectives;
- 8 b. An explanation of the planning activities, which may include  
9 adopting or revising a master plan or official map, development  
10 of planning and management staff capabilities for the effective  
11 management of county growth and development, special planning  
12 studies performed to contribute to the resolution of growth and  
13 development problems, and development and implementation of  
14 innovative or essential planning and management systems;
- 15 c. A statement of the estimated costs of the plan; and
- 16 d. A statement of the amount of funds requested.

1 16. (New section) Upon application by a county, the Director  
2 of the Division of Local Government Services shall approve an  
3 application if the director determines that the submitted plan  
4 demonstrates that:

- 5 a. The proposed activities shall improve the effectiveness and  
6 efficiency of that county's planning and management of growth  
7 and development;
- 8 b. The funds shall not be used for routine activities, including  
9 review of applications, of the county planning board: planning

10 and management activities inconsistent with the State Develop-  
 11 ment and Redevelopment Plan adopted pursuant to P. L. 1985,  
 12 c. 398 (C. 52:18A-196 et al.); or other activities deemed inap-  
 13 propriate by the director; and

14 c. The amount of funds requested is a reasonable contribution  
 15 to the cost of implementing the plan.

16 The director shall review, and approve or disapprove, a plan  
 17 within 30 days of receipt. If the director shall disapprove a plan,  
 18 the director shall set forth the reasons in writing to the county  
 19 within 20 days of that determination. The governing body may  
 20 amend the plan and resubmit the amended plan to the director,  
 21 subject to the review and approval provisions of this section.

1 17. (New section) The Director of the Division of Local Gov-  
 2 ernment Services, upon approval of an application, shall forth-  
 3 with certify to the State Treasurer and the chief financial officer  
 4 of the county the amount of funds allocable to the county pur-  
 5 suant to this act. The State Treasurer, upon certification of the  
 6 director and upon the warrant of the State Comptroller, shall  
 7 pay and distribute, from funds appropriated therefor, to the  
 8 county the amount determined and certified by the director.

1 18. (New section) Each approved application shall provide  
 2 for the accountability of the county for the expenditure of funds  
 3 as allocated in that application. Any determination of the Di-  
 4 rector of the Division of Local Government Services pursuant  
 5 to this act concerning the amount of funds allocable to a county  
 6 is final and conclusive, and no appeal shall be taken therefrom  
 7 or review thereof, except in the case of an arithmetical or typo-  
 8 graphical error in the calculation of any distribution of funds.

1 19. (New section) The Director of the Division of Local Gov-  
 2 ernment Services may adopt any rules or regulations in accor-  
 3 dance with the "Administrative Procedure Act," P. L. 1968,  
 4 c. 410 (C. 52:14B-1 et seq.) and may require any facts and in-  
 5 formation from a county as may be deemed necessary.

1 20. (New section) a. There is appropriated to the Division  
 2 of Local Government Services in the Department of Community  
 3 Affairs the sum of \$1,050,000.00 from the General Fund to ef-  
 4 fectuate the purposes of this act.

5 b. There shall be annually appropriated to the Division of  
 6 Local Government Services in the Department of Community  
 7 Affairs from the General Fund such sums as the Legislature  
 8 by law determines necessary to continue the purposes of this act.

1 21. This act shall take effect immediately.

## STATEMENT

This bill would require each county to form a planning board and adopt a master plan. In addition, the bill would broaden the power of county planning boards to review site plan and subdivision applications and would appropriate \$1,050,000.00 to effectuate the purposes of the act.

Specifically, the bill would authorize the governing body of each county to provide for planning board review of all subdivision applications, but approval of only those applications which would, in the estimation of the planning board, have a significant impact on the future growth and development of the surrounding region.

Similarly, the governing body would provide for the review of site plans for land development within the county by the county planning board, but for the approval of only those site plans for developments of more than 60 residential units or 20,000 square feet of commercial or industrial space. The county planning board would have the power to approve any application for a smaller development if it could demonstrate to the governing body that the proposed development would either have a significant impact on the future growth and development of the region or on the achievement of any particular standard or recommendation set forth in the county master plan.

In addition, the bill would provide each county with greater flexibility in establishing the standards which govern review and approval of subdivision applications and site plans. The bill also outlines the elements to be included in a county master plan. The elements are similar to the elements included in municipal master plans.

Furthermore, the bill would require all municipalities to provide a copy of all planning and zoning ordinances, and any amendments thereto, to the appropriate county planning board. Any person who submits an application to the board of adjustment regarding land situated anywhere in the county pursuant to section 56 of P. L. 1975, c. 291 (C. 40:55D-70) would be required to provide notice to the appropriate county planning board. Moreover, any person who requires a hearing before a zoning board of adjustment or the governing body of a municipality with respect to the granting of a variance or establishing or amending an official municipal map affecting land anywhere within the county would have to notify the county planning board.

Finally, the bill establishes a grant program under which

counties may apply to the Director of the Division of Local Government Services in the Department of Community Affairs for funds to assist in improving the effectiveness and efficiency of the county's planning and management of growth and developments. An appropriation of \$1,050,000.00 would be made to effectuate the grant program.

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#### COUNTY GOVERNMENT

Expands county planning powers.

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**ASSEMBLY, No. 2504**  
**STATE OF NEW JERSEY**

INTRODUCED MAY, 8, 1986

By Assemblyman ALBOHN

AN ACT concerning county planning, amending various sections of statutory law, repealing R. S. 40:27-6 and section 14 of P. L. 1968, c. 285, and supplementing chapter 27 of Title 40 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. R. S. 40:27-1 is amended to read as follows:

2 40:27-1 The **board of chosen freeholders may** *governing body*  
3 *of each county shall* create a county planning board of not less than  
4 five nor more than *nine* members. The members of such planning  
5 board shall be the **director of the board of chosen freeholders**  
6 *chief executive officer of the county*, one member of the board of  
7 chosen freeholders to be appointed by the **director** *chief execu-*  
8 *tive officer*, the county engineer, if the board exceed six in number,  
9 and other citizens who may not hold any other county office and  
10 who shall be appointed by such **director of the board of chosen**  
11 **freeholders** *chief executive officer* with the approval of **that** *the*  
12 *governing body*. One of the remaining members shall be appointed  
13 for two years, two shall be appointed for three years, and all  
14 additional remaining members shall be appointed for four years,  
15 and thereafter their successors shall be appointed for the term  
16 of three years from and after the expiration of the terms of their  
17 predecessors in office. **All members of the county planning board**  
18 shall serve as such without compensation, but may be paid ex-  
19 penses incurred in the performance of duties. **Members may be**  
20 *compensated, but shall not receive more than 25% of the amount*

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

**Matter printed in italics thus is new matter.**

21 *paid to members of the freeholder board of the respective county.*  
 22 *Any planning board member who serves in any other paid position*  
 23 *as an officer or employee of a county or municipal governing body*  
 24 *shall not be compensated for planning board membership.*

1 2. Section 1 of P. L. 1975, c. 186 (C. 40:27-1.1) is amended to  
 2 read as follows:

3 1. The [board of chosen freeholders] *governing body* may, by  
 4 resolution or ordinance, as appropriate provide for the appoint-  
 5 ment of alternate members to the county planning board in accor-  
 6 dance with the following:

7 a. Where the county planning board consists of six members  
 8 or less, the [director of the board of chosen freeholders] *chief*  
 9 *executive officer*, with the approval of a majority of the [board of  
 10 freeholders] *governing body membership*, may appoint one alter-  
 11 nate citizen member;

12 b. Where the county planning board consists of more than six  
 13 members, the [director of the board of chosen freeholders, with the  
 14 approval of a majority of the board of freeholders] *governing*  
 15 *body*, may appoint two alternate citizen members. These members  
 16 shall be designated by the [director] *chief executive officer* as  
 17 "Alternate No. 1" and "Alternate No. 2" and shall participate in  
 18 the planning board's decision in rotation during the absence or  
 19 disqualification of any citizen member;

20 c. Where the county engineer is a member of the planning board,  
 21 the [director of the board of chosen freeholders] *chief executive*  
 22 *officer*, with the approval of a majority of the board of freeholders  
 23 may appoint the assistant or deputy county engineer to serve as  
 24 an alternate to the county engineer;

25 d. The [director of the board of chosen freeholders] *chief execu-*  
 26 *tive officer*, with the approval of a majority of the board of free-  
 27 holders may appoint a member of the board of chosen freeholders  
 28 to serve as an alternate to the two freeholder members.

29 Alternate members shall be appointed for terms to expire at  
 30 the same time as the terms of the regular members for whom they  
 31 are alternates. An alternate member shall be entitled to sit with  
 32 and participate as a member in any hearing before the board. Any  
 33 alternate member who has attended the full hearing or hearings  
 34 may participate in the board's decision during the absence or  
 35 disqualification of any regular member for whom he is an alternate.  
 36 *Alternate members shall serve without compensation.*

1 3. R. S. 40:27-2 is amended to read as follows:

2 40:27-2 a. The county planning board shall make and, *after*

3 public hearing adopt or amend a master plan [for the physical  
4 development of the county] or component parts thereof, to guide  
5 the use of lands within the county in a manner which protects  
6 public health and safety and promotes the general welfare.

7 b. The county master plan [of a county], with the accompanying  
8 maps, plats, charts, and descriptive and explanatory matter, shall  
9 [show the county planning board's recommendations for the de-  
10 velopment of the territory covered by the plan, and may include,  
11 among other things, the general location, character, and extent of  
12 streets or roads, viaducts, bridges, waterway and waterfront  
13 developments, parkways, playgrounds, forests, reservations, parks,  
14 airports, and other public ways, grounds, places and spaces; the  
15 general location and extent of forests, agricultural areas, and  
16 open-development areas for purposes of conservation, food and  
17 water supply, sanitary and drainage facilities, or the protection of  
18 urban development, and such other features as may be important  
19 to the development of the county] present, where appropriate, the  
20 following elements:

21 (1) A statement of objectives, principles, assumptions, policies  
22 and standards upon which the constituent proposals for the physi-  
23 cal, economic and social development of the county are based;

24 (2) A land use element (a) taking into account and stating its  
25 relationship to the statement provided for in subsection (1) hereof,  
26 and the other master plan elements and natural conditions, includ-  
27 ing, but not necessarily limited to, topography, soil conditions,  
28 water supply, drainage, flood plain areas, marshes and woodlands:

29 (b) showing the existing and, to the extent the information is made  
30 available to the county planning board, proposed location, extent  
31 and intensity of development of land to be used in the future for  
32 varying types of residential, commercial, industrial, agricultural,  
33 recreational, educational and other public and private purposes or  
34 combination of purposes; (c) showing the existing and proposed  
35 location of any airports and the boundaries of any airport hazard  
36 areas delineated pursuant to the "Air Safety and Hazardous  
37 Zoning Act of 1963," P. L. 1963, c. 260 (C. 6:1-80 et seq.); and (d)  
38 including a statement of the standards of population density and  
39 development intensity recommended for the county;

40 (3) A housing plan element which shall include a inventory of  
41 the county's housing stock by age, condition, purchase or rental  
42 value, occupancy characteristics and type, including the number of  
43 units affordable to low and moderate income households and a six-  
44 year projection of the demands on the county's housing stock.

45 taking into account such factors as the probable future construc-  
46 tion of housing for all income groups, demographic shifts within  
47 the county and the character of the in- and out- migration, chang-  
48 ing employment opportunities within the county, and the availa-  
49 bility of land for residential development;

50 (4) A circulation plan element which shows the location and  
51 types of facilities for all modes of transportation within the county,  
52 includes an estimate of the capacity of existing facilities, and  
53 forecasts the increased capacity necessary to accommodate in a  
54 safe and efficient manner, any growth and development anticipated  
55 in the land use and housing plan elements;

56 (5) A utility service plan element analyzing the need for and  
57 showing the future general location of water supply and distribu-  
58 tion facilities, drainage and flood control facilities, sewerage and  
59 waste treatment, solid waste disposal and provision for other  
60 related utilities;

61 (6) A community facilities plan element showing the existing  
62 and proposed location and type of educational and cultural facili-  
63 ties, historic sites, libraries, hospitals, firehouses, police stations  
64 and other related facilities, the extent of their usage throughout  
65 the county, where appropriate, and analyzing the need for future  
66 development of community facilities based on the projections con-  
67 tained in the land use and housing plan elements;

68 (7) An open space plan element showing the location and types  
69 of open space and recreational facilities which exist within the  
70 county and analyzing the need for future open space and recrea-  
71 tional facilities based on the projections contained in the housing,  
72 land use, and other applicable plan elements;

73 (8) A conservation plan element providing for the preservation,  
74 conservation, and utilization of natural resources, including, to the  
75 extent appropriate, energy, water supply, forests, soils, marshes,  
76 wetlands, harbors, rivers and other waters, fisheries, wildlife and  
77 other natural resources; and

78 (9) An economic plan element considering all aspects of economic  
79 development and sustained economic vitality, including (a) a com-  
80 parison of the types of employment expected to be provided by the  
81 economic development to be promoted with the characteristics of  
82 the labor pool resident in the county and nearby areas and (b) an  
83 analysis of the stability and diversity of the economic development  
84 to be promoted;

85 (10) A historic preservation plan element (a) indicating the  
86 location, significance, proposed utilization and means for preserva-

87 *tion of historic sites and historic districts, and (b) identifying the*  
 88 *standards used to assess worthiness for historic sites or district*  
 89 *designation; and*

90 *(11) Appendices or separate reports containing the technical*  
 91 *foundation for the master plan and its constituent elements.*

92 *c. The master plan and its plan elements may be divided into*  
 93 *subplans and subplan elements projected according to periods of*  
 94 *time or staging sequences.*

95 *d. The master plan shall include a specific policy statement*  
 96 *indicating the relationship of the proposed development of the*  
 97 *county, as set forth in the master plan, to (1) the master plans*  
 98 *of the municipalities which are situated within the county, (2) the*  
 99 *master plans of contiguous counties, (3) the State Development*  
 100 *and Redevelopment Guide Plan prepared pursuant to P. L. 1985,*  
 101 *c. 398 (C. 52:18A-196 et al.), and (4) the housing regions of the*  
 102 *State and growth projections upon which they are based, de-*  
 103 *veloped by the Council on Affordable Housing pursuant to section*  
 104 *7 of P. L. 1985, c. 222 (C. 52:27D-307).*

105 The county planning board shall encourage the cooperation of  
 106 the local municipalities within the county in any matters whatso-  
 107 ever which may concern the integrity of the county master plan  
 108 and to advise the [board of chosen freeholders] governing body of  
 109 the county with respect to the formulation of development pro-  
 110 grams and budgets for capital expenditures.

1 4. R. S. 40:27-3 is amended to read as follows:

2 40:27-3 The county planning board may employ experts and  
 3 pay for their and such other expenses as may be deemed necessary  
 4 for the making of the master plan and for the carrying out of such  
 5 other duties as are herein prescribed, except that such board may  
 6 expend only such sums as may be appropriated by the [board of  
 7 chosen freeholders] governing body or be placed at its disposal  
 8 through gift. The making of the master plan shall be regarded as  
 9 essential preliminary studies incidental to the later carrying out of  
 10 capital improvement projects over an indefinite period of years  
 11 and may be funded by serial notes or bonds to be issued by the  
 12 county, the terms of which shall not exceed five years.

1 5. R. S. 40:27-4 is amended to read as follows:

2 40:27-4 a. Before adopting the master plan or any part thereof  
 3 or any amendment thereof the board shall hold at least one public  
 4 hearing thereon, notice of the time and place of which shall be  
 5 given by one publication in a newspaper of general circulation in  
 6 the county and by the transmission by delivery or by certified mail,

7 at least 20 days prior to such hearing, of a notice of such hearing  
8 and a copy of the proposed master plan, or part thereof or any  
9 proposed amendment thereof to the municipal clerk and secretary  
10 of the planning board of each municipality in the county. The  
11 adoption of the plan or part or amendment thereof shall be by  
12 resolution of the board carried by the affirmative vote of not less  
13 than  $\frac{2}{3}$  of the members of the board. The resolution shall refer  
14 especially to the maps, *plan elements*, and descriptive and other  
15 matter intended by the board to form the whole or part of the plan  
16 or amendment and the action taken shall be recorded on the map  
17 and plan and descriptive matter by the identifying signature of  
18 the secretary of the board. An attested copy of the master plan or  
19 any amendments thereof shall be certified to the [board of chosen  
20 freeholders] *county governing body*, to the county park commis-  
21 sion, if such exists, and to the [legislative body] *secretary of the*  
22 *planning board* of every municipality within the county *within 10*  
23 *days of adoption by the county planning board.*

24 b. [In order to maximize the degree of coordination between  
25 municipal and county plans and official maps, the county planning  
26 board shall be notified in regard to the adoption or amendment of  
27 any municipal master plan, official map or ordinance under the  
28 "Municipal Planned Unit Development Act (1967)." A cop. <sup>e</sup>  
29 any such proposed plan, map or amendment shall be forwarded  
30 to the county planning board for review and report at least 20  
31 days prior to the date of public hearing thereon.]

32 *Upon receiving the county master plan or amendments thereto,*  
33 *the municipal planning board shall begin the amendment of its*  
34 *master plan so that it is consistent with the policies and recom-*  
35 *mendations set forth in the county master plan. These amendments*  
36 *shall be completed by no later than 90 days following receipt of the*  
37 *county planning documents by the municipal planning board.*  
38 *Public hearings on any amendments to the municipal master plan*  
39 *required under this section shall be held pursuant to section 7.2 of*  
40 *P. L. 1975, c. 291 (C. 40:55D-13), however, any changes to the*  
41 *amended municipal master plan shall be consistent with the county*  
42 *master plan. If there are areas of disagreement between the county*  
43 *and municipal planning boards such that the two master plans are*  
44 *not reconciled within the specified time period, the two plans shall*  
45 *be transmitted to the Director of the Office of State Planning in the*  
46 *Department of the Treasury, who shall make the final decision*  
47 *regarding any outstanding points of disagreement based upon the*  
48 *provisions of the State Development and Redevelopment Plan*

49 prepared pursuant to P L. 1985, c. 398 (C. 52:18A-196 et seq.).

50 c. Within 30 days after the adoption of a [zoning ordinance,  
51 subdivision ordinance,] *municipal master plan, [official map,*  
52 *capital improvement program, or amendments thereto,]* a copy of  
53 [said document] *the plan shall be transmitted by the municipal*  
54 *clerk to the county planning board for its information and files.*

1 6. R. S. 40:27-5 is amended to read as follows:

2 40:27-5 The [board of chosen freeholders] *governing body in*  
3 *any county after receiving the advice of the county planning board*  
4 *is hereby empowered to adopt and establish and thereafter as*  
5 *often as the board may deem it for the public interest, to change*  
6 *or to add to an official county map, [showing the highways, road-*  
7 *ways, parks, parkways, and sites for public buildings or works,*  
8 *under county jurisdiction, or in the acquisition, financing or con-*  
9 *struction of which the county has participated or may be called*  
10 *upon to participate] which shall reflect the appropriate provisions*  
11 *of the county master plan. The official map shall be deemed con-*  
12 *clusive with respect to the location and width of county highways,*  
13 *the location and extent of county parks, and sites for public build-*  
14 *ings or works under county jurisdiction or in the acquisition,*  
15 *financing or construction of which the county has participated or*  
16 *may be called upon to participate. Such map shall be deemed to*  
17 *have been established to conserve and promote the public health,*  
18 *safety, convenience, and welfare. Before acting thereon in the first*  
19 *instance and before adopting any amendments thereto [such board*  
20 *of chosen freeholders] the governing body, after notice of time and*  
21 *place has been given by one publication for each of three successive*  
22 *weeks in a newspaper of general circulation in the county and after*  
23 *written notice to the county engineer, county planning board,*  
24 *county park commission, if such exists, and such other county*  
25 *officers and departments as the [board] governing body shall*  
26 *designate and to the municipal clerk and secretary of the planning*  
27 *board of each municipality in the county, shall hold a public*  
28 *hearing or hearings thereon at which such representatives entitled*  
29 *to notice and such property owners and others interested therein*  
30 *as shall so desire shall be heard.*

31 Before holding any such public hearing [such board of chosen  
32 freeholders] *the governing body shall submit such proposed change*  
33 *or addition to the county planning board for its consideration and*  
34 *advice and shall fix a reasonable time within which such county*  
35 *planning board may report thereon, not, however, less than 20*  
36 *days; upon receipt of such report from the county planning board*

37 or upon the failure of such board to report within the time limit so  
 38 fixed [such board of chosen freeholders] *the governing body* may  
 39 thereupon act upon the proposed change, but any action adverse to  
 40 the report of the county planning board shall require the affirma-  
 41 tive vote of the majority of all the members of [such board of  
 42 chosen freeholders] *the governing body*.

43 When approved in whole or part by the [board of chosen free-  
 44 holders] *governing body* in any county, such county official map or  
 45 part thereof shall be deemed to be binding upon the [board of  
 46 chosen freeholders] *governing body* of the county and the several  
 47 county departments thereof, and upon other county boards hereto-  
 48 fore or hereafter created under special laws, and no expenditure  
 49 of public funds by such county for construction work or the acqui-  
 50 sition of land for any purpose enumerated in [section] R. S.  
 51 40:27-2 [of this Title] shall be made except in accordance with  
 52 such official map.

53 Nothing herein prescribed shall be construed as restricting or  
 54 limiting the powers of [boards of chosen freeholders] *governing*  
 55 *bodies* from repairing, maintaining and improving any existing  
 56 street, road, viaduct, bridge or parkway not shown on such official  
 57 maps, which does not involve the acquisition of additional land or  
 58 of park commissions as otherwise provided by law.

1 7. Section 1 of P. L. 1968, c. 285 (C. 40:27-6.1) is amended to  
 2 read as follows:

3 1. As used in this act and in chapter 27 of Title 40 of the Revised  
 4 Statutes, unless the context otherwise requires:

5 "Chief executive officer" means the director of the board of  
 6 chosen freeholders appointed pursuant to R. S. 40:20-71, the  
 7 county executive in the case of any county which has adopted the  
 8 "county executive plan" pursuant to section 31 of P. L. 1972, c. 154  
 9 (C. 40:41A-31), the county manager in the case of any county  
 10 which has adopted the "county manager plan" pursuant to section  
 11 45 of P. L. 1972, c. 154 (C. 40:41A-45), the county supervisor in  
 12 the case of any county which has adopted the "county supervisor  
 13 plan" pursuant to section 59 of P. L. 1972, c. 154 (C. 40:41A-59),  
 14 or the board president in the case of any county which has adopted  
 15 the "board president plan" pursuant to section 72 of P. L. 1972,  
 16 c. 154 (C. 40:41A-72).

17 "County master plan" and "master plan" means a composite  
 18 of [the master plan for the physical development of the county,  
 19 with the accompanying maps, plats, charts and descriptive and  
 20 explanatory matter] *one or more written or graphic proposals and*

21 *supporting documentation to guide the use of land within the*  
22 *county as set forth in and adopted by the county planning board*  
23 *pursuant to [Revised Statutes] R. S. 40:27-2;*

24 *“County planning board” or “board” means a county planning*  
25 *board established by a county pursuant to R. S. 40:27-1 to exercise*  
26 *the duties set forth in such chapter, and means, in any county*  
27 *having adopted the provisions of the “Optional County Charter*  
28 *Law” (P. L. 1972, c. 154; C. 40:41A-1 et seq.), any department,*  
29 *division, board or agency established pursuant to the administra-*  
30 *tive code of such county to exercise such duties, but only to the*  
31 *degree and extent that the requirements specified in such chapter*  
32 *for county planning boards do not conflict with the organization*  
33 *and structure of such department, division, agency or board as set*  
34 *forth in the administrative code of such county;*

35 *“Developer” means the legal or beneficial owner or owners of a*  
36 *lot or of any land proposed to be included in a proposed develop-*  
37 *ment, including the holder of an option or contract to purchase, or*  
38 *other person having an enforceable proprietary interest in that*  
39 *land.*

40 *“Development” means the division of a parcel of land into two*  
41 *or more parcels, the construction, reconstruction, conversion, struc-*  
42 *tural alterations, relocation or enlargement of any building or*  
43 *other structure, or of any mining, excavation or landfill, and any*  
44 *use or change in the use of any building or other structure, or land*  
45 *or extension of use of land, for which permission may be required*  
46 *pursuant to this act.*

47 *“Development regulation” means a zoning ordinance, subdivi-*  
48 *sion ordinance, site plan ordinance, official map ordinance or other*  
49 *municipal regulation of the use and development of land, or amend-*  
50 *ment thereto adopted and filed pursuant to P. L. 1975, c. 291*  
51 *(C. 40:55D-1 et seq.).*

52 *“Governing body” means the board of chosen freeholders and*  
53 *the appropriate chief executive officer under any form of govern-*  
54 *ment pursuant to the “Optional County Charter Law,” P. L.*  
55 *1972, c. 154 (C. 40:41A-1 et seq.) or the board of chosen freeholders*  
56 *and the director of the board of chosen freeholders in any county*  
57 *governed by the provisions of chapter 20 of Title 40 of the Revised*  
58 *Statutes.*

59 *“Official county map” means the map, with changes and addi-*  
60 *tions thereto, adopted and established, from time to time, by*  
61 *resolution of the [board of chosen freeholders] governing body*  
62 *of the county pursuant to R. S. 40:27-5;*

63 "Project" means a development which involves a gross floor  
64 area of not less than 25,000 square feet in the case of a non-resi-  
65 dential use or not less than 50 residential units in the case of resi-  
66 dential use. A developer shall include, in establishing square foot-  
67 age or the number of residential units, for the purposes of this  
68 definition, two or more buildings on a single parcel of land or on  
69 contiguous parcels under common ownership.

70 "Site plan" means a plan of an existing lot or plot or a sub-  
71 divided lot on which is shown topography, location of all existing  
72 and proposed buildings, structures, drainage facilities, roads,  
73 rights-of-way, easements, parking areas, together with any other  
74 information required by and at a scale specified by a site plan  
75 review and approval resolution adopted by the [board of chosen  
76 freeholders] governing body pursuant to this act;

77 "Subdivision" means the division of a lot, tract, or parcel of  
78 land into two or more lots, tracts, parcels or other divisions of  
79 land for sale or development. The following shall not be consid-  
80 ered subdivisions within the meaning of this act, if no new streets  
81 are created: (1) divisions of land found by the planning board or  
82 subdivision committee thereof appointed by the chairman to be  
83 for agricultural purposes where all resulting parcels are five acres  
84 or larger in size, (2) divisions of property by testamentary or  
85 intestate provisions, (3) divisions of property upon court order,  
86 including but not limited to judgments of foreclosure, (4) con-  
87 solidation of existing lots by deed or other recorded instrument and  
88 (5) the conveyance of one or more adjoining lots, tracts or parcels  
89 of land, owned by the same person or persons and all of which are  
90 found and certified by the administrative officer to conform to the  
91 requirements of the municipal development regulations and are  
92 shown and designated as separate lots, tracts or parcels on the tax  
93 map or atlas of the municipality. The term "subdivision" shall  
94 also include the term "resubdivision."

95 "Subdivision applications" means the application for approval  
96 of a subdivision pursuant to the "Municipal Land Use Law"  
97 (P. L. 1975, c. 291; C. 40:55D-1 et seq.) or an application for  
98 approval of a planned unit development pursuant to the "Muni-  
99 cipal Land Use Law" (P. L. 1975, c. 291; C. 4:55D-1 et seq.).

100 "Variance" means permission to depart from the literal re-  
101 quirements of a municipal zoning ordinance pursuant to the "Mu-  
102 nicipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.).

1 8. Section 4 of P. L. 1968, c. 285 (C. 40:27-6.2) is amended to  
2 read as follows:

3 4. The **[board of freeholders]** governing body of **[any]** every  
4 county **[having a county planning board]** shall provide for the  
5 review of all subdivisions of land within the county by **[said]** the  
6 county planning board and for the approval of **[those]** all sub-  
7 divisions **[affecting county road or drainage facilities as set forth**  
8 **and limited hereinafter in this section]** which: (1) fall within the  
9 definition of a project pursuant to section 8 of this amendatory and  
10 supplementary act; or (2) either have direct access to a State or  
11 county highway, are situated within 500 feet of a State or  
12 county highway or are situated within 500 feet of a contiguous  
13-14 county.

15 Such review or approval shall be in accordance with procedures  
16 and engineering and planning standards adopted by resolution  
17 or ordinance as appropriate, of the **[board of chosen freeholders]**  
18 governing body, and shall be consistent with the provisions of the  
19 master plan adopted pursuant to R. S. 40:27-2. Notice of the public  
20 hearing on a proposed resolution or ordinance of the governing  
21 body establishing procedures and standards to govern the review  
22 and regulation of land development, as herein provided, and a  
23 copy of such resolution or ordinance, shall be given by delivery or  
24 by certified mail to the municipal clerk, secretary of the planning  
25 board and secretary of the board of adjustment of each municipi-  
26 pality in the county at least 20 days prior to such hearing. These  
27 standards shall include, but not be limited to:

28 a. The requirement of adequate drainage facilities and ease-  
29 ments when, as determined by the county engineer in accordance  
30 with county-wide standards, the proposed subdivision will cause  
31 storm water to drain either directly or indirectly to a county road,  
32 or through any drainageway, structure, pipe, culvert, or facility  
33 for which the county is responsible for the construction, mainte-  
34 nance, or proper functioning;

35 b. The requirement of dedicating rights-of-way for any roads  
36 or drainageways shown on a duly adopted county master plan or  
37 official county map;

38 c. Where a proposed subdivision abuts a county or State road,  
39 or would, in the judgment of the county planning board, have a  
40 measurable and significant impact on the traffic flow on a State  
41 or county road which does not abut the subdivision, and where  
42 additional rights-of-way and physical improvements are required  
43 by the county planning board, such improvements shall be subject  
44 to recommendations of the county engineer relating to the safety  
45 and convenience of the traveling public and may include additional

46 pavement widths, marginal access streets, reverse frontage and  
47 other county highway and traffic design features necessitated by  
48 an increase in traffic volumes, potential safety hazards or impedi-  
49 ments to traffic flows caused by the subdivision:

50 d. The requirement of performance guarantees and procedures  
51 for the release of same, maintenance bonds for not more than two  
52 years duration from date of acceptance of improvements and  
53 agreements specifying minimum standards of construction for re-  
54 quired improvements. The amount of any performance guarantee or  
55 maintenance bond shall be set by the planning board upon the  
56 advice of the county engineer and shall not exceed the full cost  
57 of the facility and installation costs or the developer's propor-  
58 tionate share thereof, computed on the basis of his acreage related  
59 to the acreage of the total drainage basin involved plus 10% for  
60 contingencies. In lieu of providing any required drainage ease-  
61 ment a cash contribution may be deposited with the county to  
62 cover the cost or the proportionate share thereof for securing  
63 said easement. In lieu of installing any such required facilities  
64 exterior to the proposed plat cash contribution may be deposited  
65 with the county to cover the cost of proportionate share thereof  
66 for the future installation of such facilities. Any and all moneys  
67 received by the county to insure performance under the provisions  
68 of this act shall be paid to the county treasurer who shall provide  
69 a suitable depository therefor. Such funds shall be used only for  
70 county drainage projects or improvement for which they are  
71 deposited unless such projects are not initiated for a period of  
72 10 years, at which time said funds shall be transferred to the  
73 general fund of the county, provided that no assessment of bene-  
74 fits for such facilities as a local improvement shall thereafter be  
75 levied against the owners of the lands upon which the developer's  
76 prior contribution had been based. Any moneys or guarantees  
77 received by the county under this paragraph shall not duplicate  
78 bonds or other guarantees required by municipalities for municipi-  
79 pal purposes.

80 e. Provision may be made for waiving or adjusting requirements  
81 under the subdivision resolution *or ordinance* to alleviate hard-  
82 ships which would result from strict compliance with the subdivi-  
83 sion standards.

1 9. Section 5 of P. L. 1968, c. 285 (C. 40:27-6.3) is amended to  
2 read as follows:

3 5. Each subdivision application shall be submitted to the county  
4 planning board for review and, where required, approval prior

5 to approval by the local municipal approving authority. County  
 6 approval of any subdivision application [affecting county road  
 7 or drainage facilities] shall be limited by and based upon the rules,  
 8 regulations and standards established by and duly set forth in  
 9 a resolution or ordinance adopted by the [board of chosen free-  
 10 holders] governing body. The municipal [approval] approving  
 11 authority shall either defer taking final action on a subdivision  
 12 application until receipt of the county planning board report  
 13 thereon or approve the subdivision application subject to its  
 14 timely receipt of a favorable report thereon by the county plan-  
 15 ning board.

16 *In the event that the county and municipal planning boards dis-*  
 17 *agree on any aspect of the subdivision application, the county*  
 18 *shall prevail where it can affirmatively demonstrate that the pro-*  
 19 *posed project or undertaking would adversely affect any county,*  
 20 *road, drainage facility or have a negative regional impact defined*  
 21 *according to the standards adopted pursuant to section 4 of P. L.*  
 22 *1968, c. 285 (C. 40:27-6.2). If the county fails to demonstrate that*  
 23 *a proposed subdivision would have an adverse effect on any county*  
 24 *facility or a negative regional impact, the municipality shall*  
 25 *prevail.* The county planning board shall report to the municipal  
 26 authority within 30 days from the date of receipt of the applica-  
 27 tion. If the county planning board fails to report to the municipal  
 28 approving authority within the 30-day period, said subdivision  
 29 application shall be deemed to have been approved by the county  
 30 planning board unless, by mutual agreement between the county  
 31 planning board and municipal approving authority, with approval  
 32 of the applicant, the 30-day period shall be extended for an addi-  
 33 tional 30-day period, and any such extension shall so extend the  
 34 time within which a municipal approving authority shall be re-  
 35 quired by law to act thereon.

1 10. Section 6 of P. L. 1968, c. 285 (C. 40:27-6.4) is amended to  
 2 read as follows:

3 6. The county planning board shall review each subdivision  
 4 application and withhold approval if said proposed subdivision  
 5 does not meet the subdivision approval standards previously  
 6 adopted by the [board of chosen freeholders] governing body  
 7 in accordance with section 4 of this act. In the event of the with-  
 8 holding of approval, or the disapproval of, a subdivision applica-  
 9 tion, the reasons for such action shall be set forth in writing and  
 10 a copy thereof shall be transmitted to the applicant. Where pro-  
 11 vision is made for waiving or adjusting requirements criteria

12 shall be included in the standards adopted by the [board of chosen  
13 freeholders] *governing body* to guide actions of the county plan-  
14 ning board.

15 Notice of the public hearing on a proposed resolution *or ordi-*  
16 *nance* of the [board of chosen freeholders] *governing body* estab-  
17 lishing procedures and engineering standards to govern land sub-  
18 division within the county, and a copy of such resolution *or ordi-*  
19 *nance*, shall be given by delivery or by certified mail to the munic-  
20 ipal clerk and secretary of the planning board of each municipality  
21 in the county at least [10] 20 days prior to such hearing.

1 11. Section 8 of P. L. 1968, c. 285 (C. 40:27-6.6) is amended to  
2 read as follows:

3 8. The governing body of [any] *every* county [having a county  
4 planning board may] *shall* provide for the review of site plans  
5 for *all* land development [along county roads or affecting county  
6 drainage facilities as provided in subsection e. of this section]  
7 *within the county* and for the approval of [such development as  
8 hereinafter set forth and limited for the purpose of assuring a  
9 safe and efficient county road system.] *those site plans which:*  
10 *(1) fall within the definition of a project pursuant to section 1*  
11 *of P. L. 1968, c. 285 (C. 40:27-6.1); or (2) either have direct*  
12 *access to a State or county highway, are situated within 500 feet*  
13 *of a State or county highway or are situated within 500 feet of a*  
14 *contiguous county. Such review and approval shall be in conform-*  
15 *ance with procedures and standards adopted by resolution or or-*  
16 *dinance as appropriate of the governing body, and shall be con-*  
17 *sistent with the provisions of the master plan adopted pursuant to*  
18 *R. S. 40:27-2. Notice of the public hearing on a proposed resolu-*  
19 *tion or ordinance of the governing body establishing procedures*  
20 *and standards to govern the review and regulation of land de-*  
21 *velopment [along county roads or affecting county drainage facil-*  
22 *ities as provided in subsection e. of this section], as herein pro-*  
23 *vided, and a copy of such resolution or ordinance, shall be given*  
24 *by delivery or by certified mail to the municipal clerk, secretary*  
25 *of the planning board and secretary of the board of adjustment*  
26 *of each municipality in the county at least [10] 20 days prior to*  
27 *such hearing. These procedures and standards shall include, but*  
28 *not be limited to:*

29 a. The submission of a site plan, prior to the issuance of a  
30 municipal building permit, drawn in accordance with standards in  
31 the resolution or ordinance *provided herein* for any proposed land  
32 development[, excluding single family residential development but

33 including proposed commercial, industrial, multi-family structures  
34 containing five or more units, or any other land development  
35 requiring off-street parking area or producing surface runoff in  
36 excess of standards set forth in the site plan review and approval  
37 resolution or ordinance of the governing body].

38 b. The requirement of dedication of additional right-of-way in  
39 accordance with the county master plan adopted by the county  
40 planning board or an official county map adopted by the governing  
41 body. Where by reason of special or unusual conditions said total  
42 additional right-of-way is to be secured from just one side of an  
43 existing road, only one-half of the additional right-of-way may be  
44 required to be dedicated.

45 c. The requirement of physical improvements subject to recom-  
46 mendations of the county engineer relating to the safety and  
47 convenience of the traveling public, including drainage facilities,  
48 or other highway and traffic design features as may be deemed  
49 necessary on such county road or roads in accordance with the  
50 engineering and planning standards established in the site plan  
51 review and approval resolution or ordinance of the governing body.

52 d. The requirement of performance and payment guarantees and  
53 procedures for the release of same, maintenance bonds of not more  
54 than two years' duration from the date of acceptance of improve-  
55 ments, cash contributions, and agreements specifying minimum  
56 standards of construction for required improvements. Procedures  
57 for, and limitations on the requirement of such guarantees or  
58 cash contributions shall be governed by the provisions of this act.

59 e. The requirement of adequate drainage facilities and ease-  
60 ments when, as determined by the county engineer in accordance  
61 with county-wide standards, the proposed site plan will cause  
62 storm water to drain either directly or indirectly to a county road  
63 or through any drainage-way, structure, pipe, culvert or facility  
64 for which the county is responsible for the construction, main-  
65 tenance or proper functioning.

66 [Site plans for land development not along a county road that  
67 include less than one acre of impervious surfaces are exempt from  
68 county site plan review.]

1 12. Section 9 of P. L. 1968, c. 285 (C. 40:27-6.7) is amended to  
2 read as follows:

3 9. The municipal or other local agency or individual with author-  
4 ity to approve the site plan or issue a building permit shall defer  
5 action on any application requiring county approval pursuant to  
6 section [7] 8 of this act until the same shall have been submitted to

7 the county planning board for its approval of the site plan. The  
 8 county planning board shall have 30 days from the receipt of a  
 9 site plan to report to the appropriate local authority. In the event  
 10 of disapproval, such report shall state the specific reasons therefor.

11 *In the event that the county and municipal planning boards*  
 12 *disagree on any aspect of the site plan application, the county*  
 13 *shall prevail where it can affirmatively demonstrate that the pro-*  
 14 *posed project or undertaking would adversely affect any county*  
 15 *road, drainage facility or have a negative regional impact defined*  
 16 *according to the standards adopted pursuant to section 4 of P. L.*  
 17 *1968, c. 285 (C. 40:27-6.2). If the county fails to demonstrate that*  
 18 *a proposed site plan would have an adverse effect on any county*  
 19 *facility or a negative regional impact, the municipality shall*  
 20 *prevail.*

21 If the county planning board fails to report to the municipal  
 22 approving or issuing authority within the 30-day period, said site  
 23 plan shall be deemed to have been approved by the county plan-  
 24 ning board. Upon mutual agreement between the county planning  
 25 board and the municipal approving authority, with approval of  
 26 the applicant, the 30-day period may be extended for an addi-  
 27 tional 30-day period.

1 13. Section 11 of P. L. 1968, c. 285 (C. 40:27-6.9) is amended  
 2 to read as follows:

3 11. If said action is taken by the planning director and a com-  
 4 mittee of the board, said applicant may file an appeal in writing  
 5 to the county planning board within 10 days after the date of  
 6 notice by certified mail of the said action. Any person aggrieved by  
 7 the action of the county planning board in regard to subdivision  
 8 review and approval [or], site plan review and approval *or vari-*  
 9 *ance review and approval* may file an appeal in writing to the  
 10 [board of chosen freeholders] *governing body* within 10 days  
 11 after the date of notice by certified mail of said action. The county  
 12 planning board or the [board of chosen freeholders] *governing*  
 13 *body* to which an appeal is taken shall consider such appeal at a  
 14 regular or special public meeting within 45 days from the date  
 15 of its filing. Notice of said hearing shall be made by certified mail  
 16 at least 10 days prior to the hearing to the applicant and to such  
 17 of the following officials as deemed appropriate for each specific  
 18 case: the municipal clerk, municipal planning board, board of  
 19 adjustment, building inspector, zoning officer, [board of chosen  
 20 freeholders] *county governing body* and the county planning board.  
 21 The board to which appeal is taken shall render a decision within  
 22 30 days from the date of the hearing.

1 14. Section 12 of P. L. 1968, c. 285 (C. 40:27-6.10) is amended  
2 to read as follows:

3 12. *a.* In order that county planning boards shall have a complete  
4 file of the planning and zoning ordinances of all municipalities in  
5 the county, each municipal clerk shall file with the county planning  
6 board a copy of the planning and zoning ordinances of the municipi-  
7 pality in effect on the effective date of this act and shall notify  
8 the county planning board of the introduction of any revision or  
9 amendment of [such an ordinance which affects lands adjoining  
10 county roads or other county lands, or lands lying within 200 feet  
11 of a municipal boundary, or proposed facilities or public lands  
12 shown on the county master plan or official county map] *those*  
13 *planning and zoning ordinances.* [Such notice shall be given to  
14 the county planning board at least 10 days prior to the public  
15 hearing thereon by personal delivery or by certified mail of a copy  
16 of the official notice of the public hearing together with a copy  
17 of the proposed ordinance.]

18 *b.* *The secretary of each municipal planning board shall notify*  
19 *the appropriate county planning board by personal delivery or by*  
20 *certified mail of any proposed adoption or amendment of a plan-*  
21 *ning or zoning ordinance and provide the county planning board*  
22 *with a copy of the proposed ordinance at least 20 days prior to*  
23 *the date of public hearing thereon.*

24 *c.* *Within 30 days after the adoption of any planning or zoning*  
25 *ordinance pursuant to the "Municipal Land Use Law," P. L.*  
26 *1975, c. 291 (C. 40:55D-1 et seq.), a copy of the ordinance shall be*  
27 *transmitted by the municipal clerk to the county planning board*  
28 *for its information and files.*

1 15. Section 13 of P. L. 1968, c. 285 (C. 40:27-6.11) is amended  
2 to read as follows:

3 13. The county planning board shall be notified of any applica-  
4 tion to the board of adjustment under [Revised Statutes 40:55-39  
5 in such cases where the land involved fronts upon an existing  
6 county road or proposed road shown on the official county map  
7 or on the county master plan, adjoins the other county land or  
8 is situated within 200 feet of a municipal boundary] *section 56 of*  
9 *P. L. 1975, c. 291 (40:55D-70).* Notice of hearings on such appli-  
10 cations shall be furnished by the appellant in accordance with  
11 [P. L. 1965, c. 162 (C. 40:55-53)] *section 7.1 of P. L. 1975, c. 291*  
12 *(C. 40:55D-12).*

1 16. Section 15 of P. L. 1968, c. 285 (C. 40:27-6.13) is amended  
2 to read as follows:

3 15. Whenever a hearing is required before a zoning board of  
4 adjustment or the governing body of a municipality in respect to  
5 the granting of a variance or establishing or amending an official  
6 municipal map [involving property adjoining a county road or  
7 within 200 feet of an adjoining municipality], and notice of said  
8 hearing is required to be given, the person giving such notice  
9 shall also, at least [10] 20 days prior to the hearing, give notice  
10 thereof in writing by certified mail to the county planning board.  
11 The notice shall contain a brief description of the property in-  
12 volved, its location, a concise statement of the matters to be heard  
13 and the date, time and place of such hearing.

1 17. Section 7.1 of P. L. 1975, c. 291 (C. 40:55D-12) is amended  
2 to read as follows:

3 7.1. Notice of applications. Notice pursuant to subsection a.,  
4 b., d., e., f. [and], g. and h. of this section shall be given by the  
5 applicant unless a particular municipal officer is so designated by  
6 ordinance; provided that nothing contained herein shall prevent  
7 the applicant from giving such notice if he so desires. Notice  
8 pursuant to subsections a., b., d., e., f. [and], g. and h. of this sec-  
9 tion shall be given at least 10 days prior to the date of the hearing.

10 a. Public notice of a hearing on an application for development  
11 shall be given except for (1) conventional site plan review pur-  
12 suant to section 34 of this act, (2) minor subdivisions pursuant  
13 to section 35 of this act or (3) final approval pursuant to section  
14 38 of this act; provided that the governing body may by ordinance  
15 require public notice for such categories of site plan review as  
16 may be specified by ordinance; and further provided that public  
17 notice shall be given in the event that relief is requested pursuant  
18 to section 47 or 63 of this act as part of an application for de-  
19 velopment otherwise excepted herein from public notice. Public  
20 notice shall be given by publication in the official newspaper of the  
21 municipality, if there be one, or in a newspaper of general cir-  
22 culation in the municipality.

23 b. Notice of a hearing requiring public notice pursuant to sub-  
24 section a. of this section shall be given to the owners of all real  
25 property as shown on the current tax duplicate, located in the State  
26 and within 200 feet in all directions of the property which is the  
27 subject of such hearing; provided that this requirement shall be  
28 deemed satisfied by notice to the (1) condominium association, in  
29 the case of any unit owner whose unit has a unit above or below  
30 it, or (2) horizontal property regime, in the case of any coowner  
31 whose apartment has an apartment above or below it. Notice shall

32 be given by: (1) serving a copy thereof on the property owner as  
33 shown on the said current tax duplicate, or his agent in charge of  
34 the property, or (2) mailing a copy thereof by certified mail to the  
35 property owner at his address as shown on the said current tax  
36 duplicate.

37 Notice to a partnership owner may be made by service upon  
38 any partner. Notice to a corporate owner may be made by service  
39 upon its president, a vice president, secretary or other person  
40 authorized by appointment or by law to accept service on behalf  
41 of the corporation. Notice to a condominium association, hori-  
42 zontal property regime, community trust or homeowner's associa-  
43 tion, because of its ownership of common elements or areas located  
44 within 200 feet of the property which is the subject of the hearing,  
45 may be made in the same manner as to a corporation without  
46 further notice to unit owners, coowners, or homeowners on ac-  
47 count of such common elements or areas.

48 c. Upon the written request of an applicant, the administrative  
49 officer of a municipality shall, within seven days, make and certify  
50 a list from said current tax duplicates of names and addresses of  
51 owners to whom the applicant is required to give notice pursuant  
52 to subsection b. of this section. The applicant shall be entitled  
53 to rely upon the information contained in such list, and failure to  
54 give notice to any owner not on the list shall not invalidate any  
55 hearing or proceeding. A sum not to exceed \$0.25 per name, or  
56 \$10.00, whichever is greater, may be charged for such list.

57 d. Notice of hearings on applications for development involving  
58 property located within 200 feet of an adjoining municipality shall  
59 be given by personal service or certified mail to the clerk of such  
60 municipality.

61 e. *Notice of hearings on applications for development involving*  
62 *property located within 500 feet of an adjoining county shall be*  
63 *given by personal service or certified mail to the clerk of that*  
64 *county.*

65 **[e.]** f. Notice shall be given by personal service or certified mail  
66 to the county planning board of a hearing on an application for  
67 development of property **[adjacent to an existing county road or**  
68 **proposed road shown on the official county map or on the county**  
69 **master plan, adjoining other county land or situated within 200**  
70 **feet of a municipal boundary]**, *for which notice shall be given pur-*  
71 *suant to subsection a. of this section.*

72 **[f.]** g. Notice shall be given by personal service or certified mail  
73 to the Commissioner of Transportation of a hearing on an applica-

74 tion for development of property adjacent to a State highway.

75 **[g.]** *h.* Notice shall be given by personal service or certified  
76 mail to the State Planning Commission of a hearing on an applica-  
77 tion for development of property which exceeds 150 acres or 500  
78 dwelling units. The notice shall include a copy of any maps or  
79 documents required to be on file with the municipal clerk pursuant  
80 to subsection b. of section 6 of P. L. 1975, c. 291 (C. 40:55D-10).

81 **[h.]** *i.* The applicant shall file an affidavit of proof of service  
82 with the municipal agency holding the hearing on the application  
83 for development in the event that the applicant is required to give  
84 notice pursuant to this section.

85 **[i.]** *j.* Notice pursuant to subsections d., e., f., **[and]** *g. and h.*  
86 of this section shall not be deemed to be required, unless public  
87 notice pursuant to subsection a. and notice pursuant to subsection  
88 b. of this section are required.

1 18. Section 7.2 of P. L. 1975, c. 291 (C. 40:55D-13), is amended  
2 to read as follows:

3 7.2. Notice concerning master plan. The planning board shall  
4 give:

5 (1) Public notice of a hearing on adoption, revision or amend-  
6 ment of the master plan; such notice shall be given by publication  
7 in the official newspaper of the municipality, if there be one,  
8 or in a newspaper of general circulation in the municipality at  
9 least 10 days prior to the date of the hearing;

10 (2) Notice by personal service or certified mail to the clerk of  
11 an adjoining municipality of all hearings on adoption, revision or  
12 amendment of a master plan involving property situated within  
13 **[200]** 500 feet of such adjoining municipality at least 10 days  
14 prior to the date of any such hearing;

15 (3) Notice by personal service or certified mail to the county  
16 planning board of (a) all hearings on the adoption, revision or  
17 amendment of the municipal master plan at least **[10]** 20 days  
18 prior to the date of the hearing; such notice shall include a copy  
19 of any such proposed master plan, or any revision or amendment  
20 thereto; and (b) the adoption, revision or amendment of the  
21 master plan not more than 30 days after the date of such adoption,  
22 revision or amendment; such notice shall include a copy of the  
23 master plan or revision or amendment thereto.

1 19. Section 7.4 of P. L. 1975, c. 291 (C. 40:55D-15) is amended  
2 to read as follows:

3 7.4. Notice of hearing on ordinance or capital improvement pro-  
4 gram; notice of action on capital improvement or official map.

5 a. Notice by personal service or certified mail shall be made to  
6 the clerk of an adjoining municipality of all hearings on the adop-  
7 tion, revision or amendment of a development regulation involving  
8 property situated within **[200]** 500 feet of such adjoining munic-  
9 ipality at least 10 days prior to the date of any such hearing.

10 b. *Notice by personal service or certified mail shall be made to*  
11 *the clerk of an adjoining county of all hearings on the adoption,*  
12 *revision or amendment of a development regulation involving*  
13 *property situated within 500 feet of an adjoining county at least*  
14 *10 days prior to the date of any such hearing.*

15 **[b.]** c. Notice by personal service or certified mail shall be made  
16 to the county planning board of (1) all hearings on the adoption,  
17 revision or amendment of any development regulation at least  
18 **[10]** 20 days prior to the date of the hearing, and (2) the adop-  
19 tion, revision or amendment of the municipal capital improvement  
20 program or municipal official map not more than 30 days after  
21 the date of such adoption, revision or amendment. Any notice  
22 provided hereunder shall include a copy of the proposed develop-  
23 ment regulation, the municipal official map or the municipal capital  
24 program, or any proposed revision or amendment thereto, as the  
25 case may be.

26 Notice of hearings to be held pursuant to this section shall state  
27 the date, time and place of the hearing and the nature of the  
28 matters to be considered. Any notice by certified mail pursuant  
29 to this section shall be deemed complete upon mailing.

1 20. Section 28 of P. L. 1975, c. 231 (C. 40:55D-37) is amended  
2 read as follows:

3 28. Grant of power; referral of proposed ordinance; county  
4 planning board approval. a. The governing body may by ordi-  
5 nance require approval of subdivision plats by resolution of the  
6 planning board as a condition for the filing of such plats with the  
7 county recording officer and approval of site plans by resolution  
8 of the planning board as a condition for the issuance of a permit  
9 for any development, except that subdivision or individual lot  
10 applications for detached one or two dwelling-unit buildings shall  
11 be exempt from such site plan review and approval: provided that  
12 the resolution of the board of adjustment shall substitute for that  
13 of the planning board whenever the board of adjustment has juris-  
14 diction over a subdivision or site plan pursuant to subsection  
15 63 b. of this act.

16 b. Prior to the hearing on adoption of an ordinance providing  
17 for planning board approval of either subdivisions or site plans

18 or both or any amendment thereto, the governing body shall refer  
 19 any such proposed ordinance or amendment thereto to the plan-  
 20 ning board pursuant to subsection 17 a. of this act.

21 c. Each application for subdivision approval, where required  
 22 pursuant to section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), [and]  
 23 each application for site plan approval, where required pursuant  
 24 to section 8 of P. L. 1968, c. 285 (C. 40:27-6.6), and each applica-  
 25 tion for approval of a variance, where required pursuant to sec-  
 26 tion 31 of this amendatory and supplementary act shall be sub-  
 27 mitted by the applicant to the county planning board for review  
 28 or approval, as required by the aforesaid sections, and the munic-  
 29 ipal planning board or board of adjustment shall condition any  
 30 approval that it grants upon timely receipt of a favorable report  
 31 on the application by the county planning board or approval by  
 32 the county planning board by its failure to report thereon within  
 33 the required time period.

1 21. Section 48 of P. L. 1975, c. 291 (C. 40:55D-61) is amended  
 2 to read as follows:

3 48. Time periods. Whenever an application for approval of a  
 4 subdivision plat, site plan or conditional use includes a request  
 5 for relief pursuant to section 47 of this act, the planning board  
 6 shall grant or deny approval of the applicatio. Within 120 days  
 7 after submission by a developer of a completed application to the  
 8 administrative officer or within such further time as may be con-  
 9 sented to by the applicant. In the event that the developer elects  
 10 to submit separate consecutive applications, the aforesaid provi-  
 11 sion shall apply to the application for approval of the variance  
 12 or direction for issuance of a permit. The period for granting  
 13 or denying and subsequent approval shall be as otherwise pro-  
 14 vided in this act. Failure of the planning board to act within the  
 15 period prescribed shall constitute approval of the application and  
 16 a certificate of the administrative officer as to the failure of the  
 17 planning board to act shall be issued on request of the applicant,  
 18 and it shall be sufficient in lieu of the written endorsement or other  
 19 evidence of approval herein required, and shall be so accepted by  
 20 the county recording officer for purposes of filing subdivision plats.

21 Whenever review or approval of the application by the county  
 22 planning board is required by section 5 of P. L. 1968, c. 285 (C.  
 23 40:27-6.3), in the case of a subdivision, [or] section 8 of P. L.  
 24 1968, c. 285 (C. 40:27-6.6), in the case of a site plan or section 31  
 25 of this amendatory and supplementary act, in the case of a  
 26 variance pursuant to subsection 57c. of P. L. 1975, c. 291 (C.

27 40:55D-70), the municipal planning board shall condition any ap-  
28 proval that it grants upon timely receipt of a favorable report  
29 on the application by the county planning board or approval by  
30 the county planning board by its failure to report thereon within  
31 the required time period.

1 22. Section 54 of P. L. 1975, c. 291 (C. 40:55D-67) is amended  
2 to read as follows:

3 54. Conditional uses; site plan review. a. A zoning ordinance  
4 may provide for conditional uses to be granted by the planning  
5 board according to definite specifications and standards which  
6 shall be clearly set forth with sufficient certainty and definiteness  
7 to enable the developer to know their limit and extent. The plan-  
8 ning board shall grant or deny an application for a conditional  
9 use within 90 days of submission of a complete application by a  
10 developer to the administrative officer, or within such further  
11 time as may be consented to by the applicant.

12 b. The review by the planning board of a conditional use shall  
13 include any required site plan review pursuant to article 6 of this  
14 act. The time period for action by the planning board on condi-  
15 tional uses pursuant to subsection a. of this section shall apply to  
16 such site plan review. Failure of the planning board to act within  
17 the period prescribed shall constitute approval of the applica-  
18 tion and a certificate of the administrative officer as to the failure of  
19 the planning board to act shall be issued on request of the appli-  
20 cant, and it shall be sufficient in lieu of the written endorsement  
21 or other evidence of approval, herein required, and shall be so  
22 accepted by the county recording officer for purposes of filing  
23 subdivision plats.

24 Whenever review or approval of the application by the county  
25 planning board is required by section 5 of P. L. 1968, c. 285 (C.  
26 40:27-6.3), in the case of a subdivision, [or] section 8 of P. L.  
27 1968, c. 285 (C. 40:27-6.6), in the case of a site plan or section 31  
28 of this amendatory and supplementary act in the case of a  
29 variance pursuant to subsection 57c. of P. L. 1975, c. 291 (C.  
30 40:55D-70), the municipal planning board shall condition any ap-  
31 proval that it grants upon timely receipt of a favorable report on  
32 the application by the county planning board or approval by the  
33 county planning board by its failure to report thereon within the  
34 required time period.

1 23. Section 57 of P. L. 1975, c. 291 (C. 40:55D-70) is amended  
2 to read as follows:

3 57. Powers. The board of adjustment shall have the power to:

4 a. Hear and decide appeals where it is alleged by the appellant  
5 that there is error in any order, requirement, decision or refusal  
6 made by an administrative officer based on or made in the enforce-  
7 ment of the zoning ordinance;

8 b. Hear and decide requests for interpretation of the zoning  
9 map or ordinance or for decisions upon other special questions  
10 upon which such board is authorized to pass by any zoning or  
11 official map ordinance, in accordance with this act;

12 c. (1) Where: (a) by reason of exceptional narrowness, shallow-  
13 ness or shape of a specific piece of property, or (b) by reason of  
14 exceptional topographic conditions or physical features uniquely  
15 affecting a specific piece of property, or (c) by reason of an extra-  
16 ordinary and exceptional situation uniquely affecting a specific  
17 piece of property or the structures lawfully existing thereon, the  
18 strict application of any regulation pursuant to article 8 of this act  
19 would result in peculiar and exceptional practical difficulties to, or  
20 exceptional and undue hardship upon, the developer of such prop-  
21 erty, grant, upon an application or an appeal relating to such  
22 property, a variance from such strict application of such regula-  
23 tion so as to relieve such difficulties or hardship; (2) where in an  
24 application or appeal relating to a specific piece of property the  
25 purposes of this act would be advanced by a deviation from the  
26 zoning ordinance requirements and the benefits of the deviation  
27 would substantially outweigh any detriment, grant a variance to  
28 allow departure from regulations pursuant to article 8 of this act;  
29 provided, however, that no variance from those departures enu-  
30 merated in subsection d. of this section shall be granted under this  
31 subsection; and provided further that the proposed development  
32 does not require approval by the planning board of a subdivision,  
33 site plan or conditional use, in conjunction with which the plan-  
34 ning board has power to review a request for a variance pursuant  
35 to subsection 47a. of this act: and

36 d. In particular cases and for special reasons, grant a variance  
37 to allow departure from regulations pursuant to article 8 of this  
38 act to permit: (1) a use or principal structure in a district re-  
39 stricted against such use or principal structure, (2) an expansion  
40 of a nonconforming use, (3) deviation from a specification or stan-  
41 dard pursuant to section 54 of P. L. 1975, c. 291 (C. 40:55D-67)  
42 pertaining solely to a conditional use, (4) an increase in the per-  
43 mitted floor area ratio as defined in section 3.1 of P. L. 1975, c. 291  
44 (C. 40:55D-4), (5) an increase in the permitted density as defined  
45 in section 3.1 of P. L. 1975, c. 291 (C. 40:55D-4), except as applied

46 to the required lot area for a lot or lots for detached one or two  
47 dwelling unit buildings, which lot or lots are either an isolated  
48 undersized lot or lots resulting from a minor subdivision. A vari-  
49 ance under this subsection shall be granted only by affirmative  
50 vote of at least five members, in the case of a municipal board,  
51 or two-thirds of the full authorized membership, in the case of a  
52 regional board, pursuant to article 10 of this act.

53 *Whenever review or approval of an application by the county*  
54 *planning board is required by section 31 of this amendatory and*  
55 *supplementary act, the board of adjustment shall condition any*  
56 *approval that it grants upon timely receipt of a favorable report*  
57 *on the application by the county planning board or approval by*  
58 *the county planning board by its failure to report thereon within*  
59 *the required time period.*

60 No variance or other relief may be granted under the terms of  
61 this section unless such variance or other relief can be granted  
62 without substantial detriment to the public good and will not sub-  
63 stantially impair the intent and the purpose of the zone plan and  
64 zoning ordinance. In respect to any airport hazard areas de-  
65 lined under the "Air Safety and Hazardous Zoning Act of  
66 1983," P. L. 1983, c. 260 (C. 6:1-80 et seq.), no variance or other  
67 relief may be granted under the terms of this section, permitting  
68 the creation or establishment of a nonconforming use which would  
69 be prohibited under the standards promulgated pursuant to that  
70 act, except upon issuance of a permit by the Commissioner of  
71 Transportation. An application under this section may be referred  
72 to any appropriate person or agency for its report; provided  
73 that such reference shall not extend the period of time within  
74 which the zoning board of adjustment shall act.

1 24. Section 63 of P. L. 1975, c. 291 (C. 40:55D-76) is amended  
2 to read as follows:

3 63. Other powers. a. Sections 59 through 62 of this article shall  
4 apply to the power of the board of adjustment to:

5 (1) Direct issuance of a permit pursuant to section 25 of this  
6 act for a building or structure in the bed of a mapped street or  
7 public drainage way, flood control basin or public area reserved  
8 pursuant to section 23 of this act; or

9 (2) Direct issuance of a permit pursuant to section 27 of this  
10 act for a building or structure not related to a street.

11 b. The board of adjustment shall have the power to grant, to  
12 the same extent and subject to the same restrictions as the plan-  
13 ning board, subdivision or site plan approval pursuant to article 6

14 of this act or conditional use approval pursuant to section 54 of  
15 this act, whenever the proposed development requires approval by  
16 the board of adjustment of a variance pursuant to subsection d. of  
17 section 57 of this act (C. 40:55D-70). The developer may elect to  
18 submit a separate application requesting approval of the variance  
19 and a subsequent application for any required approval of a sub-  
20 division, site plan or conditional use. The separate approval of  
21 the variance shall be conditioned upon grant of all required sub-  
22 sequent approvals by the board of adjustment. No such subsequent  
23 approval shall be granted unless such approval can be granted  
24 without substantial detriment to the public good and without sub-  
25 stantial impairment of the intent and purpose of the zone plan  
26 and zoning ordinance. The number of votes of board members  
27 required to grant any such subsequent approval shall be as other-  
28 wise provided in this act for the approval in question, and the  
29 special vote pursuant to the aforesaid subsection d. of section 57  
30 shall not be required.

31 c. Whenever an application for development requests relief  
32 pursuant to subsection b. of this section, the board of adjustment  
33 shall grant or deny approval of the application within 120 days  
34 after submission by a developer of a completed application to the  
35 administrative officer or within such further time as may be con-  
36 sented to by the applicant. In the event that the developer elects  
37 to submit separate consecutive applications, the aforesaid provi-  
38 sion shall apply to the application for approval of the variance.  
39 The period for granting or denying any subsequent approval shall  
40 be as otherwise provided in this act. Failure of the board of ad-  
41 justment to act within the period prescribed shall constitute ap-  
42 proval of the application, and a certificate of the administrative  
43 officer as to the failure of the board of adjustment to act shall be  
44 issued on request of the applicant, and it shall be sufficient in lieu  
45 of the written endorsement or other evidence of approval herein  
46 required, and shall be so accepted by the county recording officer  
47 for purposes of filing subdivision plats.

48 Whenever review or approval of the application by the county  
49 planning board is required by section 5 of P. L. 1968, c. 285 (C.  
50 40:27-6.3), in the case of a subdivision, [or] section 8 of P. L.  
51 1968, c. 285 (C. 40:27-6.6), in the case of a site plan or *section 31*  
52 *of this amendatory and supplementary act, in the case of a variance*  
53 *pursuant to subsection 57d. of P. L. 1975, c. 291 (C. 40:55D-70),*  
54 the municipal board of adjustment shall condition any approval  
55 that it grants upon timely receipt of a favorable report on the

56 application by the county planning board or approval by the  
57 county planning board by its failure to report thereon within the  
58 required time.

59 An application under this section may be referred to any appro-  
60 priate person or agency for its report; provided that such refer-  
61 ence shall not extend the period of time within which the zoning  
62 board of adjustment shall act.

1 25. Section 64 of P. L. 1975, c. 291 (C. 40:55D-77) is amended  
2 to read as follows:

3 64. Generally. The governing bodies of two or more municipi-  
4 palities, independently or with the [board or boards of chosen  
5 freeholders] *governing body or bodies* of any county or counties  
6 in which such municipalities are located or of any adjoining county  
7 or counties or the governing body of any municipality and the  
8 [board of chosen freeholders] *governing body* in which such  
9 municipality is located, or the [boards of chosen freeholders]  
10 *governing bodies* of any two or more adjoining counties, may, by  
11 substantially similar ordinances or resolutions, as the case may be,  
12 duly adopted by each of such governing bodies within six calendar  
13 months after the adoption of the first such ordinance or resolution  
14 after notice and hearing as herein required, enter into a joint  
15 agreement providing for the joint administration of any or all  
16 of the powers conferred upon each of the municipalities or coun-  
17 ties pursuant to this act. Such ordinance may also provide for the  
18 establishment and appointment of a regional planning board, a  
19 regional board of adjustment, or a joint building official, joint  
20 zoning officer or other officials responsible for performance of  
21 administrative duties in connection with any power exercised pur-  
22 suant to this act.

1 26. Section 65 of P. L. 1975, c. 291 (C. 40:55D-78) is amended  
2 to read as follows:

3 65. Terms of joint agreement. The ordinance *or resolution* shall  
4 subject to this article, set forth the specific duties to be exercised  
5 jointly; the composition, membership and manner of appointment  
6 of any regional board including the representation of each munic-  
7 ipality or county; the qualifications and manner of appointment  
8 of any joint building official, joint zoning officer or other joint  
9 administrative officer; the term of office, the manner of financing,  
10 the expenses of such joint exercise of powers, the share of financ-  
11 ing to be borne by each county and municipality joining therein,  
12 the duration of such agreement and the manner in which such  
13 agreement may be terminated or extended.

1 27. Section 66 of P. L. 1975, c. 291 (C. 40:55D-79) is amended  
2 to read as follows:

3 66. Membership of regional boards. Every joint agreement  
4 creating a regional board under this article shall provide for a  
5 representative member on such board for each constituent munic-  
6 ipality or county and may provide for additional representative  
7 members for any such constituent municipality or county. The  
8 representative member or members on a regional board for a  
9 constituent municipality shall be appointed by the mayor.

10 Any such member, after a public hearing if he requests one, may  
11 be removed for cause by the governing body of such constituent  
12 municipality. The representative member or members of a regional  
13 board for a constituent county shall be appointed by the [board of  
14 chosen freeholders] *governing body* of such county. Any such  
15 member, after public hearing if he requests one, may be removed  
16 for cause by the [board of chosen freeholders] *governing body*  
17 of such constituent county.

1 28. Section 71 of P. L. 1975, c. 291 (C. 40:55D-84) is amended  
2 to read as follows:

3 71. Regional planning board; powers. A regional planning  
4 board shall prepare a master plan for the physical, economic and  
5 social development of the region, as created pursuant to the agree-  
6 ment, with elements similar to those mentioned in section 19, and  
7 may make such additional surveys and studies as may be necessary  
8 to carry out its duties. The governing body of any constituent  
9 municipality, by ordinance, or the [board of chosen freeholders]  
10 *governing body* of any constituent county, by *ordinance or resolu-*  
11 *tion*, may delegate to the regional planning board, any or all of the  
12 powers and duties of a municipal planning board, in the case of a  
13 municipality, and, in the case of a county, any or all of the powers  
14 and duties of a county planning board.

15 Notwithstanding any other provision of this act, no application  
16 for development shall be required to be reviewed and approved  
17 by both a regional planning board and the planning board of a  
18 constituent municipality.

1 29. (New section) For the purpose of preserving the integrity  
2 of the official map of a county no permit shall be issued for any  
3 building or structure in the bed of any highway or public area  
4 adopted and shown as part of the official county map, except as  
5 hereinafter provided. Whenever one or more parcels of land, upon  
6 which is located the bed of such a mapped highway or public  
7 area reserved pursuant to R. S. 40:27-5, cannot yield a reasonable

8 return to the developer unless development approval is granted,  
9 the county planning board may, in a specific case, by an affirmative  
10 vote of a majority of the full authorized membership of the board.  
11 direct the issuance of a permit for a building or structure in the  
12 bed of the mapped highway or public area, which will as little as  
13 practicable increase the cost of opening that highway, or tend to  
14 cause a minimum change of the official map and the board shall  
15 impose reasonable requirements as a condition of granting the  
16 permit so as to promote the health, convenience, safety and general  
17 welfare of the public.

18 Before making a decision on any development application in-  
19 volving construction in the bed of any highway or public area  
20 shown as part of the official county map, the board shall give a  
21 public hearing at which parties in interest and others shall have  
22 an opportunity to be heard. At least 10 days notice of the time  
23 and place of such hearing shall be published in a newspaper of  
24 general circulation in the county. The board shall refuse a permit  
25 where the land of the applicant within the mapped highway is  
26 already earning a fair return, or where he is in no way injured by  
27 placing his building outside of the mapped highway.

28 Any person who shall construct or begin the construction of  
29 such a building without a permit shall forfeit and pay a penalty  
30 of not more than \$100.00 for each day that work on such structure  
31 continues. The county may bring an action to enjoin the construc-  
32 tion and may also recover the penalty by a civil action in any court  
33 of competent jurisdiction.

1 30. a. (New section) The county clerk shall notify the municipal  
2 clerk of each municipality in the county, as appropriate, within  
3 10 days of the amendment or revision of the official map of the  
4 county. Upon receiving the county official map, the municipal  
5 governing body shall begin the amendment of its official map so  
6 that it is consistent with the county map. These amendments  
7 shall be completed by no later than 90 days following receipt of  
8 the county planning documents by the municipal clerk. Public  
9 hearings on any amendments to the municipal official map required  
10 under this section shall be held pursuant to section 7.4 of P. L.  
11 1975, c. 291 (C. 40:55D-15), however, any changes to the amended  
12 municipal official map shall be consistent with the county official  
13 map.

14 If there are areas of disagreement between the county and  
15 municipal governing bodies such that the two official maps are not  
16 reconciled within the specified time period, the two maps shall be

17 transmitted to the Director of the Office of State Planning in the  
18 Department of the Treasury, who shall make the final decision  
19 regarding any outstanding points of disagreement based upon the  
20 provisions of the State Development and Redevelopment Plan  
21 prepared pursuant to P. L. 1985, c. 398 (C. 52:18A-196 et seq.).

22 b. Within 30 days after the adoption of an official map, a copy  
23 of the map shall be transmitted by the municipal clerk to the  
24 county clerk for the information and files of the county governing  
25 body.

1 31. (New section) Each application for a variance shall be sub-  
2 mitted to the county planning board for review and, where  
3 required, approval prior to approval by the local municipal ap-  
4 proving authority. The governing body of every county shall  
5 provide for the review of all applications for a variance within  
6 the county by the county planning board and for the approval of  
7 all variance applications which: a. fall within the definition of a  
8 project pursuant to section 4 of P. L. 1968, c. 285 (C. 40:27-6.2);  
9 or b. either have direct access to a State or county highway or are  
10 situated within 500 feet of a contiguous county.

11 Such review or approval shall be in accordance with procedures  
12 and engineering and planning standards adopted by resolution or  
13 ordinance, as appropriate, of the governing body, and shall be  
14 consistent with the provisions of the master plan adopted pursuant  
15 to R. S. 40:27-2. Notice of a public hearing on a proposed resolu-  
16 tion or ordinance of the governing body establishing procedures  
17 and standards to govern the review and regulation of land develop-  
18 ment, as herein provided, and a copy of such resolution or ordi-  
19 nance, shall be given by delivery or by certified mail to the munic-  
20 ipal clerk, secretary of the planning board and secretary of the  
21 board of adjustment of each municipality in the county at least  
22 10 days prior to such hearing. These standards shall include, but  
23 not be limited to:

24 a. The requirement of dedication of additional right-of-way in  
25 accordance with the county master plan adopted by the county  
26 planning board or an official county map adopted by the governing  
27 body. Where by reason of special or unusual conditions the total  
28 additional right-of-way is to be secured from just one side of an  
29 existing road, only one-half of the additional right-of-way may be  
30 required to be dedicated.

31 b. The requirement of physical improvements subject to recom-  
32 mendations of the county engineer relating to the safety and  
33 convenience of the traveling public, including drainage facilities,

34 or other highway and traffic design features as may be deemed  
35 necessary on such county road or roads in accordance with the  
36 engineering and planning standards established in the variance  
37 review and approval resolution or ordinance of the governing body.

38 c. The requirement of performance and payment guarantees  
39 and procedures for the release of same, maintenance bonds of not  
40 more than two years duration from the date of acceptance of  
41 improvements, cash contributions, and agreements specifying mini-  
42 mum standards of construction for required improvements. Pro-  
43 cedures for, and limitations on the requirement of such guarantees  
44 or cash contributions shall be governed by the provisions of this  
45 act.

46 d. The requirement of adequate drainage facilities and ease-  
47 ments when, as determined by the county engineer in accordance  
48 with county-wide standards, the proposed variance will cause  
49 storm water to drain either directly or indirectly to a county road  
50 or through any drainageway, structure, pipe, culvert or facility  
51 for which the county is responsible for the construction, mainte-  
52 nance or proper functioning.

1 32. (New section) The planning board of any county may require  
2 the developer of a project or any other undertaking which would,  
3 in the judgment of the planning board, have a significant impact  
4 on county roads, drainage facilities or other structures, to submit  
5 an impact statement which shall include, but not be limited to:

6 a. An inventory of existing traffic conditions at the site of the  
7 proposed development and in the surrounding region which shall  
8 describe the existing transportation system, its current usage and  
9 projected capacity based on estimates of population growth con-  
10 tained in the county master plan;

11 b. An assessment of the probable impact of the development on  
12 existing conditions described pursuant to subsection a., with parti-  
13 cular emphasis focused on the impact upon State and county roads;

14 c. An inventory of existing drainage facilities at the site of the  
15 proposed development and in the surrounding region which shall  
16 describe the existing system of drainageways, pipes, culverts or  
17 other facilities, the current usage of drainage facilities and pro-  
18 jected capacity based on estimates of population growth contained  
19 in the county master plan;

20 d. An assessment of the probable impact of the proposed de-  
21 velopment on existing conditions described pursuant to subsection  
22 c.; and

23 e. A listing of steps to be taken by the developer to minimize

24 any adverse impacts of the proposed development on the regional  
25 transportation system or drainage facilities or any other aspect  
26 of the county's infrastructure.

1 33. (New section) The governing body may by ordinance adopt  
2 regulations requiring a developer, as a condition for approval of a  
3 subdivision or site plan by the county planning board to pay his  
4 pro-rata share of the cost of providing only reasonable and neces-  
5 sary street improvements and water, sewerage and drainage  
6 facilities, and easements therefor, located outside the property  
7 limits of the subdivision or development but necessitated or re-  
8 quired by construction or improvements within such subdivision  
9 or development. Such regulations shall be based on circulation  
10 and comprehensive utility service plans prepared pursuant to  
11 subsections b(4) and (5) of R. S. 40:27-2 and the impact statement  
12 submitted by the developer pursuant to section 32 of this amenda-  
13 tory and supplementary act and shall establish fair and reasonable  
14 standards to determine the proportionate or pro rata amount of  
15 the cost of such facilities that shall be borne by each developer or  
16 owner within a related and common area, which standards shall  
17 not be altered subsequent to approval. Where a developer pays  
18 the amount determined as his pro rata share under protest he shall  
19 institute legal action within one year of such payment in order to  
20 preserve the right to a judicial determination as to the fairness  
21 and reasonableness of such amount.

1 34. (New section) Notwithstanding section 23 of P. L. 1975,  
2 c. 291 (C. 40:55D-32), section 49 of P. L. 1975, c. 291 (C.  
3 40:55D-62), or any other law, rule or regulation to the contrary,  
4 the municipal governing body or planning board shall not adopt an  
5 amendment to the official map, zoning ordinance, or any other  
6 development regulation, which, in whole or in part, is inconsistent  
7 with the appropriate provisions of the municipal master plan,  
8 until it has received written approval from the county planning  
9 board allowing the inconsistent amendment.

1 35. (New section) No development regulation shall take effect  
2 until a copy thereof shall be filed with the county planning board  
3 and the official map of the municipality shall not take effect until  
4 filed with the county recording officer, pursuant to section 7.5 of  
5 P. L. 1975, c. 291 (C. 40:55D-16).

1 36. (New section) The governing body shall, at least every six  
2 years, provide for a general reexamination of its master plan and  
3 standards and procedures adopted to guide subdivision, site plan  
4 and variance review and approval by the planning board, which

5 shall prepare a report on the findings of that reexamination, a  
6 copy of which shall be sent to the planning board of every munic-  
7 pality in the county and to the planning board of each adjoining  
8 county.

9 The six-year period shall commence with the adoption or ter-  
10 mination of the last general reexamination of such plan and  
11 regulations. The first such reexamination shall be completed  
12 within six years after the effective date of this amendatory and  
13 supplementary act.

14 Such report shall state:

15 a. The major problems and objectives relating to land develop-  
16 ment in the county at the time of such adoption, last revision or  
17 reexamination, if any.

18 b. The extent to which such problems and objectives have been  
19 reduced or have increased subsequent to such date.

20 c. The extent to which there have been significant changes in the  
21 assumptions, policies and objectives forming the basis for such  
22 plan or regulations as last revised, with particular regard to the  
23 density and distribution of population and land uses, housing  
24 conditions, circulation, conservation of natural resources, energy  
25 conservation, and changes in State, county and municipal policies  
26 and objectives.

27 d. The specific changes recommended for such plan or regula-  
28 tions, if any, including underlying objectives, policies and stan-  
29 dards, or whether a new plan or regulations should be prepared.

1 37. R. S. 40:27-6 and section 14 of P. L. 1968, c. 285 (C.  
2 40:27-6.12) are repealed.

1 38. This act shall take effect immediately.

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#### STATEMENT

This bill would make various changes in the county planning laws (R. S. 40:27-1 et seq.) and would amend the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-1 et seq.) to reflect those changes.

Under this bill the county governing body would be required to appoint a planning board. Current law is permissive in this regard.

The bill would broaden the power of county planning boards to review site plan and subdivision applications and would grant counties the authority to review and approve variance applications. Specifically, county planning boards would be required to review all of these development applications and to approve those

which: (a) involve a gross floor area of at least 25,000 square feet in the case of a non-residential use or not less than 50 residential units in the case of a residential use; or (b) either have direct access to a State or county highway, are situated within 500 feet of such a highway or within 500 feet of a contiguous county. The bill would allow the county greater flexibility in establishing the standards for review and approval of site plan and subdivision applications and would require the adoption of standards to govern variance review and approval.

The bill would broaden the requirement of what is to be included in the county master plan so that it more closely reflects the format of the municipal master plan. Similarly, the county official map is conformed more closely to its municipal counterpart. In addition, the bill outlines a process by which county and municipal plans and maps are to be made consistent following the date of enactment.

The bill would enable any county planning board to require a developer to submit an impact statement if the proposed development would, in the judgment of the planning board, have a significant impact on county roads, drainage facilities or other structures. The county governing body is authorized to enact an ordinance or resolution to require contributions as a condition for subdivision or site plan approval in accordance with the master plan and based on information contained in the impact statement.

The bill also would prohibit any municipality from enacting a planning or zoning ordinance which is inconsistent with the master plan of the respective county. The county plan would be required to be reexamined every six years under this legislation.

Finally, the bill would allow county governing bodies to provide for the compensation of planning board members.

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### COUNTY GOVERNMENT

Makes various changes in the county planning laws and amends the "Municipal Land Use Law" to reflect those changes.

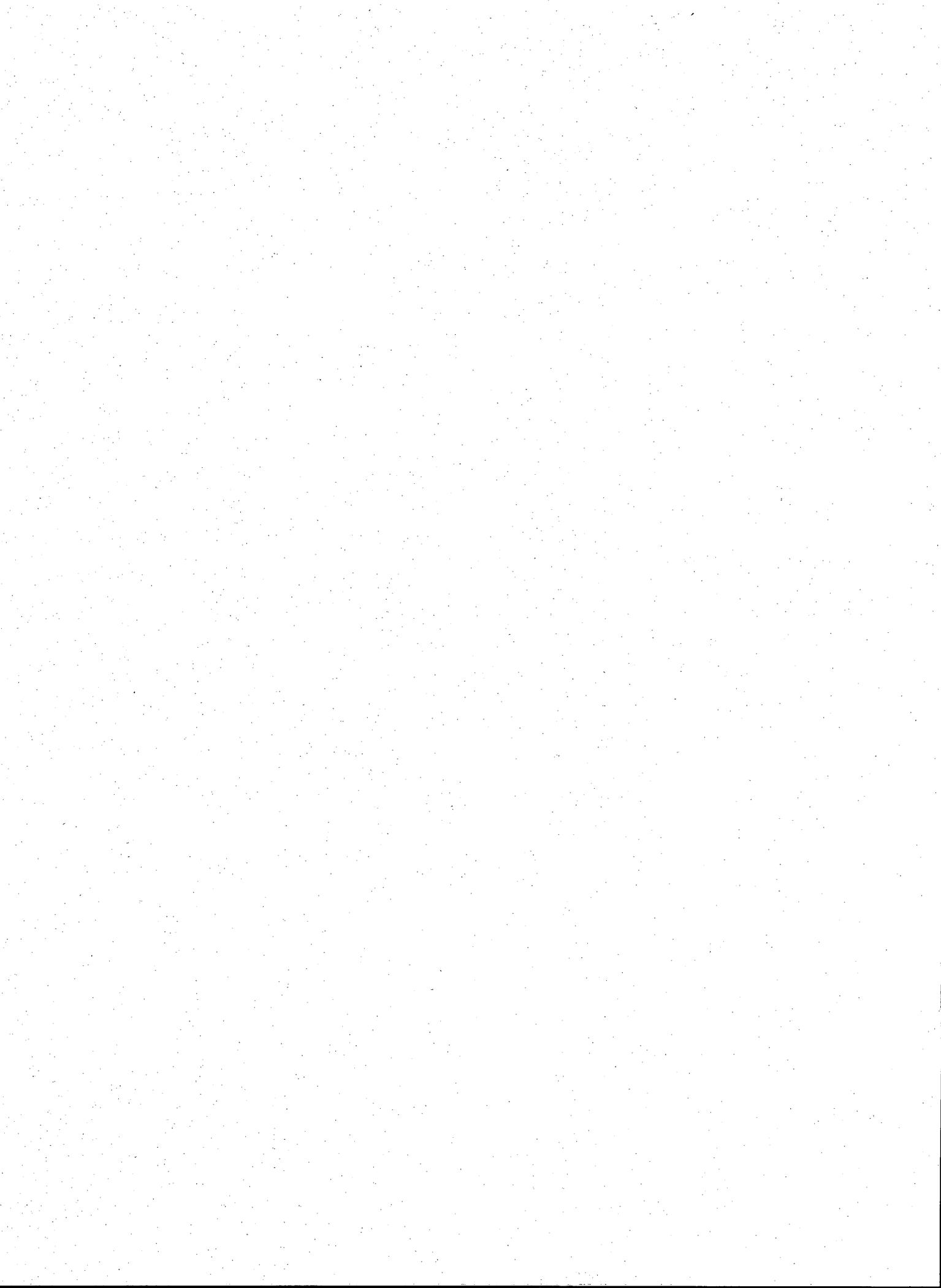
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ASSEMBLYMAN JOHN PENN (Chairman): We'll call the meeting of the 22nd to order. The first matters of business are two bills that we're going to hear before we go into the hearing. The first bill is the bill of Assemblywoman Ogden, and we're going to present that at this time. The purpose of this bill: The bill would amend the Public Local Contracts Law to permit contracting units to enter into 20-year contracts for the collection of methane gas from sanitary landfill facilities.

In addition, the bill would permit a contract unit to receive money as part of the contract agreement. I'm presenting the bill for Assemblywoman Ogden, who is at another hearing at this time. Is there any member of our Committee who has any questions on this particular bill? Assemblyman Pelly, you wanted to offer one change in the bill?

ASSEMBLYMAN PELLY: Yeah, the one change that I wanted was to mandate that it be given to the highest bidder, rather than make it permissive.

ASSEMBLYMAN PENN: So strike "may" and insert the word "shall?"

ASSEMBLYMAN PELLY: Yes. And I think that Assemblywoman Ogden had an amendment, "to 25 years."

ASSEMBLYMAN PENN: Yes. Do you want to-- Is there anybody that wishes to be heard on Assemblywoman Ogden's bill?

S T E V E N C H A N G A R I S: Steve Changaris, the League of Municipalities. We endorse the bill. We endorsed it during the last session. The five-year amendment-- The extra five years don't seem to be bad. I would just think that we don't have a position on the "shall" provision. But, I would think, under the circumstances, if the Committee is so inclined to release the bill today, that's good. We'll review that matter further at a later date.

I would like to make the general point to have some leeway in the administration of it. There could be some other give-backs in terms of maybe awarding to one of the other

bidders, in terms of a lower energy cost -- maybe a provision of energy services in the out years. I understand that there's a theory behind mandating it to the highest bidder, because the municipality is going to get more money. But, there could be some other extraction in which we might not get as much cash, but we might do better in some other areas. So, at this point, we just wanted to put it on the table.

ASSEMBLYMAN PELLY: As I said privately to the Chairman, if there's a demonstrated need to move it in that direction, certainly I would be amenable. I would speak to the sponsor about having a floor amendment, putting it back to a permissive statement.

MR. CHANGARIS: We'll do some research on that and we'll report back to you.

ASSEMBLYMAN PELLY: We'll look forward to that.

ASSEMBLYMAN PENN: I think that our thing was let's try and get the maximum amount of money that we can, if we have to mandate it. We felt that was good, but I think your point is well taken. If you do have some further input on the thing, we certainly would assist. Assemblyman Pelly said that-- John, we're on Maureen Ogden's bill. Do you have any comments on it?

ASSEMBLYMAN HENDRICKSON: No, I don't. (The Committee recesses for consideration of other bills on the agenda.)

(AFTER RECESS)

ASSEMBLYMAN PENN: At this time we'll start our hearing and testimony dealing with the various proposals of the county pay planning revisions. At this time, we've asked the League of Municipalities' representative here to express before our Committee the concerns of the municipalities, and to get whatever input that we can from them regarding the roll they see of county planning in the State. The first person to speak is Fred Stickel, who is the League's general counsel.

F R E D G. S T I C K E L, III: Thank you, Mr. Chairman.

ASSEMBLYMAN PENN: Mr. Stickel, we have a limited amount of time. We want to get every person on that we have here today.

MR. STICKEL: I could speak here for a week on these bills.

ASSEMBLYMAN PENN: That's why we're telling you--

MR. STICKEL: Do not be repetitive, right?

ASSEMBLYMAN PENN: That's correct.

MR. STICKEL: I have a prepared statement, and there are a couple of remarks that I'd like to make. I don't know whether you're discussing Assemblyman Albohn's bill or not, but I have a couple remarks about that. I don't know what the status of that situation is.

ASSEMBLYMAN PENN: That bill is being discussed and considered at this time, along with Assemblyman McEnroe's bill.

MR. STICKEL: May I have a couple of minutes on that?

ASSEMBLYMAN PENN: Well, I think we-- Which one, or both of them?

MR. STICKEL: I want to talk about Assembly Bill 4127 first.

ASSEMBLYMAN McENROE: That's the number of my prior bill in the prior session.

MR. STICKEL: Oh, it's a prior session?

ASSEMBLYMAN HENDRICKSON: Twenty-two sixty.

MR. STICKEL: Twenty-two sixty? All right.

ASSEMBLYMAN PENN: Assemblyman Albohn will be here in a few minutes. If you would like to start with Mr. McEnroe's bill, and then go into Assemblyman Albohn's bill, he will have the advantage of hearing your remarks at that time.

MR. STICKEL: All right, fine. Thank you, Mr. Chairman. To the honorable members of the Assembly County Committee, I'm general counsel for the New Jersey State League of Municipalities. I'm also one of the principle drafters of the Municipal Land Use Law in 1975, with the several amendments

that the Legislature has made since then. It took us about-- We were a Senate Committee drafting that law, and it took us about four to five years to bring it to fruition. I've practiced law for 45 years, specializing in the fields of zoning, planning, and land use control.

I've reviewed the bill under discussion, and I'm violently opposed to the same. If enacted as drafted, it will do more to destroy home rule than Mount Laurel II -- I and II. The bill is rather cleverly drawn--

ASSEMBLYMAN McENROE: Mr. Chairman, are we going to allow Mr. Stickel to proceed with the statement and then we'll question him?

ASSEMBLYMAN PENN: Yes.

ASSEMBLYMAN McENROE: Very good. Thank you.

MR. STICKEL: The bill was rather cleverly drawn to indicate that at the outset, it changed from the power being vested in the board of freeholders to that of a governing body of each county. However, as the statement attached to the bill indicates, it would broaden the powers of the county planning board to review the site plan and subdivision application.

That statement is the understatement of the year. What the bill does, is invest complete power to the county planning board, "prior to approval by the local municipal approving authority to pass on every minor or major subdivision application to the local authorities. This power of site plan review is extended to the county planning board as well."

There's absolutely no necessity for extending the power of the county planning board beyond which presently exists. When we drafted the present county planning bill, in 1958 -- (speaker corrects himself) 1968, we fought the same battle and finally convinced the county that its planning functions, subdivisions and site plans should be limited to those site plans and subdivision applications affecting county roads or drainage facilities.

As the present bill is written, the county planning board must act on all site plans and subdivision applications prior to any approval of the local municipal authorities. Land use control has been vested in the municipal authorities since the Constitution authorized the Legislature to enact enabling legislation, granting such power to the municipal authority. The Constitution does not authorize such power to be vested in the county planning board or any county agency.

The Municipal Land Use Law, enacted in 1975, was the result of five or six years' work. It is recognized throughout the State, as well as the nation, as an outstanding law regulating land use. Assembly Bill 2260 would destroy one of the basic purposes of that act -- mainly, to speed up consideration and approval of subdivision site plans at the local level.

The specific time limits are spelled out within which the local planning board, or board of adjustment, must act on various applications. The way this bill is written -- requiring county planning boards to act, in each instance, on every application -- these time limits for the municipal authority to act could not be met.

This bill also provides for a notice to the county planning board of all applications to the board of adjustment. Again, this will unnecessarily tie up the local boards' actions on applications for various site plans and subdivisions, unduly.

This section is obviously an attempt to have the county planning board act as a super planning board, or board of adjustment, overseeing all of the board of adjustment boards and planning boards in the county. This is totally unacceptable, and contrary to the established practice in this State and to the Constitutional mandate.

I would like to point out to you a very serious defect in the county planning bill as presently written and proposed. Both the present bill and the proposed bill attempt to give

county planning boards the right to require dedication of additional right-of-way for the widening of county roads. It makes no provision for the payment of just compensation to the property owner, who is required to dedicate additional lands for county road purposes. This is not only contrary to the Constitution of the State, but also the United States, which requires compensation when lands are to be taken by a public authority. And, it is also contrary to three decided but unpublished opinions of the Superior Court and the Appellate Division of New Jersey.

In conclusion, I strongly recommend that this bill not be released from Committee for any further action on the part of the Legislature. I understand there is a study underway that has been confirmed again this morning by certain county planning officials, to redraft the County Planning Act. They are not the authors of this bill. The League and myself stand ready to assist any group or groups who desire to make revisions in the County Planning Act, so long as the County Planning Act recognizes that local municipal authority should, and must, play the principal major role in land use control.

I brought with me today a section of the Constitution -- of our Constitution. As I have indicated, I have been 46 years in this field. Many of the public do not remember that in 1923, 1924 and 1926, rezoning in New Jersey was held to be unconstitutional. The people finally decided, and we are the only State in the Union that has a Constitutional provision that permits zoning. At that time -- and I personally think it's the feeling of the public today -- counties were specifically excluded from getting any power as far as zoning and land use control is concerned.

The Constitution that was adopted as a separate amendment in 1927 -- and it reads the same today in the 1947 or 1948 Constitution -- says the Legislature may enact general laws under which municipalities -- and these specific words are

in there -- "other than counties may adopt zoning ordinances limiting and restricting to specific districts, and regulating therein, buildings and structures according to their construction, their nature, the extent of their use, the nature and extent of the use of land. The exercise of such authority shall be deemed within the police power. Such laws shall be subject to repeal or alteration by the Legislature."

If you read the history of zoning in this State, you'll find that the only way they were able to get this amendment through -- as a separate amendment, adopted not within the overall Constitution -- was to insert the language "other than counties." The people just would not accept zoning unless they had control of it at their own -- at the municipal level. I believe the way these laws are written, they would definitely be unconstitutional, because they, in effect, control -- seriously control -- the zoning land use controls of the municipality. They have the final say, and I don't think this law will stand up.

Now, as far as Art Albohn, he was a councilman in Hanover when I was up there with the planning board. I just couldn't understand this bill, but--

ASSEMBLYMAN HENDRICKSON: The Assemblyman will be here shortly.

MR. STICKEL: I've already talked to him about it. He says this is not the way he wanted it.

ASSEMBLYMAN PENN: Mr. Stickel, we're going to have -- maybe even before we go into Art Albohn's bill, so we can separate the two of them. I think there are a couple members of the Committee that do have some specific questions of the statements that you just made. I recognize John Hendrickson, and I think, Harry, you had some questions.

ASSEMBLYMAN HENDRICKSON: Mr. Stickel, in the previous testimony we heard on both bills, in questioning some of the people that testified, namely, I believe the Mayor of Princeton

Township -- not the Borough. They testified here that the Municipal Land Use Law evidently was not forceful enough to be used in some of the problems. Also, we have the Route 1 Corridor that we all hear so much about. Sitting on this Committee sometime in the last session, I brought the subject up again as to why do we need county and/or planning, when we have the Municipal Land Use Law? I continuously get from all the people that are testifying that they just cannot implement it, and there has been a court decision knocking some sections of it down. Is that correct?

MR. STICKEL: No, no court decision that I know of. Knocking what down?

ASSEMBLYMAN HENDRICKSON: Knocking the part of it that says one municipality may object to the growth of another municipality if they have--

MR. STICKEL: Chief Justice Vanderbilt, when he was on the Court, decided the four boroughs case in Bergen County, which involved Cresskill, Dumont-- I can't remember the other two towns. He held very definitely, in that case, that one municipality could not, on its borders, zone for an incompatible use with the use in the adjoining town.

ASSEMBLYMAN HENDRICKSON: He upheld it, is what you're saying.

MR. STICKEL: No, he said they could not do it.

ASSEMBLYMAN HENDRICKSON: They could not?

MR. STICKEL: He set aside the ordinance. I think, in this case, it was a commercial use up against a residential use for this town boundary in between. It has been the law, and it has never been overruled that I know of.

As far as the other, I will have to admit -- as I have indicated to Assemblyman McEnroe -- there are areas that are beyond the control of the land use laws, because it is zoning and site plan, and so on. I recognize that transportation, for one, is a problem that we can only control at a local level.

I recognize that drainage-- We have a big problem in this State as far as drainage is concerned because drains have no municipal boundaries. The stream goes from one town to the next. There are areas, it seems to me, that the county should have power to take care of. I think the municipalities would welcome it, in those cases, because then they would have something that they can rely upon in their own administration of subdivision site plan and variances.

But, to say to the county that you're going to have a super board here and you can't approve anything unless the county approves it first, or the final analysis is just interjecting the county into a field that I don't think they can even handle. Can you imagine the 73 municipalities in Bergen County -- or 72 -- and having maybe five or six applications a month for subdivision, and having the county take care of 350 applications, or 400 applications? It's just impossible. They won't and can't know what the problems are at the local level. They won't know the police the fire, the garbage collectors and all that sort of stuff. Those are areas that should be left with the municipality. I say-- I stand ready to try to broaden the powers of the county planning board in specific areas.

Now, when you talk about the corridor, I went over this very carefully with Assemblyman Karcher. We finally agreed that instead of having one planning board that was going to exercise all the powers of local control over zoning and planning, you would have a regional agency that would adopt a master plan as to transportation, which all of the municipalities would have to follow. You're throwing the baby out with the bathtub here.

ASSEMBLYMAN HENDRICKSON: Thank you, Mr. Stickel.

ASSEMBLYMAN PENN: Assemblyman McEnroe?

ASSEMBLYMAN McENROE: Thank you Mr. Chairman. I want to commend Mr. Stickel for his distinguished career in law, and

in being a great assistance to development of New Jersey, relating to improvement of land use legislation. I do have a letter here, signed by Mr. Trafford, Executive Director of the State League of Municipalities in which he-- The substance of the letter is a summary of Mr. Stickel's comments relative to the legislation. I do not want to describe -- or repeat, rather -- the comment of Mr. Trafford, because I don't want it to find its way into the transcript. But, he does describe the legislation in less than glowing terms. I do have a few questions. I do have a few questions for you, Mr. Stickel.

MR. STICKEL: Fine.

ASSEMBLYMAN McENROE: Home rule-- Can you define home rule for me, so that I could have some sense--

MR. STICKEL: In the area of zoning, I think it's been defined by the Constitution.

ASSEMBLYMAN McENROE: In 1927?

MR. STICKEL: Yes.

ASSEMBLYMAN HENDRICKSON: Also in 1947?

MR. STICKEL: Also in 1947.

ASSEMBLYMAN McENROE: Well, that was just a redefining of all the things we had changed in prior years.

MR. STICKEL: Well, evidently the people of this State, on at least two occasions-- The Constitution was originally adopted in 1844, and then it was amended on October of 1927. The next amendment was in 1948, wasn't it? They've reenacted this. If you read the Constitutional history -- I mean history of the meanings of the Constitutional convention -- you'll find that this was a particular area that the municipalities wanted home rule. They felt that this--

As I have repeated before, we are the only State in the Union that had this provision in the Constitution. Yes, you have zoning in other states; you have zoning in many states. I was on the National Committee, the NIMO -- National Institute of Municipal Offices -- the zoning committee, for over 30 years. I studied all of the laws and all the decisions

that came down from time to time in other states. You do have county zoning in some municipalities--

ASSEMBLYMAN McENROE: In some states.

MR. STICKEL: --in some states, but those areas do not have incorporated territories. I mean their municipalities are not incorporated.

ASSEMBLYMAN McENROE: Well, in your letter you do state that -- the letter that included your comments to municipal officials -- you felt that it was appropriate in less congested states, but not appropriate in, if you will, congested states such as New Jersey. You base that on the fact that's been the tradition now. I grant tradition has its place in society, but I think we should have law in imposing certain requirements in an area in a state such as New Jersey, when we're confronted with such growth management problems as before us.

MR. STICKEL: Well, I think that the growth management problems that you have are problems that can be solved in that particular area by regional planning. I don't think we have enough regional planning in this State.

ASSEMBLYMAN McENROE: Well, this is the whole concept of my intention of containing the bill.

MR. STICKEL: Well, it may be your intention, but I don't think the bill accomplished that.

ASSEMBLYMAN McENROE: Well, we seem to--

MR. STICKEL: I don't think that counties are necessarily the form of government, so to speak, to cover the regional aspects of this thing. These regions-- I know I studied-- Years ago, they had an Assembly committee when we studied this -- water and sewer. We came to conclusion that you could not confine the regional aspects of that problem to counties. In other words, your water situation is really a water basin. It's whatever that water basin is, and they may take in five counties. They may take in two counties. It's the same way with sewers.

ASSEMBLYMAN McENROE: I don't disagree with that. I mean that's reasonable and understandable.

MR. STICKEL: So I think, in this particular area, if we're having trouble with transportation, if we're having trouble in roads, if we're having trouble in some of these other areas, we should tackle the problem by way of a regional setup, like I think we should tackle this corridor thing. This corridor thing is not just Route 1.

ASSEMBLYMAN McENROE: Exactly, it's not just Route 1. There are many corridors in the State.

MR. STICKEL: We got it up there in Route 10, as the mayor can tell you.

ASSEMBLYMAN McENROE: I just want to return-- The Constitution, established in 1927, required that the municipalities be the level of government that would evaluate planning. Do you think, in the past 59 years, there has been any change that would require a review of that responsibility?

MR. STICKEL: No, I don't accept any areas that we've discussed. I do think that what we need-- But, there you don't have to exercise zoning, or land use control. I think you have to have the plan. You take Bergen County, for instance, with 72 municipalities. They have all kinds of drainage problems up there.

ASSEMBLYMAN McENROE: But they're carrying the responsibility of the county, to a great degree.

MR. STICKEL: Most counties won't accept them, even Essex County.

ASSEMBLYMAN McENROE: But they have it under the law. They have it under the law -- the responsibility for drainage.

MR. STICKEL: They have it as to bridges and culverts, but they don't have it as to the rest of the stream.

ASSEMBLYMAN McENROE: Well, they have the responsibility of containing drainage, as best as they can, based on the engineering responsibilities they have.

MR. STICKEL: Yes, but there has been no law that fixed responsibility for drainage. The county has taken over culverts, bridges, wing walls leading up to them and so forth. But they've never gone up-- You've never seen the county go in and clean out a stream.

ASSEMBLYMAN McENROE: In Essex County I have, but that's just a parochial viewpoint.

MR. STICKEL: Well, they just did it.

ASSEMBLYMAN McENROE: We do it in Essex County on a continuing basis. No, I just want to return to some of the concepts. Now, you talked about all the municipalities in Bergen County. Is there a reality out there that municipalities in certain counties are competing for various ratables? Are they competing with each other, and are they sweetening the pie, so to speak, so that a large development will become a part of their tax base, as opposed to another community? It's happening, and very often to the detriment of the surrounding communities.

MR. STICKEL: I frankly think that there's not much competition in that field, because your county tax rate is so high that it doesn't make much difference what your ratables are. Look at Essex County: Look at Roseland, where I live. All those office buildings have come up there in Roseland. We've got more lawyers in Roseland than they've got in the United States, I think.

ASSEMBLYMAN McENROE: I'm there too.

MR. STICKEL: We haven't had any benefit other than our local tax rate out of there.

ASSEMBLYMAN McENROE: I don't agree with that but again, you're a resident. I'll defer to your tax bill and not mine.

MR. STICKEL: Well, that's what the mayor tell me, at any rate.

ASSEMBLYMAN McENROE: He's not running for reelection,

though. There are many questions I have. I think they're all directed--

MR. STICKEL: I want to offer my-- We had the same argument in 1968. We were able to sit down and work out the present County Planning Act. Now, if there are areas where the present County Planning Act is not as operative as it should be in light of what has taken place in the last two decades or so, I'm perfectly willing, even at my age, to sit down and work at this thing again. But, I just can't see this approach at all. Because, what you're doing is even as you cut back and say you're going to take 50 units here, and so much there, the camel has got his nose in the tent. The next thing is you're going to turn the whole thing over to the county.

ASSEMBLYMAN McENROE: Well, I can't retreat from the circumstance of New Jersey's being the mostly densely populated state, located as it is in the busiest marketplace in the country, experiencing a tremendous growth -- percentage-wise and job-wise and all these other factors contributing to it -- and having 567 municipalities make decisions as to land use, without a regional review of those decisions. Because, I think the impacts made at the local level really have to be assessed. The region has to be considered.

MR. STICKEL: The regional review can be done very simply by the county adopting some kind of master plan, and submitting it to the municipalities. I can assure you that anything in there as to transportation, as to drainage, as to other items that they've been wrestling with, and unsuccessfully, I'm sure they'll follow. But, don't say the county has final approval.

ASSEMBLYMAN McENROE: Well, there's never been any intent to develop another layer of bureaucracy, or insist that the county is the only decision-maker of the process. Really, from the very beginning, I have considered it an opportunity for coordination of municipalities and counties, to require

that the continuing development of New Jersey be an orderly one.

MR. STICKEL: But how do you get around this language: "Prior to approval by a local, municipal, approving authority"?

ASSEMBLYMAN McENROE: Well, we tried to put language in there that would make it a simultaneous process for both the municipality, the county, and their professionals in each planning staff, to evaluate the benefit of the development, and make a common decision.

MR. STICKEL: Right now the county planning boards do send reports to the local boards. At the present time, we submit subdivisions and site plans to the board, and they send their comments to us. But, what you're saying is that we can't approve it unless they do.

ASSEMBLYMAN McENROE: Well, as you know, there are counties that do not have planning boards; there are counties that have plannings that rarely meet.

MR. STICKEL: I understand that

ASSEMBLYMAN McENROE: There are counties that have difficulty in getting a quorum because the business of the planning board is so restricted by current law. It would seem to me again, in a bustling state like New Jersey, that we should have a more defined role for regional planning.

MR. STICKEL: Well, maybe you want to draft a law that says every county planning board -- every county should have a master plan.

ASSEMBLYMAN McENROE: That's in the bill.

ASSEMBLYMAN PENN: That's in the bill.

MR. STICKEL: I know it is. It's the implementation of it that disturbs me.

ASSEMBLYMAN McENROE: That's why, through the leadership of our Chairman, we're having these hearings. We've had other meetings with gentlemen such as yourself. Hopefully, we'll be able to arrive at a conclusion.

MR. STICKEL: Okay, do you want to tell me anything about Assemblyman Albohn's bill?

ASSEMBLYMAN PENN: Before we get to that, I think that Assemblyman Pelly has a couple of questions. I just have a couple of remarks, and then we can go on to Assemblyman Albohn's bill.

ASSEMBLYMAN PELLY: Thank you, Mr. Chairman. Mr. Stickel, I wanted to ask-- I obviously know your position with respect to the continuance and the powers of the local planning board. I was interested in your observations, and I would like to hear more directly. In your scheme, do you see a need, not only for the local planning boards, with all of the powers that it currently holds, but also for a county planning board and a regional planning board? I want you to follow up on that.

MR. STICKEL: Well, I think the regional aspects of it have to be dictated by the problems. It depends upon what problem you're going to tackle, as to what the region is. Now, we do have legislation on the books for regional planning. It's in the Municipal Land Use Law. You can create. Now, Lake Hopatcong, up there-- They had a problem with their lake and all that sort of stuff. They created a regional planning board up there. I think that's the only one that I know of, at the moment, that has ever exercised-- I don't know, but I think Princeton has a-- Don't they have a regional board?

ASSEMBLYMAN PENN: A joint board. The township and the borough have a joint board.

MR. STICKEL: They combined together and formed one regional board. I think those are the only two. The legislation is there to create these regional boards, and to tackle the problem that presents it. I don't believe that the county as such, is necessarily the region. It depends upon what your problem is. I mean, you take transportation. I would think that Essex and Union would have almost one region, if we're going to talk about transportation. Look at what we

did with the Mount Laurel business. Look at the regions that were created in that area. That was done on the basis of -- on another basis. It was done on the basis of facts and figures that they've got from somebody, and they were regions. I think that county isn't necessarily the--

ASSEMBLYMAN PELLY: Region.

MR. STICKEL: --the region.

ASSEMBLYMAN McENROE: May I offer one thought, Mr. Chairman? I think it's significant to indicate, though, that the Federal government, when they consider allocation of UMTA moneys, or other Federal moneys to improve transportation, consider the county as the local body. In New Jersey, under law, we have the North Jersey Transportation Coordinating Council -- Committee. That is a nine-county committee -- called a Commission, now -- that meets on a regular basis to review and pass on transportation matters.

MR. STICKEL: As long as you think that is primarily because counties outside of the State of New Jersey are a much larger form of government?

ASSEMBLYMAN McENROE: No, because in New Jersey I was a former chairman of that.

MR. STICKEL: I know you were.

ASSEMBLYMAN McENROE: Now, we've considered the City of Newark and Jersey City also. They were a contiguous group of counties within the metropolitan region, that had a responsibility, under the law, to evaluate transportation needs. So, if the Federal government, in its wisdom through the years, has recognized the counties as the appropriate level of government to review transportation matters, this is just another area. Whether we agree or not on how well the counties are doing in the area of solid waste planning, this Legislature had already spoken on the need to have counties involved in solid waste planning. So, there is a continuing effort by the Legislature to recognize the importance of the responsibility of counties.

State government expends \$9 billion in this fiscal year to provide State support and State services. The counties are dominantly expending \$3 billion in public moneys to provide services for people. So, I think we have to recognize the counties are very much involved under New Jersey law, in providing services -- needed services -- toward its citizenry.

ASSEMBLYMAN PENN: Thank you. Is Frank here? (negative response) All right. I just have a couple of things I just wanted to mention. One: In your letter that we received, there's a paragraph that disturbs me. It says, "I am reliably informed that there is a general movement on foot by some of our bigger corporations in this State, to remove the control of land use from the control of local authorities to the counties, because they feel that with their money and prestige, they can get further with the elected county officials. I'm also reliably informed that one of the purposes of this movement is to make it easy to provide for greater low and moderate-income housing, which would benefit those corporations in having a more favorable labor market available. I am reliably informed that this is already going on in the County of Morris. Undoubtedly, an attempt is being made to spread this movement to other counties." This is almost an indictment of the county government. It concerns me.

MR. STICKEL: It's not an indictment of it. It's an indication of--

ASSEMBLYMAN PENN: Well, in a way it's saying that-- My interpretation of it-- That's why I'm saying: My interpretation is that you are saying that the county governments are for sale, in such a way. They're willing to allow this type of development. That bothers me a little bit. Maybe I misunderstood the intent of the letter.

MR. STICKEL: I'm saying that the result of what's been happening in Morris County, it's the only reason I can see for this particular type of movement.

ASSEMBLYMAN PENN: You said you had a reliable source that had given you this information.

MR. STICKEL: Well, I read the newspapers too.

ASSEMBLYMAN PENN: Well, they're not necessarily reliable. I was just concerned about it.

MR. STICKEL: Will Rogers thought they were. They're no different today than they were then.

ASSEMBLYMAN PENN: Well, I was concerned about that. One other observation that I will make-- When you quoted the Constitution of 1947, which gives the zoning and planning advice to the Legislature and through that to the counties, I'm sure--

MR. STICKEL: It excludes the counties.

ASSEMBLYMAN PENN: It excludes the counties, but it gives it to the municipalities.

MR. STICKEL: Well, it's the Legislature that gives in to the counties -- to the municipalities.

ASSEMBLYMAN PENN: Then I'm sure that the League will wholeheartedly support the proposed Constitutional amendment to return this back to the Legislature.

MR. STICKEL: What?

ASSEMBLYMAN PENN: The Constitutional amendment is going to take it out of the courts and return it to the Legislature. I'm sure the League will wholeheartedly support that movement.

MR. STICKEL: I know I will speak for myself. Yes, I will.

ASSEMBLYMAN PENN: I know last time the League was a little weak on it. All right, thank you. If you want to go into anything further with Assemblyman Albohn's bill, we have five other speakers that would like to also present testimony.

ASSEMBLYMAN ALBOHN: If I may, I don't want to supersede Fred with regard to my bill, but I don't think that it is the proper subject to be discussed at this time. I say

that with all due apologies because I thought I had some good ideas when I communicated with Legislative Services, and tried to define what I wanted in the new legislation.

Unfortunately, Legislative Services and I were on different wavelenghts, and what was prepared, I find unacceptable in many respects also. There are some features that are there in accordance with my wishes. Others are not, particularly the very first section. When I read that I had some difficulty with it, to say the least. I expect to be reworking the bill appreciably, with the help of the people in Legislative Services.

The main reason for introducing it rather abruptly, without the usual policy that I give to any legislation that I have drafted, was simply to bring it before this Committee and allow it to be discussed also. Since that time, I have heard too many comments against it, of course, in addition to my own. I've arranged with Legislative Services that as soon as we both have some time, we'll be doing some extensive redrafting. I really would not ask Fred to dissect it at this time, because I have a fair amount of dissection of my own to do.

ASSEMBLYMAN PENN: Maybe when you worked on the bill, you can forward it to him and he can possibly incorporate into it whatever his later proposal may be.

MR. STICKEL: I stand ready to help the Committee or anybody on this thing.

ASSEMBLYMAN ALBOHN: I do have a couple of brief questions, though. Maybe they shouldn't even be asked here, but I'm not a constitutional expert. You mentioned that the Constitution defines home rule. I'm just wondering in what subject--

MR. STICKEL: No, I didn't say the Constitution defines home rule. I said as far as home rule is concerned in this area, the Constitution is indicated.

ASSEMBLYMAN ALBOHN: In the area of what?

MR. STICKEL: Zoning?

ASSEMBLYMAN ALBOHN: Zoning.

MR. STICKEL: Yeah.

ASSEMBLYMAN ALBOHN: Purely and simply zoning? Okay, I have no problem with that.

MR. STICKEL: I think we all know what home rule is.

ASSEMBLYMAN ALBOHN: Well, I don't know. Home rule usually means we'll take the easy things and leave the hard things for the county and State, like solid waste. Nobody wants home rule on solid waste disposal.

MR. STICKEL: Even I don't. It's too big an item.

ASSEMBLYMAN ALBOHN: So much for that, then. You've also indicated the Dumont/Cresskill case that established that you cannot have incompatible zoning across boundary lines. Now, I have not read that case, but who determines -- short of the course-- Who determines that incompatibility, and on what basis?

MR. STICKEL: Well, that would be done as a result of a suit by one municipality against the other.

ASSEMBLYMAN ALBOHN: Short of the courts? In other words, you have to get--

MR. STICKEL: What do you want us lawyers to do?

ASSEMBLYMAN HENDRICKSON: Bring on the insurance.

ASSEMBLYMAN ALBOHN: It seems to me there should be some approach other than litigation, that would mediate, or arbitrate, or whatever. Because, sometimes it isn't worth fighting. Sometimes it is worth fighting in the courts.

MR. STICKEL: If you have two agencies-- If you have two levels of government, two governments of equal power there, the only place where it could be decided would be in the court.

ASSEMBLYMAN ALBOHN: Well--

MR. STICKEL: I wanted it years ago. I wanted to form land courts at the county levels, and have all legislation --

all litigation, or all consideration or disputes as to zoning, planning, subdivision, site plans and so forth -- if there was a dispute -- decided at the county level by a county land court, like they have in Massachusetts. But, I never can get by you guys.

ASSEMBLYMAN PENN: You can do the same thing at the county planning board.

MR. STICKEL: Right, the county land court. It would be all right with me.

ASSEMBLYMAN McENROE: We'll just change the name of the planning board.

MR. STICKEL: Take it out of the hands of the politicians.

ASSEMBLYMAN HENDRICKSON: And give it to the lawyers?

MR. STICKEL: Yes.

ASSEMBLYMAN McENROE: You shouldn't leave on that note. Don't you have some respect for politicians?

MR. STICKEL: Oh, I do. I do.

ASSEMBLYMAN HENDRICKSON: Aren't they synonymous? What's the difference?

MR. STICKEL: How have I practiced for 46 years now?

ASSEMBLYMAN McENROE: Exactly. You need those appointments.

ASSEMBLYMAN PENN: I think that you are well aware that there are many very fine county planning boards in this State.

MR. STICKEL: I know that.

ASSEMBLYMAN HENDRICKSON: Like Ocean County.

ASSEMBLYMAN PENN: Well, I'm going to say Somerset County and a few others.

MR. STICKEL: Somerset is good. It is really good.

ASSEMBLYMAN PENN: We feel we have some very fine county planning boards. We can work with other counties in our area.

MR. STICKEL: Bergen is good.

ASSEMBLYMAN PENN: I think that's a--

MR. STICKEL: Middlesex is good. Middlesex has got a good board.

ASSEMBLYMAN HENDRICKSON: Ocean County.

ASSEMBLYMAN PENN: Well, thank you for appearing.

MR. STICKEL: One of our-- The mayor, Mayor Dunn, couldn't get here and he prepared a statement. May I submit his statement?

ASSEMBLYMAN PENN: Yes, fine. Thank you very much. We'll see it's distributed and made part of the record.

MR. STICKEL: Thank you very much.

ASSEMBLYMAN PENN: At this time I would like to ask the mayor of West Windsor, Carolyn Bronson, if she would like to come up. Deputy mayor? (affirmative response) We made you mayor.

C A R O L Y N B R O N S O N: That was very easy, I have to tell you.

ASSEMBLYMAN PENN: It was easier than running.

MS. BRONSON: It has taken me a long time to get to be mayor, and now it's really fast. So, I'll try not to get into the bottom of page four and page five, and only the last paragraph of page six, because those are what pertain to 2504, I believe it is. So, I'll just read the testimony as I prepared it. I'm Carolyn Bronson, the deputy mayor of West Windsor Township. I'm here on behalf--

ASSEMBLYMAN McENROE: You didn't give us your statement. Oh, you did give us your statement.

MS. BRONSON: Yes.

ASSEMBLYMAN McENROE: I'm sorry. Pardon me.

MS. BRONSON: I'm here on behalf of the League of Municipalities, to testify in opposition to A-2260, and I'm also here to represent the views of the West Windsor Township Committee.

Let me state, at the outset, that we feel county planning is a good thing. Counties in New Jersey should have well developed road plans, so their activities could be coordinated with the more detailed master plans mandated at the local level by the current Municipal Land Use Law. Activities such as regulating sewer extensions, improvement of county road systems, development of major recreational facilities and storm water management are areas that a county governing body ought to coordinate with planning and development at the local level.

Congruence should be achieved, not only between a county growth management plan, and a municipal master plan, but with the State development guide plan as well. Such congruence, or matching up of local county and State plans, would facilitate the designation of public funds for infrastructure improvements. Major area of growth and development would be targeted as such and agreed upon. One way to insure such plan congruence among all three levels of government is through a negotiating process known as cross-acceptance.

But, the trouble with A-2260 is the veto power it grants counties to exercise over municipal subdivisions and site plans. We contend that the absolute power to approve or deny development applications must stay with the municipality. It's not necessary and, in fact, it's ill-advised that county planning boards be granted this power for the following reasons:

- 1) The county's power over sanitary sewer extensions, through the 208 process, already controls where intense development will take place in municipalities. Sewer availability in an area usually translates into zoning density. This fact provides the muscle for counties to shape future zoning, and some counties flex it very well. The veto power over subdivisions and site plans is really incidental to

this power already granted to county governing bodies.

2) The provisions of this legislation already duplicate all the detailed work that already goes into a municipal master plan. Local planning boards are the best agents to review and control subdivisions and site plans. They are the most familiar with local terrain, and the most accessible and responsive to the concerns of residents bordering a new development. A county plan of this specificity is a waste of everyone's time and tax dollars. A county plan ought to be a more broad-brush outline of how growth should progress in that region.

3) The financing of county road improvements to accommodate regional growth is probably the biggest growth-management problem counties have to deal with. A-556, which is, I guess, the site plan-- Some legislation somebody proposed--

ASSEMBLYMAN PENN: That's my bill.

MS. BRONSON: -- which would essentially establish a county-wide TID, or Transportation Improvement District, is a solution to this problem. Creating the power to deny a site plan based on regional traffic impact is unnecessary in light of this proposed legislation. TIDs, or stricter access controls on State roads would also do much to guide regional development in accordance with the State plan. We would only request close cooperation in the review of A-556, to insure that other TIDs would not conflict with, or negatively impact, municipalities such as West Windsor, who already have local TIDs operating smoothly.

4) A major provision of this legislation is the granting of approval power over subdivisions to a county planning board. Subdivisions to be reviewed for approval would be those which, "Have a significant impact on the future growth and development of the surrounding region." But the legislation is not specific in stating any objective criteria

by which to approve or deny the subdivision. The criteria are solely left to each county to create. Such a lack of direction in this piece of State legislation is bound to create uneven application of the law from county to county, resulting in needless court challenges from developers, and the confusion of municipalities as to what kind of stand the legislation was intended to provide.

In conclusion, I would point out that the State of New Jersey's county and municipal governments are supported by taxes based on the assessed valuation of property at the local level. As long as this system is in place, we feel it is only right that the ultimate power to plan and zone a municipality, stay with the municipality. Our system of property tax encourages the balancing of residential and commercial growth, in order to ease the tax burden on individual homeowners.

Changes in our State tax structure, such as returning more gross receipts taxes to municipalities, would help to alleviate local governments' search for new tax dollars. Keeping the final control over municipality's growth and development at the local level also keeps control of the homeowners' property taxes at the local level, where it has been and should stay.

Now I'd like to skip ahead to page six, to the last paragraph: Growing municipalities deserve your respect and consideration. Lately, they have become the objects of derision, disrespect, and even litigation. They are only abiding by the laws this Legislature has created. If you feel it's time those laws were changed, please include the municipalities' consent in your deliberations. The growth and development of New Jersey can be something we can all be proud of if we stop working against each other, and start working together to plan all our futures. Thank you very much.

ASSEMBLYMAN PENN: Mayor, my bill is 556. Is that the one you're referring to?

MS. BRONSON: Right.

ASSEMBLYMAN PENN: Okay. This bill permits counties to require developers to contribute to off-tract improvements. This is the proposed legislation on that.

MS. BRONSON: Right, and I assume that includes roads.

ASSEMBLYMAN PENN: Yes.

MS. BRONSON: Right.

ASSEMBLYMAN PENN: Off-tract improvements.

ASSEMBLYMAN McENROE: Mr. Chairman, thank you. You've anticipated my comments.

ASSEMBLYMAN PENN: I see you've written all over it already.

ASSEMBLYMAN McENROE: I certainly have, Madame Deputy Mayor. It's nice to see you here, and I can appreciate your interest in the legislation. I have had the opportunity of traveling through West Windsor many times. I commend you for the success you've had in attracting ratables. I know full well you've been involved with your neighboring communities in attracting those ratables. Obviously, they have been beneficial to your particular taxpayers.

MS. BRONSON: Could I clarify your question? What do you mean we've been--

ASSEMBLYMAN McENROE: I'm making a statement. I haven't asked a question yet.

MS. BRONSON: Well, I guess I'm asking a question of your statement, but when it's allowable, I'd like to do that.

ASSEMBLYMAN McENROE: Do you want to make it right now?

ASSEMBLYMAN PENN: Go ahead.

MS. BRONSON: What do you mean that we've been involved with surrounding communities in attracting ratables?

ASSEMBLYMAN McENROE: Have you been engaged in the sense of "ratable roulette," if you will?

MS. BRONSON: No.

ASSEMBLYMAN McENROE: To make sure that the approval

process is beneficial to developers, in order that they might develop within your boundaries, in order to, in a sense, develop further ratables?

MS. BRONSON: I have to disagree with that statement. West Windsor developed a master plan six years ago. It's currently under review. Route 1 was zoned for commercial zoning, and the rest of the town was zoned residential. It happens that we have a Princeton zip code. That may help. I know that's been taught to you about a certain mayor who was here two weeks ago. If we had our own zip code, that would be wonderful. I would love it if you guys could do that.

ASSEMBLYMAN McENROE: That's not our responsibility, but we can certainly help you with trying to get it.

MS. BRONSON: Well no, but I mean if-- You know, if you have any pull with the Postal Service, we'd appreciate that. We zoned for commercial growth, and we did not actively-- We actively went out and sought commercial growth. We didn't say to people--

ASSEMBLYMAN McENROE: That's what I said.

MS. BRONSON: We didn't say to people, "Hey, don't build in Princeton, build here." We didn't say to people, "Don't build in Plainsboro; they don't need your tax dollars; build here." They came to West Windsor because they like the community; they like the development plan; they liked the facilities; and they came to the planning board and asked to build. There was no behind the scenes kind of manipulation, of stealing ratables from each other. I think there's enough business in New Jersey.

ASSEMBLYMAN McENROE: Is there any "island mentality" that's developing in the municipality? I'm just asking if you noticed this kind of thing in other developing areas.

MS. BRONSON: What I noticed is there's a lot of antagonism developing from communities that are already developed, that have no land left to "cash in" on the

development in the town. Those communities have a problem. Especially Princeton Borough, which was here last week, they have a tremendous amount of educational institutions, which they can't tax, and they have a real problem with their tax base. The traffic and the density in their areas is going up, as a result of our density going up. But, they are not an isolated area either. They can't expect the surrounding farmland to stay farmland forever. Something had to develop out there. Now, as I said, we had this zoned a long time ago. master plans were circulated.

ASSEMBLYMAN McENROE: But, do you think those decisions should be made totally independent of consideration for their problems, and, in your words, those that have cashed in on this largess, should be allowed to develop without any consideration of your development's impact on the region?

MS. BRONSON: I think the word "cash in" is a nice way of saying we have been able to make some tax dollars on new development, as most other growing municipalities in the State have done. By the way, that brings more money into the State and county coffers, and provides jobs, etc. So, I think cash in has a negative connotation that I would not agree with.

If I didn't agree that there wasn't some regional implication to the planning, I wouldn't have said, on the whole first page of my testimony, that I thought the municipal master plans, county growth plans, and State development should have congruence. We should all know where we're all going together. Because, obviously, we don't pay for all the infrastructure in West Windsor; neither does the State, and neither does the county. So, if I had-- You know, no man is an island. If I really didn't believe that, then I wouldn't have said that on the first page.

ASSEMBLYMAN McENROE: No, I appreciate your interest in the bill.

MS. BRONSON: But you've asked about my interest in regional planning. I'm telling you that I think regional planning is a good thing. But, I think the power over the subdivision and site plan control, and the ultimate density has to be left with the municipality, which is not to say that it couldn't be negotiated down to a better kind of a level.

ASSEMBLYMAN McENROE: There is nothing in this bill that doesn't do exactly what you said.

MS. BRONSON: There is, actually.

ASSEMBLYMAN McENROE: There is no problem with the density. There is just a coordinated effort here by the counties, or the region -- whatever you like to call it -- to determine that growth is on a manageable level.

MS. BRONSON: So why does it say that, "the municipal planning board shall condition any approval that it grants upon the timely receipt of a favorable report, on the application by the county planning board"? That, to me, gives the power of any approvals to the county, not to the municipality.

ASSEMBLYMAN McENROE: Well, there is an approval process for the counties. That's the whole concept of the bill, that it have a regional review.

MS. BRONSON: Is the veto power and the veto power has over the locals--

ASSEMBLYMAN McENROE: At the current time, that is in there. That is correct. You know, the zoning questions that you've raised on page two, about the legislation duplicating all the detailed work that already goes into all the municipal master plan-- Well, that's just an effort to coordinate everything, so that we're all working out of the same manual, so to speak.

Frankly, in my view, that's the way a well-ordered world should operate; that everyone works with the same set of plans, if you will, and concerns itself with recreation, development, with housing, with all these things. From my

view, if we have a master plan at the municipal level, and we have one at the county level, they should have coordinated language. So, there's no intent to usurp your authority, but merely to coordinate the efforts.

MS. BRONSON: Well, I guess what I was reacting to in the bill was the seeming duplication of the effort, the county planning staffs doing the same thing the local planning staffs were doing, and all getting paid by the same taxpayers. If local planning staffs are going to--

ASSEMBLYMAN McENROE: No, that's not true, you know. Well, okay, we'll address this.

MS. BRONSON: If we have different taxpayers around here, I'd like to--

ASSEMBLYMAN PENN: I think what Assemblyman McEnroe is getting at is that many times we have a tendency to look at things from exactly where we are. There are many municipal-- We have 567 municipalities, and not all of them have, really, the ability to process all the plans that possibly West Windsor may have. The staffs of some of the county planning boards are far more sophisticated. They have paid planners and engineers, and so forth. You may have that locally, also, but there are a lot of municipalities that do not have this.

I think that was one of the things that we are trying to address. I think at our last meeting there was a discussion of would it be fair to say that possibly, the right to come before a municipal planning body and have that planning body on a permissive basis refer to a county to handle it, instead of the municipality handling it?

MS. BRONSON: I would agree with that.

ASSEMBLYMAN PENN: Because, what you're doing, and I have the same tendency to do it in my district, is to look at exactly what I have. That may not be true statewide. As it was said earlier today, there are some counties that don't even have planning boards, and the ones that have haven't met in

years. That's also another problem. In those particular areas, the municipalities are the strongest.

I think what Assemblyman McEnroe is trying to do -- and Assemblyman Albohn later on -- is to come up with something that is a workable process that can satisfy both the municipalities and the counties, and find out where these particular lines may be drawn, and who has what authority, and whether if one is in a better position to handle it, if they have the right to go to these people to handle it.

MS. BRONSON: Well, if it's on an elective basis, then I would agree with that.

ASSEMBLYMAN McENROE: There is one point I want to make as far as the tax area. Currently, your municipal taxes support your planning process as the county. In other words, real estate taxes support your local government, as they also support the counties. There is a provision in this bill for the counties to make application to the State for little over a \$1 million of funding, which would be provided for planning purposes. Of course, just so we have it in our own frame of reference that the \$1 million would come from broad-based taxes, such as sales tax and income tax, paid across the State of New Jersey.

So, in a very real sense, at least in my view, it offers somewhat of a tax reform proposal, because it would be putting moneys from the general fund of the State, not based on real estate tax moneys, but based on broad income and sales tax, into the counties for the municipal and county planning development. It would, in a sense, relieve some of the burden that obviously West Windsor and other towns that are in the developing area have in the area of expensive processing applications for further planning.

MS. BRONSON: Actually, the expensive processing application for further planning is totally on a fee-related basis. The developers review fees that are filed, that are

supposed to cover those things. In fact, we're looking to go to an escrow system, so we keep exact track of how much the developer pays for all of this application process. But, I think the principle is a good one. Certainly we have very expensive engineers and planners, which is why we have such a nice town, I think.

ASSEMBLYMAN PENN: I think so. Also, I think that we're all in the business of trying to -- if we have land -- attract ratables to our community. That's why we have economic development councils, and why we go out and try to sell our communities as to why it's a desirable place to which to move. I think you've done a good job on that. Assemblyman Albohn has a question.

ASSEMBLYMAN ALBOHN: Just a quick question because you indicate -- and properly so, I think -- there should be congruence between a county growth plan, a municipal master plan, and a State development guide plan. The problem there, of course, is which comes first, the chicken or the egg? I think you would probably agree with me that the State development guide plan shouldn't simply be an assemblage of county master plans, and the county master plans simply an assemblage of municipal master plans. Am I wrong in that?

MS. BRONSON: No, that's true. I agree with you.

ASSEMBLYMAN ALBOHN: So, the point is that there have to be some yieldings someplace, somewhere along the line, in order to achieve this congruence. As Mr. Stickel pointed out, the place you do this is in the courts. This, I think, is the last resort that any of us want to use.

So, it would seem to me that there's a place somewhere to put some kind of authority in the counties' hands -- as far as municipal planning is concerned -- and in the State's, as far as intra -- inter or intra -- inter-county planning is concerned also. The thing that I was striving for in my legislation was to handle -- and I think that Barbara Sigmund

referred to it last week as DMZs -- demilitarized zones -- in effect, around each municipality and around each county.

It would seem to me that this overlapping area of interest is the kind of area that has to be arbitrated or mediated by some higher group. That, plus areas where exceptional intensity of development may be contemplated perhaps, and road patterns in adjoining municipalities to be modified to handle development in other municipalities. As someone pointed out, we are no longer islands. There may have been a time when we were separated from one another by farmland, but we're no longer in that kind of a position.

I just don't know how you would suggest we go about this. The question of cross-acceptances is nice, especially if you get three municipalities adjoining one another at a corner. I don't know how you would arbitrate that among the municipalities in the county.

MS. BRONSON: Well personally, I would think that arbitrate or mediate, or binding arbitration is maybe an appropriate term to think about using. I think there are some members on my committee who are very much more home rule oriented. I would say that I think that we should take a real strong look at some binding arbitration. The binding arbitration is different from taking power from one group and putting it in another. Binding arbitration involves consent on both sides, really.

ASSEMBLYMAN ALBOHN: This is exactly my point. This is what I was striving for. Because certainly, you can't allow a municipality in one case to allow major development on a 50-foot right-of-way, when in the next municipality they have a residential area that the 50-foot right-of-way proceeds through, and you all of a sudden are discharging through the adjacent territory. So, I think it goes even beyond even the fringe areas. It goes into the interrelationships between municipalities and counties, with regard to road patterns and traffic patterns, and traffic volumes, and so on.

MS. BRONSON: Well, the road patterns would be, I guess, Assemblyman Penn's bill.

ASSEMBLYMAN PENN: I want to thank you very much for your testimony. It will certainly be part of the record. Thank you.

MS. BRONSON: Thank you.

ASSEMBLYMAN PENN: I would like to next ask James Smith, the mayor of Hackettstown, representing the Conference of Mayors.

M A Y O R J A M E S G. S M I T H: I am Jim Smith. I'm the mayor of the town of Hackettstown. I was a councilman for nine years. I am now in my 11th year as a mayor. I'm a past president of the New Jersey Conference of Mayors. I am presently treasurer of the Conference of Mayors.

I just arrived back in town last night from a meeting in Atlantic City, as you've probably read in the papers. To make a long story short, I have not prepared any formal testimony to be submitted to you. However, I do have some notes and I would like to make some comments.

ASSEMBLYMAN PENN: Fine.

MR. SMITH: First of all, I think you will hear a lot today about self-determination, local home rule, and that sort of thing. I certainly agree that is the case. We do not want to relinquish our home rule. However, I think maybe there are areas of some minor improvements in our existing legislation. I'm not too sure.

In our case, in Hackettstown, we were just recently voted -- or whatever you want to call it -- one of the 12 best communities in the State by the New Jersey Magazine, in which to live. That proves to me that our planning has worked, and that we are doing a good job.

Now, in our planning, we do work with our surrounding communities. We do talk to them. In fact, I have a copy of a letter that we sent to our surrounding communities. We border

on two different counties. We have Morris County, and we have Sussex County. In this letter we asked them to come, and we sat down and discussed our mutual problem.

I do believe there are areas for working together with surrounding communities. This is something that we do there. There is one thing that I think may not be addressed here, but I'm thinking of the cost of this thing.

As I recall, the legislation calls for \$1,050,000. As far as I'm concerned, that's just a drop in the bucket to what this is really going to cost. In our particular case, in the County of Warren, we have three freeholders, and this is a part-time job for them. To have two of these people serve on a board such as this, and if they devote half the time we do in the town of Hackettstown to this, it would almost be a full-time job for them, just the planning end of it.

In addition to that, you have the engineer. You go through the legislation and you see this engineer coming up, and coming up. As far as I'm concerned, in the County of Warren, we would have to hire an additional engineer. As far as the people who would serve on this board, we have 21 communities in our county.

There's going to be an awful lot of work involved for one board to sit down and review properly the planning as presented to them. I think it's going to be a monumental job. I think it's too much to add to the freeholders' load, particularly in our case, in Warren County.

There're a lot of additional costs. We'll get into the attorneys. Now, there's no way that you can get away without having almost a full-time attorney. You're going to have to have clerical help. In essence, I think I would go along with what Bell Telephone says: "If it's working, don't fix it." If you have any questions, I'd be glad to try to answer them. Mr. Chairman, would you like a copy of this letter for the record, of what we do send?

ASSEMBLYMAN PENN: Sure. That would be fine. Thank you.

ASSEMBLYMAN McENROE: Mr. Chairman, may I ask the mayor to define home rule again for me? I still haven't really received a definition of it. Everyone refers to it, and supports it, and I know there are benefits derived from it, but it seems to me that it escaped our--

MR. SMITH: As far as I'm concerned, home rule is doing for yourself what you can do. If something is beyond your capabilities, then it should go to the next level of government. That would be the county, and then to the State, and then to the Federal government.

ASSEMBLYMAN McENROE: I just want to get that for the Committee.

ASSEMBLYMAN PENN: The mayor has-- If I understood you, you believe there should be a spirit of cooperation between your county planning board and the municipality?

MR. SMITH: Oh, absolutely.

ASSEMBLYMAN PENN: That the county should have input on what's going on in the individual municipalities, and not as--

MR. SMITH: Not completely divorced.

ASSEMBLYMAN PENN: But, in other words, not islands.

MR. SMITH: That's true.

ASSEMBLYMAN PENN: All right. So, you feel there is a role for the county planning board in the planning process.

MR. SMITH: I think there is a role, but not to take complete charge of it.

ASSEMBLYMAN PENN: Thank you, Mayor. Do you have any questions.

ASSEMBLYMAN HENDRICKSON: No.

ASSEMBLYMAN PENN: Assemblyman Albohn?

ASSEMBLYMAN ALBOHN: No.

ASSEMBLYMAN McENROE: Just a further comment. Your comments, Mr. Mayor, on the scheduling of having freeholder members sit on planning boards does create difficulties. I can appreciate your point regarding the number of freeholders in Warren County, and the engineer's responsibilities. I know the engineering responsibilities of the county are substantial.

I mean these are areas that frankly-- I mean, the bill is a framework, if you will, under review, amended by the Committee, before it's even considered. These are all matters in which we appreciate your comments, in that area. There's no intention of having a freeholder spend the bulk of his time in planning, and divorce himself from other considerations. So, these are positive comments. I appreciate them.

MR. SMITH: Thank you.

ASSEMBLYMAN PENN: Thank you, Mayor. I would like to next ask Sylvia DeAngelo, councilman and planning board member of Hillsdale. Please proceed.

S Y L V I A De A N G E L O: Mr. Chairman and honored guests of the Committee, I am Sylvia D. DeAngelo, councilwoman and liaison to the Hillsdale Planning Board. I am delighted to have this opportunity to testify today concerning the impact of Assembly Bill 2260, sponsored by Assemblyman McEnroe. I promise to be commendably brief.

I am testifying today on behalf of Mayor Alfred J. Murphy, Jr., who was unexpectedly called away. Mayor Murphy has served as mayor for seven years. In addition to his current service on the planning board, he served two years as a citizen member of the board. Additionally, he served three separate three-year terms as councilman. His statement is as follows:

I have reviewed Assembly Bill 2260, and am violently opposed to it. Both the Hillsdale Borough Council and the Hillsdale Planning Board have adopted resolutions opposing Assembly Bill 2260. If adopted as drafted, this bill will help

to destroy -- again, unfortunately the word "home rule" -- at the local level more violently than the Mount Laurel cases. I am not opposed to the concept that development proposals need to be reviewed with an eye to their regional consequences. We in Hillsdale are suffering from the burden of development in adjoining communities. However, I find the concepts articulated by Assemblyman McEnroe, in his bill, to be repugnant to the philosophy of home rule, which was originally defended in the course of our Revolution.

The State Legislature is attempting to strip local government of another of the powers vital to meaningful existence. Take away land use control, and you strike at the very heart of government. Citizens expect and demand that local officials be sensitive and responsive to their needs. Land use control is synonymous with the municipal authority. The framers of the State Constitution were sensitive to local feelings, and recognized that the counties should not have that authority.

The proposed legislation established the requirement for a county master plan, which is an almost perfect clone of the local master plan. It poorly conceals the objective of elimination of the local master plan. Taxation without representation has met its match in this proposed legislation, since the county planning board can take the land it wants, and not, perhaps, compensate local property owners.

I could go on at length about my philosophical opposition to this legislation. My opposition is also practical. Only four of the subdivision, or site plan proposals, before the Hillsdale Planning Board in 1985, were not subject to county review. Under this legislation, three of those four cases would also be heard by the county planning board.

I'm sure you now see why I fear that this legislation portends the end of the local planning board. Additionally,

Hillsdale is not one of the more active development areas in Bergen County. We would, under this legislation, give the county three more cases to be heard. If each of the 70 municipalities were to have three additional cases to be reviewed by the county planning board -- a conservative estimate -- the county would have an increase of 210 cases per year. This is more than a one-third increase over their 1985 caseload of 570 cases. I believe that the increase would be much larger, and the county would not have the ability to process the applications in a timely fashion.

One final point, in the interest of brevity, and since others have made the point so much more effectively and eloquently than I-- Through this bill, you would take over \$1 million of our taxes, for purposes of this act, and I am struggling desperately to find money for my deteriorating infrastructure.

In summary, along with my council and my planning board, I urge that this bill not be reported out of committee. I thank the Committee for giving me the opportunity to testify, and represent our sister municipalities. Thank you.

ASSEMBLYMAN PENN: Harry, do you have any questions?

ASSEMBLYMAN McENROE: A few, Mr. Chairman. Ms. DeAngelo, were you in attendance at the planning board meeting when the bill was reviewed?

MS. DeANGELO: No I wasn't sir. I am a member of the planning board, and, in fact, two nights ago, they just constructed the resolution opposing it.

ASSEMBLYMAN McENROE: Did they have a copy of the bill before them, or did they spend some time on it?

MS. DeANGELO: I believe they did. Yes, it was referred to the planning board attorney, and his recommendations were to the planning board of a description of what the bill actually means.

ASSEMBLYMAN McENROE: The planning board attorney did have an opportunity to review the bill?

MS. DeANGELO: Yes, he did, sir.

ASSEMBLYMAN McENROE: What is his name?

MS. DeANGELO: Mr. Maloof.

ASSEMBLYMAN McENROE: Mr. what?

MS. DeANGELO: Mr. Maloof.

ASSEMBLYMAN McENROE: Your broadsides are appreciated. Your one comment that the concepts are repugnant to the philosophy of home rule, which was originally defended in the course of our Revolution, gives me some pause to consider the historical perspective that I have lived with through the coming years. I never intended the bill to save the Union, but this looks like I really intended to destroy the Union. I assure you my intentions remain honorable.

MS. DeANGELO: Yes, I'm sure.

ASSEMBLYMAN McENROE: I am convinced that this kind of dialogue is beneficial. Hillsdale is a community that really could benefit from a further review of this legislation.

MS. DeANGELO: I am particularly sensitive to your motivation in presenting this bill, because I think you've tuned in to a need -- that is an actual one -- of communication between the municipalities, or from county to State level.

However, making it mandatory and statutory, is the problem. There is no way, without additional dialogue and communication between or among municipalities, that this can be established with harmony. I only fear another way of usurping individual rights by making it statutory. I was particularly happy to hear our previous deputy mayor mention that she was tuning into the fact that perhaps an arbitration type of situation might be the answer here. I only suggest that to you as another way to look at this bill.

ASSEMBLYMAN McENROE: Should we establish that under law?

MS. DeANGELO: No, I would not say that there should be anything statutory. I think it should be a voluntary thing.

ASSEMBLYMAN McENROE: This is a body of lawmakers. It's not a debating society. We have an obligation to provide review of law and create new law.

MS. DeANGELO: See, there are regional ways. I think things are already there. I think things are already established that could be made use of -- that have not been made use of, just expanded upon. I don't think we really need so many laws as to how to implement what is already there and maintaining our local level of jurisdiction and individual rights.

ASSEMBLYMAN PENN: Just one comment. I don't know whether anybody else has one. County planning boards are usually made up of members of each one of the municipalities within the county.

MS. DeANGELO: Yes, I'm aware of that.

ASSEMBLYMAN PENN: So, they have a field, and they are already there by statute. So, I think what we're trying to do with this is examine the role of the county planning board, and what could be done in order not to create another level of bureaucracy, but to use what we already have in place, as you mentioned before. As to how that would be implemented is something that we're holding these hearings for. That's why we appreciate your appearing here today with your suggestions. I assure you that Assemblyman McEnroe does not want to sink the State.

MS. DeANGELO: Oh, I'm sure he doesn't. I just see some more of our tax dollars being put into area that have just become another boondoggle.

ASSEMBLYMAN McENROE: I would really like to respond to that. They're not the real estate tax moneys raised within the Borough of Hillsdale, that are provided by the bill. They are public moneys, I will grant you that. They are intended to

perform services for the people in our State. But, it is not an impact directly on Hillsdale's tax base that provides the dollars. It's the general fund of the State treasury, supported by the contributions under income tax and sales tax.

MS. DeANGELO: But some of those revenues could be made use of.

ASSEMBLYMAN PENN: Assemblyman Albohn, do you have a quick statement?

ASSEMBLYMAN ALBOHN: Just a question: When you say, "We in Hillsdale are suffering from the burden of development in adjoining communities," are you suffering severely, would you say, or is this just a trivial annoyance?

MS. DeANGELO: Your definition of severely probably has to be looked at, but I could only answer you in this way. The surrounding communities that we're presently feeling an impact from are some of the development taking place in Montvale and Woodcliff Lake. If anyone is familiar with Bergen, you will know that we've had enormous development of corporations coming in. This has added a tremendous traffic problem to the area. We already have a tremendous road problem. We cannot find funds to fill potholes and fix drainage problems, and the traffic has just increased, making our problems more severe. Yes, we have suffered from this type of construction.

ASSEMBLYMAN ALBOHN: Would it be fair to say that those municipalities have not, through their planning boards, properly considered the impact of their development on Hillsdale?

MS. DeANGELO: I would say yes. Perhaps not intentionally, but because we do not interrelate that closely. We have enough to do with our own meetings under our own jurisdictions, without the overlapping. Perhaps the meetings that take place on the mayoral level would be a place where some of these things could be discussed, that perhaps were not sufficiently discussed.

ASSEMBLYMAN ALBOHN: I'm just wondering how you would have counteracted that. What kind of a mechanism would you have had in place to keep this from happening? What degree of Montvale's and Woodcliff Lake's individual zoning authority, do you think should have been transferred to somebody else, to keep these things from happening to Hillsdale?

MS. DeANGELO: Perhaps more of a joint communication and committee working together to solve some of the problems that will affect another municipality when this municipality legislates a move that is going to impact that. Perhaps there can be a committee formed, that can be appraised (sic) of this before it takes place, so we can act on our end of it. For instance, get traffic studies done; be aware that this impact is coming, and see where we can mitigate it. If not, to communicate that to the other municipality that, "Hey, if you're going to get X amount of tax dollars from this, then we're going to have an expenditure here. Perhaps you'll have to share, along the way, some of this cost that you are inflicting." There's the nitty-gritty.

ASSEMBLYMAN ALBOHN: Would you resist having the county planning board being the agency that would do this?

MS. DeANGELO: Yes, if it's mandated. Because, you-- Again, you're getting away from-- Each municipality has their own milieu; their own flavor. If you're going to have one body, and on that body you do not have a member from each municipality, each municipality is not equally represented. They're just getting a feel, but they're not being represented.

ASSEMBLYMAN ALBOHN: In other words, even if you negotiated with Woodcliff Lake, and Woodcliff Lake said, "That's tough, Hillsdale"--

MS. DeANGELO: That's right. You have a problem then.

ASSEMBLYMAN ALBOHN: You'd have to accept that.

MS. DeANGELO: Yes, because under our present municipal structure, they have--

ASSEMBLYMAN ALBOHN: You don't think that something superior should step in there and say, "Well, Woodcliff Lake, you really ought to rethink that, because look at what you're doing to Hillsdale."

MS. DeANGELO: Yes, but perhaps not mandated by State statute. You have a little problem with that.

ASSEMBLYMAN ALBOHN: Well, you know, without a mandate, you're just blowing smoke.

ASSEMBLYMAN PENN: Assemblyman Hendrickson?

ASSEMBLYMAN HENDRICKSON: We've heard "arbitration" twice. Prior to arbitration, we need negotiation. Usually there's a negotiation process, the negotiation process breaks down, we bring in an arbitrator, all right?

MS. DeANGELO: That's what I was mentioning.

ASSEMBLYMAN HENDRICKSON: We have that privilege now, but it isn't mandated. And again, to get to the negotiating table, would it be during the time? I'm asking, because I don't see how it's going to work. Would the negotiations be on during the planning stage of the growth municipality, with the impact of the non-growth municipality? How would we get them to a negotiating table without a mandate? How could we possibly do that? I kind of agree with the deputy mayor. Some municipalities are geographically located, rather than having the governing bodies going out and enticing, if you will, the ratables. They're there, and it's just their good fortune to be at the right place, at the right time. Therefore, everybody seems to desire to build there.

MS. DeANGELO: It's happening.

ASSEMBLYMAN ALBOHN: How do we get that municipality to the negotiating table, when they're very happy with what's happening to them? Yet, your municipality, my municipality -- because I have been a mayor for a year or two also, and I had the problems with the potholes. How do I get the money for those potholes?

MS. DeANGELO: Well, you're going to have to work on a regional basis. Each person in the region obviously does now have--

ASSEMBLYMAN HENDRICKSON: Mandate it. Mandate it.

MS. DeANGELO: No, there could be a panel set up. It doesn't have to be mandated. It could be under the jurisdiction of one that's already established.

ASSEMBLYMAN HENDRICKSON: How do you get them there?

MS. DeANGELO: You could have a liaison from each town. I really have not explored it. I am only responding to the negative part of the reaction to this bill, but this will take in-depth thought, obviously. But, my suggestion is-- I can only see this as being effective if all municipalities are represented.

ASSEMBLYMAN HENDRICKSON: I'm a home rule guy, and I will define home rule, I think, to everybody's satisfaction. Besides, I'm just trying to-- We're hearing so much throughout the State about the actual growth and the non-growth.

MS. DeANGELO: We've reached our growth period.

ASSEMBLYMAN HENDRICKSON: And the impact-- But we have to do something. I want to protect home rule also. I would suggest that the League come up with an alternative that everybody can live with, rather than saying--

MS. DeANGELO: That's precisely what I'm saying. It needs more in-depth thought.

ASSEMBLYMAN HENDRICKSON: Believe me, when it's on a volunteer basis, those that are making are very difficult to bring to the bargaining table with those that are not, okay?

MS. DeANGELO: That's what I meant.

ASSEMBLYMAN HENDRICKSON: You're not going to get them there.

MS. DeANGELO: That's my answer. That's the nitty-gritty; that's the bottom line.

ASSEMBLYMAN PENN: Don't you also agree that traffic runoff is just as important as water runoff?

MS. DeANGELO: Yes, more so. You have a danger problem; you have an increased crime rate problem.

ASSEMBLYMAN PENN: I think that's one the things that you have in the towns that developed around you. You were getting the traffic runoff through your municipality.

MS. DeANGELO: Directly, right through the municipality.

ASSEMBLYMAN PENN: So that is the same thing.

ASSEMBLYMAN HENDRICKSON: Ask them to come to the negotiating table.

MS. DeANGELO: Probably the commuters would love to.

ASSEMBLYMAN PENN: Thank you.

MS. DeANGELO: Thank you, gentlemen.

ASSEMBLYMAN PENN: I would like to ask Mayor O'Dowd, from Bergenfield, if he would present now, at this time.

M A Y O R C H A R L E S J. O' D O W D: Thank you, Mr. Chairman. I didn't prepare anything. I certainly don't want to break this place up. I did not prepare anything in writing. I apologize for that, but it may make it quicker in the end. I also wish to establish myself. I have been a mayor for 11 years. Prior to that, I was a member of the council, and of course, a planning board member as a result of my mayoralty. I am also a member of the Bergen County Board of Freeholders. Since January 1st, I have been a member of the Bergen County Planning Board. I have one comment, prior to getting to my notes, about the development that caused whatever suffering Hillsdale suffers. It's just an observation that I couldn't help making, that the cause of the problem was the State in the first place.

ASSEMBLYMAN HENDRICKSON: You just put the roads in the wrong place.

ASSEMBLYMAN PENN: You just made it too attractive to the developers.

MR. O'DOWD: The Garden State Parkway went through, developers put pressure on towns with vacant land -- how could they help it? -- by the exits, and now we found that the State is accommodating further development with additional exits. So, the cause of our problems isn't always one municipality making a problem for another. The cause can come from a lot of different places, indicating that coordination certainly is needed, and some thought given to municipalities at every level of government -- county and State.

I have had five people on my staff in the borough and the county examine this bill. I would say my threshold problem with the bill is that in general, I have five different opinions about how it would work, which in its present configuration, would certainly make it difficult for us to follow.

One opinion was unanimous. That is, the language of the bill, as it's presently drawn, would absolutely require prior approval, by the counties, of every application for development, even including, probably -- and knowing the way at least the Bergen County board works -- those units of less than 60 or smaller than 20,000 sq. ft. Because, the opportunities to impact on the basis of traffic would also open up most of them to county approval. Those that are left would wind up before the board anyhow, because of storm water management requirements.

another problem we find with it is that the county board, as I said, can enter almost anything, and base its conclusions on the county plan, completely ignoring local concerns. There's provision for discussion, but there's no requirement to adhere, that I can see -- to the local concern.

Page Five, or Number Five, Section 4C, permits entry of the county planning board into the action, if traffic flow from non-abutting property impacts a county road. I can't see any development of any side not impacting, somewhere along the

line, on a county road. Therefore, if the county planning board wishes to do it, it certainly could enter into it.

I thought, while I was listening, about your bill, Mr. Chairman, permitting offside improvements, and wondering myself, if we couldn't find ourself in a position where a county planning board could demand right of way or something else, on a road a mile away from their development, if you put the two thoughts together. The impact of traffic, and the permission of offside--

ASSEMBLYMAN PENN: What's wrong with that? Nothing is wrong with that.

MR. O'DOWD: That's a question I raise. I haven't looked too closely, but it's a question I raise, that just came to my mind here at the hearing.

Another problem we have in Numbers six and seven, which I think, is going to impact the time frame for development: Part of the Land Use Act -- which was a good part -- was designed to speed up the process in which a developer could move through the development application process, and get some kind of resolution -- if not permanent, at least enough from the municipality to know that he was going to get it in some form after he went to the county. It seems to me that going to the county for prior approval, and then coming to the municipality, is going to defeat the purpose of that speeded-up application situation. At its worst, it has to have a deleterious effect on the economic development of that area in the State.

To give you an idea of a time frame -- Going to municipalities first, as you know, has to be a rapid process, in order to comply with the law, unless all sides agree to extend it. It's approved, and subject to county approval. It then goes to the county, and when the developer may still have to wait, he can plan. He can go on with further planning in his operation because he knows he's got it. He only has to

wait for the county -- if it impacts on the county road or storm management -- to see exactly how the fine details are going to work out.

That process in Bergen County, is presently taking from four months up to a year. If you reverse this process, and make that developer wait for final approval, he's going to wait up to a year, and in a few cases longer, before he knows which way he can go. That, by way, of justifying what I said about the effect on economic development-- I think it will be harmful to it.

That brings me to the matter of staffing on county planning boards. We are rather well staffed. Our problem is that even under present law, we're handling over 2000 applications a year. Therefore, we need planners that have planners. We have engineers on board. This bill will not impact us, I think, in terms of our operation as much as other counties. Even Bergen will be impacted, though. We would also have to have an increased staff of some sort, to handle the load. In our examination of it, we can see where certain counties wouldn't--

Let me backtrack. The \$50,000 to Bergen still, given the size of our present staffing level, would not cover our cost of developing a real master plan. If all the elements traditionally in a master plan are studied and done, the \$50,000 would not cover it. We can't speak for other counties, but I can certainly see-- I think the mayor of Hackettstown pointed it out. I can certainly see where in a county like Warren, the development of a total master plan would be far in excess of \$50,000, if we were going to be somewhat in excess of \$50,000.

Furthermore, the ongoing cost of the counties, from that point, would be extremely large, much larger than the amount of appropriation that this bill indicates, and therefore, would impact on the property tax. And by the way,

the \$1,050,000 impact somewhere. Whenever the State spends a \$1,050,000, our schools get less, our municipalities get less, somebody gets less. They have to. It's been ongoing in recent years. I'll put in a plug for the County of Bergen. We just lost another \$500,000 in special service in school aid this week. There will be a bill on that, and I hope you'll help us.

Finally, I don't want-- Let me just get to a summary here. I know the Assemblyman is going to ask me for the definition of home rule, so I'll give him my best shot first. I know of two. The old one, and the traditional one is: That government governs best which is closest to the people. In the context of this bill, I would say home rule would mean giving the maximum opportunity to the people most affected, to influence public policy on those things which are close to them.

The thing, which goes to the nub and the heart of this bill is zoning, and the power to zone. The power to zone, in the end -- regardless of how it impacts regionally -- impacts the guy next door the most. There's no doubt about it. If you give the county the priority, on approval of a development application, and in other language in your bill -- as it does -- say that that approval must be dependent upon your county plan, then what you've really done is given the county the power to zone, instead of the municipality.

We want the power to plan in the county, and to help the municipalities, and to help the regions coordinate. Speaking for myself, at least, as a freeholder, I don't want the power to zone. I do believe that resides, and should reside, with the municipality. You have effectively, without doing it in law, taken the power to zone away by the language of this bill. Forcing the master plan and requiring the development to conform to it is, in effect, zoning. I didn't follow my note in saying it. My note actually said, "What you've done is separate the zoning power from the planning power."

Look at it another way. If you leave the zoning power with the municipality, and give the planning power to the county, you've separated two things that must be totally integrated, and always go together. So, for that reason, among all the others, I would suggest that we try and address the regional needs that we all know exist, on another try. I don't think I can see a way of amending this that would satisfy my problems, but I'd certainly be willing to come back another time, or do anything I could to help you, your Committee, or Assemblyman McEnroe address the regional problem, which is real, in another possible way.

ASSEMBLYMAN PENN: Thank you, Mayor. We are going to add to all three hearings that we've had. We've invited certain people-- We are going to have a total, public -- open public hearing -- where anybody at all that wants to come forth will be heard. Prior to that, we will take into consideration the remarks that you've made today, which have been transcribed. They probably will get back to you, or some amplification of them.

MR. O'DOWD: Fine.

ASSEMBLYMAN McENROE: Just a question of zoning versus planning. I think we could spend a lot of time considering that. There's nothing in my view, in the bill, that imposes on the right of the municipality to initiate development and to zone. In my view, the bill remains an area of coordination, of municipal planning and county planning. I think the laws of our State encourage and require that the counties be somewhat in planning, and this is really an encouragement for the counties to remain in planning, and become, frankly, more involved. I'm not trying to eliminate municipal power in zoning at all. And again, this bill is a framework bill.

Your other comment regarding the workload of the board of freeholders, and their involvement in planning matters-- We do intend to amend that so that the governing body may require

review and approval by the planning board. In other words, rather than "shall" make it "may," so that they will be able to evaluate the impact of a particular site plan, and then make a decision whether it needs review.

MR. O'DOWD: You're referring to the workload of a freeholder?

ASSEMBLYMAN McENROE: Well, because you had, earlier.

MR. O'DOWD: No, I didn't.

ASSEMBLYMAN McENROE: But you said--

MR. O'DOWD: I said the workload of the board. In a county--

ASSEMBLYMAN McENROE: But again, the board of freeholders--

MR. O'DOWD: I meant the planning board.

ASSEMBLYMAN McENROE: Well, the board of freeholders, in the bill, would have the authority to require the planning department and board to evaluate certain developments. What we're doing here is allowing the planning board, really, to make a determination of those that have a genuine impact. Then they would either be allowed -- by the board or the governing body -- to involve themselves in the planning questions, or not involve themselves. So, I think it would diminish the responsibility of the county planners.

MR. O'DOWD: You see, my reading of this goes to two very short statements, one of which is the prior approvals statement. Prior approval means go to the county first with everything. Even if the county doesn't wish to review them, they have to review them just to find that out.

ASSEMBLYMAN McENROE: I'll grant you that. I mean, this is an area of the bill where we have spent considerable time and effort with the Association of County Officials, with legislative staff, trying to find exactly, our intent here. It's not an intent to usurp the authority of municipal planning, but merely to enhance the opportunity for all of us to coordinate our plan.

MR. O'DOWD: My other problem is to put -- is to get that zoning question. I can't find my note on it now, but I do remember language there, which makes that approval -- requires that approval -- to be consistent with the master plan. Those two things put together, in my opinion, in effect, are zoning. That's my problem. That's why zoning comes up as a question.

ASSEMBLYMAN McENROE: We're not intending to zone within municipalities, from a county level.

MR. O'DOWD: I'm not questioning your intention sir. I'm questioning the effect.

ASSEMBLYMAN McENROE: I'm not sure of the language either.

ASSEMBLYMAN PENN: Thank you, Mayor.

MR. O'DOWD: You're welcome.

ASSEMBLYMAN PENN: Our last person today is the mayor of Hanover Township, Mayor Saverio Iannaccone. Am I pronouncing that properly? Probably not.

MAYOR SAVERIO C. IANNACCONE: I was afraid you would leave me until the last because you did not know how to pronounce it.

ASSEMBLYMAN PENN: That's right.

MR. IANNACCONE: But you did it very well.

ASSEMBLYMAN PENN: Thank you, Mayor.

ASSEMBLYMAN ALBOHN: Saverio and I served on the same township committee for many years.

MR. IANNACCONE: I appreciate the opportunity. First, at the outset, let me say that my primary concern is home rule. I very definitely think this is an attack on home rule. I appreciate the opportunity to address you today in connection with Assemblyman McEnroe's bill, which seeks to make substantial changes in the County Planning Act. It would significantly change the balance of power between the county and municipality of this State, from that which was provided in the 1947 Consitution of this State, and all acts of the Legislature thereafter.

By way of background, I would like to point out that I have served as a member of the governing body, as mayor and planning board member for the Township of Hanover, County of Morris, for the past 25 years. I must add that probably 15 or 18 of those years were served with Assemblyman Albohn, and we've had many discussions on planning and zoning.

In the course of my experience, I have, of course, dealt with the county planning board, and would note that it had been my experience that in Morris County, the county planning board had not exercised jurisdiction which had been provided to it under the Land Use Law of 1975 and indeed, in prior statutes.

Specifically, at least for the last 10 years, the Morris County Planning Board has not asserted its jurisdiction in connection with those developments which involve county drainage or county roads. Frankly, although I cannot be certain what the experience is in other than Morris County -- and after having heard today, obviously it's worse -- I would hope that before this Committee considers enlarging the powers of the county planning board, that we have meaningful experience with the county planning boards' exercising the powers and jurisdictions which they have, and have had for a long period of time, and have not exercised.

By way of example, I'd like to cite two situations which have taken place in Hanover Township within the past three months. Imagine, if you would, a 20-bay, rather large trucking terminal -- distribution terminal, on a county road with tractor trailers entering and exiting the site. The county planning board's recommendation was a wide, 190-foot driveway, for safe ingress and egress. Thank God the township planning board, in its wisdom, required axle and diesel lanes to get the tractor-trailers off the roadway and out of the traffic, which normally travels at 40 to 50 miles per hour on this road.

Consider also, if you would, a second situation, where the county did not see fit to recommend a required left-hand turning movement into a 200-plus Mount Laurel housing development. Those of us on the municipal planning board, who traveled the road, and were familiar with the area, insisted that the developer provides the necessary widening of the county roads.

These were only two of the many instances where the municipal planning board did a superior job in requiring improvements on county roads, to insure the safety of our residents. My review of the McEnroe bill reveals that the bill's purpose is that the county shall develop a master plan. The bill goes on to provide an intricate interplay between the county planning board and municipalities relative to the county master plan. Although I'm not an attorney, I have been exposed to discussions of the law of planning and zoning, and recognize that the end result of what is proposed in these bills, will be that every municipal zoning ordinance will be required to comply with the land-use element of the county master plan.

This is so, because the requirement of a county master plan, which is to be followed by municipalities in adopting their own master plans, and therefore, would form the legal basis for jurisdiction of the municipalities' zoning ordinances.

Gentlemen, if the municipality's master plan is required to comply with the county master plan, any concept of municipal control of planning and zoning is effectively eliminated. In addition, the McEnroe Bill would give jurisdiction to the county planning board over all subdivisions which have significant impact on the future growth and development of the surrounding region. This is clearly nebulous language, and language which would presumably allow the county planning board jurisdictional authority over all subdivisions.

Now, you've heard enough on that, so I'll go on down and say that the expansion of this power can result in nothing more than further slow erosion of home rule. This eventual takeover of total county control, will control the planning and zoning by the State and county government.

You may not think that's so, but I'd like to call your attention to several hair-raising situations in the Township of Hanover, which have come about because of the loss of home rule -- home authority over certain aspects of our environment. For those of you who feel that these fears are unwarranted, I'd like to recount to you the results of legislation, which over the past years, gave total control -- for example, water quality, air quality, building standards -- to the State of New Jersey, and removed all authority and responsibility from the municipalities.

For years, Whippany Paper Board operated in the heart of Hanover Township, in Morris County. We suffered with the water and air pollution, taking all measures to force the State to enforce their own laws, still enduring the nuisance because the Whippany Paper Board was there first. Finally, they did close their doors. Three years later, Container Corporation of America, a subsidiary of Mobil, decided to open the plant. The idea of reactivating this plant was sold to several State and county legislators and officials. The DEP issued air quality permits, which were below standard. They also were on the verge of issuing water discharge permits, both over the objection of local officials.

Gentlemen, it took thousands of petitions to the Governor, the threat of legal action against the DEP, and the intercession of Senator John Dorsey to force a public hearing, attended by over 900 residents. All this finally resulted in the DEP issuing the necessary denials. Why should citizens have to go to these extremes to protect their homes? You may not be aware of the fact that during the past year, vigorous

activity on the local level, by citizens' groups, prevented four similar situations from occurring in Morris County. It is much easier to be heard at the local level, by officials who must be responsive to local needs. Zoning and development are local issues.

Consider also, if you will, the plight of Hanover Township, when we tried to build into our construction standards, requirements for sound insulation ratings for homes being built adjacent to major highways, such as 287, 80, and 24. Developers contacted the Department of Community Affairs, and they were told to ignore us, because we could not be more restrictive than the State local building code. Who is to protect these potential homeowners in an area where housing is so scarce that available homes are sold in a week?

Gentlemen, additional legislation that diminishes home rule is not needed. This legislation is not needed. There is no statutory gap that needs to be filled. It is an insult to the elected municipal officials of this State. It seeks only to develop a new bureaucratic empire. Most importantly, it seeks to eliminate meaningful input by the people of our State.

I would add only that I'm glad that Mayor O'Dowd was up here before. I think he did a fine job of defining home rule, and that's what it is, sir. Thank you for listening to me, and I would hope that legislation -- the passing of this legislation -- is either denied or greatly modified before its implemented.

ASSEMBLYMAN PENN: Thank you, Mayor. Do you have any questions? Harry, I'll start with you. Do you have any questions?

ASSEMBLYMAN McENROE: Thank you, Mr. Chairman. I do have a statement before the conclusion--

ASSEMBLYMAN PENN: All right, but do you have any questions?

ASSEMBLYMAN McENROE: (continues) --but not for the Mayor, although I appreciate his presentation. Obviously you have some concern with the planning board in Morris County. I respect that.

MR. IANNACCONE: Well, it's true in all the counties. Actually, listening to some of the previous remarks, I would suggest that this Committee seriously consider-- You know, there's such a thing known as the carrot and the stick. It seems to me that what you gentlemen are trying to do is use the stick instead of the carrot. There are plenty of carrots out there which might be used to gain the same ends that you want to gain. I would suggest that there are areas in New Jersey, which are perfectly capable of controlling their own destiny. There are many municipalities, which under the previous leadership and present leadership, are perfectly capable of controlling their own destiny.

ASSEMBLYMAN PENN: Arthur?

ASSEMBLYMAN ALBOHN: I can only confirm a lot of what Mayor Iannaccone said, having been associated with some of the problems. Some of them have come about since my time on the local governing body. I think that our problems come from municipalities, perhaps, that may not have the same standards as Hanover has had, and has sought to uphold over the years. It was my intent in my bill, which unfortunately doesn't show through, that the counties might set minimum standards for some of these requirements, and that the municipalities, if they decided that they preferred a stronger standard, that they would be then allowed to go beyond that.

My concern was with those municipalities, really, that do not do an adequate job of control, or development, rather than those that are doing a superior job. I think there can be a common meeting ground in all this. I'm hopeful that something can come out of it in the way of, perhaps, an Assembly committee substitute bill which will recognize many of

the concerns of the local officials, and yet accomplish some of the things that we all see as problems.

ASSEMBLYMAN PENN: Just one brief thing I'm going to bring up. When you mentioned your problem with the installation of insulation in the homes up there, the minimum BOCA code. I think there was a decision in Bridgewater Township, where BOCA code uses a minimum code, and they have their own code on top of the BOCA code, and they were upheld. In other words, they use that as a minimum code and have legislation that goes beyond it in the town. It's a very difficult town to build in.

MR. IANNACCONE: Perhaps it hasn't been challenged yet.

ASSEMBLYMAN PENN: Well, maybe they've gotten away with it.

MR. IANNACCONE: That's right. We have many ordinances on the books, of that fashion.

ASSEMBLYMAN McENROE: Do you have any one else testifying?

ASSEMBLYMAN PENN: No, we don't have anybody else.

ASSEMBLYMAN McENROE: I just want to make a statement, if I could.

ASSEMBLYMAN PENN: All right.

ASSEMBLYMAN McENROE: I want to thank Chairman -- you -- for your patience, and the members of the Committee for their attentiveness--

ASSEMBLYMAN PENN: Thank you, Mayor.

MR. IANNACCONE: Thank you.

ASSEMBLYMAN McENROE: (continues) --and responsiveness to the bill that has received such attention this morning. I do want to add, for the transcripts, some comments made by the Governor, in his State of the State message of January 14, 1986. I'll take them a bit out of context, but they are a matter of public record. Governor Tom Kean said on the 14th of January: "I urge the counties to update their master plans,

and approve the capability for planning. If this is done-- Only seven counties have up-to-date plans now. There is a greater chance that the State and the counties will be more sensitive to each other's needs. We want to move forward. We want the county to be a more important player in the game. To the counties, I offer this challenge: Update your plans, and I promise you our support."

Our planning boards have done a good job up to this point, but these new developments are so big, that they frequently spill over local boundaries and have a regional impact. We do not want to add a new layer of bureaucracy. We do not want to impose higher costs on developers. What we want is the county to make life easier for everyone involved -- themselves, their towns, the developers, the State, and most of all, their citizens.

I think it's the intention of this Committee, under your leadership, to offer an opportunity for legislation intending to address these kinds of concerns. I commend Assemblyman Albohn for his sponsorship of the bill, that he now plans to rework. Whatever the decision of this Committee is, regarding a committee substitute, I will certainly consider, and certainly abide by the consensus of this Committee. Well, I do think the issue that we are reviewing today, with the considerable help of the public is a matter of genuine public interest. I do believe if a referendum across the State were conducted, we would find that people are concerned with growth. They are concerned, and I think they will support a concept that local growth should be evaluated based on its impact on the region. With that, I certainly thank each of you, and I look forward to the next Committee hearing.

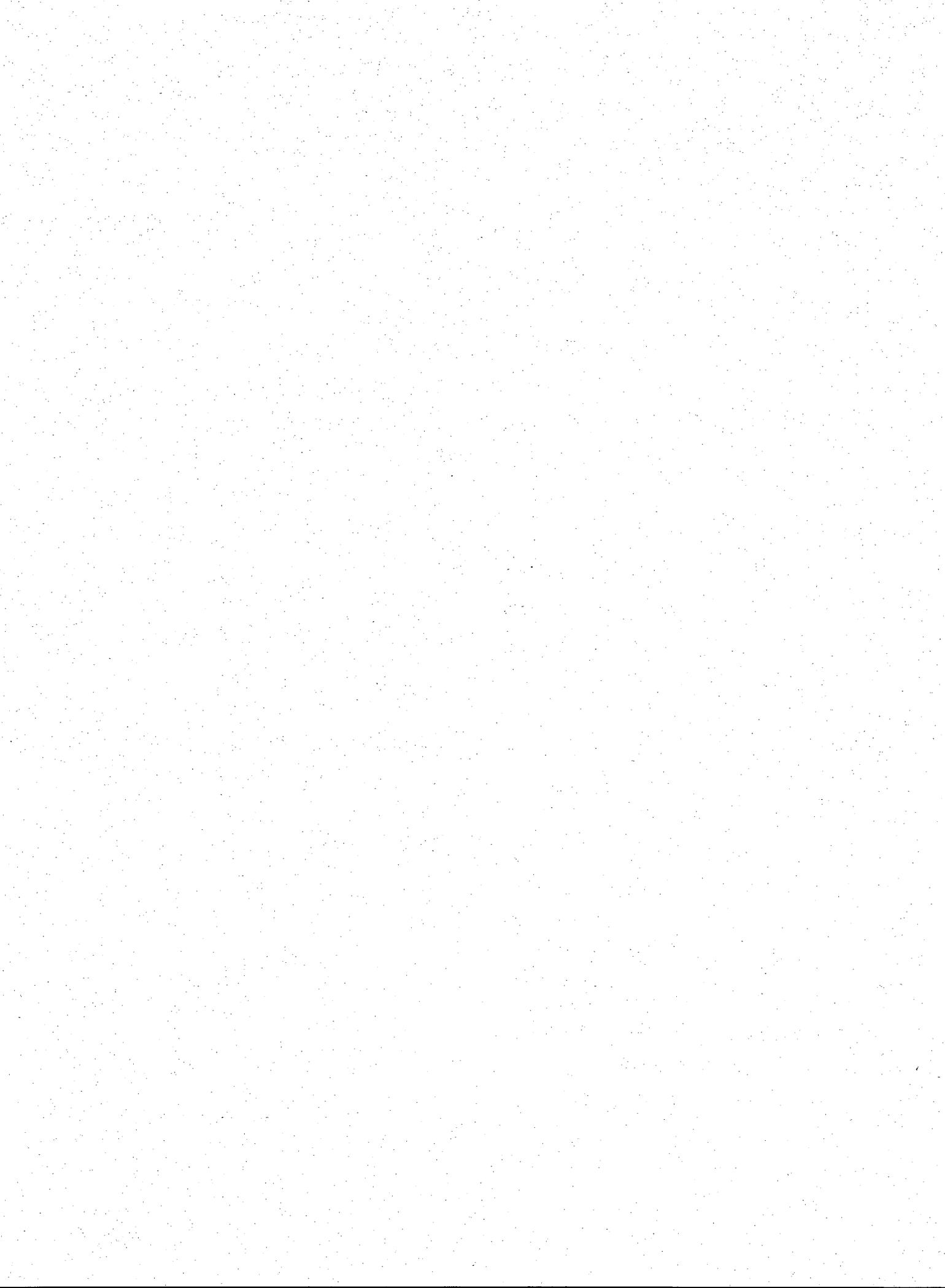
ASSEMBLYMAN HENDRICKSON: Just one real quick statement. I could not help but sit here and think back, perhaps, three to five years, when 13 mayors from the Pinelands testified exactly what I heard here today: Home Rule is our

destiny. We're not the black cats everybody thinks we are. We can do the job. Twenty-eight percent of the State of New Jersey is now under planning, but we have to take a whole concept, or whole new look at what's going on.

ASSEMBLYMAN PENN: I want to thank you all for coming here today. I thank the League, I thank the Association of Counties for their input, and you'll all be notified when we have our next meeting. We're going to have the planners and developers in. Thank you.

**(HEARING CONCLUDED)**

## **APPENDIX**





# OFFICE OF THE MAYOR

CITY HALL  
50 WINFIELD SCOTT PLAZA  
ELIZABETH, NEW JERSEY 07201-2462

THOMAS G. DUNN  
Mayor

May 22, 1986

# COPY

Honorable Members  
Assembly Committee on County Government  
c/o Honorable John Penn, Chairman  
State House Annex  
Trenton, New Jersey 08625

SUBJECT: PUBLIC HEARING...  
ASSEMBLY BILL NO. 2260 (EXPANDS THE POWERS OF COUNTY PLANNING  
BOARDS)

Chairman Penn and Gentlemen,

Please accept this written statement in lieu of personal testimony concerning legislation which would expand the powers of County Planning Boards...

I am strongly opposed to A-2260! I object to this bill not only in my capacity as Mayor of the City of Elizabeth, but also as a member of the Executive Board of the New Jersey League of Municipalities. In my view, this proposed legislation will further erode the power of municipalities to govern and control their own affairs by severely diminishing the control that local municipalities have always had over the use of their own land. The tradition of home rule and local control has been a cornerstone of this Nation's growth and development, and passage of A-2260 would result in a dramatic and drastic change in this tradition.

Unlike some of the less-populated States where regional control at the County level may not be offensive, New Jersey is a State with a heavy population living in numerous and diverse towns and cities, each with its own character and identity. Effective local control

and preservation of local character and identity therefore demands that citizens be able to work with their local officials, particularly in matters which have a direct and lasting impact on their lives, homes and the use of their property.

Gentlemen, for the foregoing reasons, as well as those outlined in the New Jersey State League of Municipalities memorandum to "Municipal Officials" (copy attached), I respectfully urge that you take whatever steps are necessary either to defeat A-2260 or have it redrafted in a manner satisfactory to the best interests of the municipalities of this State.

Respectfully submitted,



Thomas G. Dunn  
MAYOR

no  
Attachment

cc: Honorable John T. Hendrickson, Jr.  
Honorable J. Edward Kline  
Honorable Harry A. McEnroe  
Honorable Frank M. Pelly

# Office of the City Clerk

ELIZABETH, N. J

## Certificate

I, JOHN J. DWYER, City Clerk of the City of Elizabeth, New Jersey do hereby certify that the attached resolution, ~~As follows~~ is a true and correct copy taken from and compared with the original in my office, which was adopted by the City Council, City of Elizabeth, New Jersey at its meeting held June 11, ..... 19 86

In Testimony Whereof, I have hereunto

set my hand and affixed the seal

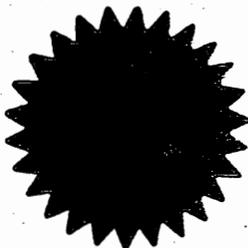
of the City of Elizabeth, N. J. this

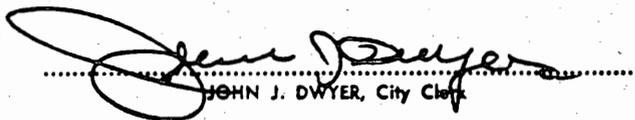
13th

..... day of

June,

..... 19 86



  
.....  
JOHN J. DWYER, City Clerk

BY CITY COUNCIL AS A WHOLE:

WHEREAS, there is currently pending in the New Jersey Legislature Assembly Bill No. 2260 which generally expands the powers of County Planning Boards; and

WHEREAS, proposed legislation, if enacted into law, will further erode the powers of municipalities to govern and control their own affairs by diminishing the control which New Jersey municipalities have always had over the use of their own land; and

WHEREAS, the tradition of home rule and local control has been a cornerstone of this nation's growth and development; and

WHEREAS, a heavily populated state such as New Jersey, with persons living in numerous and diverse towns and cities, each with its own character and identity, should not have the imposition of regional land control that some less populated states may choose to impose; and

WHEREAS, home rule in the matter of land development will preserve the direct and lasting relationship of persons to their government, particularly as it affects their lives, homes and the use of their property; now, therefore, be it

RESOLVED that City Council of the City of Elizabeth, for the foregoing reasons as well as those outlined by the New Jersey State League of Municipalities in opposition to Assembly Bill No. 2260, does hereby strongly urge the Legislature of the State of New Jersey to defeat the foregoing proposed legislation; and be it

FURTHER RESOLVED that certified copies of this resolution be forwarded to the Senator and Assemblymen from the 20th Legislative District, the members of the Assembly Committee on County Government, c/o Honorable John Penn, Chairman, State House Annex, Trenton, New Jersey.



NEW JERSEY

STATE LEAGUE OF MUNICIPALITIES

407 WEST STATE STREET, TRENTON, N.J. 08618

(609) 695-3481

JOHN E. TRAFFORD, *Executive Director*

WILLIAM G. DRESSEL, JR., *Asst. Executive Director*

RECEIVED

March 25, 1986

MAR 26 1986

OFFICE OF THE MAYOR

Dear Municipal Official:

Enclosed is a draft of Assembly 2260 by Assemblyman Harry McEnroe which would grant major new powers to County Planning Boards, thereby usurping much of the traditional land use authority that has been vested in municipalities. This measure, which appears to have some support, represents a monumental threat to municipal self determination and must be vigorously opposed. Please read the enclosed draft of the bill, evaluate the potential impact on your municipality and then contact your members of the General Assembly. This bill is probably the single most dangerous measure which will be pending in the current session of the Legislature.

EXCERPTS FROM A MEMO ON ASSEMBLY 2260 PREPARED BY FRED G. STICKEL, III, GENERAL LEAGUE COUNSEL:

"Assemblyman McEnroe seems to be operating under the mistaken philosophy that the county is the most appropriate level of government to administer local planning, as distinguished from individual municipalities who from time immemorial have been the level of government closest to the people, closest to the constituents and with much greater knowledge of local conditions and aims than any other level of government.

"I am extremely upset over the philosophy of Assemblyman McEnroe as reflected in this bill. It just seems to me it is another attempt on the part of our elected officials to strip local government of one of the powers most vital to their existence, namely, land use control. I am aware of the fact that there have been in some of the least congested states of our Union, particularly in the mid-west, land use control at the county level, but in the most highly congested state of the Union, to wit, New Jersey, local control of land use has always been in the municipality. As a matter of fact, in 1927 when the Constitutional Amendment was enacted by the people of this state, they specified that zoning of land use control should be at the local level and not at the county. The people trusted their own local elected officials, ones which they could readily reach, and seriously distrusted any higher level of government in this respect.

"I am reliably informed that there is a general movement on foot by some of our bigger corporations in the state to remove the control of land use from the local authorities to the county because they feel that with their money and prestige they can get further with the elected county officials. I am also reliably informed that one of the purposes of this movement is to make it easier to provide for greater low and moderate income housing which would benefit these corporations in having a more favorable labor market available. I am reliably informed that this is already going on in the County of Morris and undoubtedly an attempt is being made to spread this movement in other counties.

Specifically as to the bill, it must be redrafted. It is making it mandatory in the first section that all counties must have a planning board. At the moment whether a county has a planning board or not is permissive.

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"Section 2 goes on to require the adoption of a master plan by the county and it covers a very broad comprehensive list of matters to be covered by such master plan. As a matter of fact, it almost repeats word for word the contents of the local master plan. In no way are those objectives limited to county related functions. It leads me to believe that the ultimate objective of this legislation is to eliminate the local master plan.

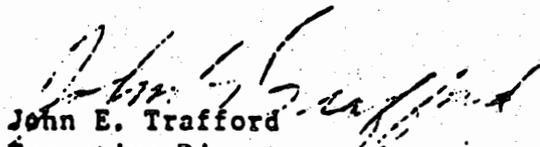
"Section 4 broadens the power of review by the county planning board from subdivisions relating to county roads or drainage, to all subdivisions "which would, in the estimation of the county planning board, have a significant impact on the future growth and development of the surrounding region." This in my opinion results in a carte blanche ticket for the county planning board to interfere in every action of the municipality in the area of land use control. This section also repeats the right of the county planning board to require dedication of rights of way, for any roads, or drainage rights of way shown on the county master plan. The enabling legislation makes no provision, however, for compensation to be paid when it requires a property owner to dedicate a portion of his land for future widening of a county road. This has been a sore spot in the County Planning Act ever since it was enacted. The municipality approves a subdivision or cite plan and after approval it goes to the county planning board and they require the dedication of a portion of the road for future widening. The widening may be 20 to 30 years off but the county insists on dedication, and to my knowledge has never yet compensated any owner for the taking of such land. Many municipalities are unalterably opposed to the widening or future widening of any county roads. I have had a running battle with the county over this issue. As far as this legislation is concerned that issue is ignored.

"Section 6 provides that every subdivision whether minor or major, whether it affects a county road or drainage, must be reviewed and approved prior to approval by the local planning board. The time is increased from 30 days to 45 days during which period of time the local authority cannot act. This power is extended to site plans as well as subdivisions and to applications for variances so that every land use control exercised by the local planning board will now be subject to review by the county planning board before the local board can act. This is complete abdication by the local planning boards to the county. The only exception as to the site plan review is where the residential units are less than 60 units or 20,000 square feet of commercial or industrial space.

"Finally, as to the legislation, there is approximately \$1,050,000.00 from the General Fund to carry out the purposes of this act. In other words the local citizens are not only having this power of land use control taken away, but they are being taxed at the rate of \$1,050,000.00 to do so.

"I don't believe anybody really realizes what the enactment of this legislation will do as far as the local land use is concerned."

Very truly yours,

  
John E. Trafford  
Executive Director

JET:meb  
Enclosure