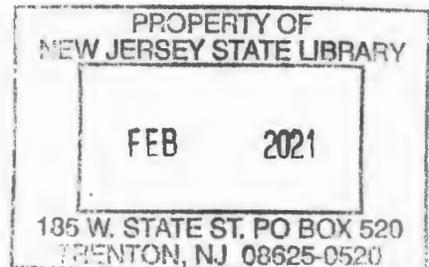


Commission Meeting

of

NEW JERSEY GENERAL AVIATION
STUDY COMMISSION



LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: October 31, 1995
1:30 p.m.

MEMBERS OF COMMISSION PRESENT:

John J. McNamara Jr., Esq., Chairman
Senator C. William Haines
Assemblyman Richard H. Bagger
John S. Penn
Linda Castner
Jack Elliott
Peter S. Hines
Suzanne Solberg Nagle



ALSO PRESENT:

Robert B. Yudin
(representing Alan Steinberg)

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TABLE OF CONTENTS

	<u>Page</u>
Senator Robert W. Singer District 30	5
H. George Buckwald Executive Director Lakewood Industrial Commission	5
Ed Brown Owner Allaire Airport	27
Michael A. Guariglia, Esq. McCarter & English	46
Alex Davidson Coowner Trinca Airport	46
Susan Feeney, Esq. McCarter & English	61
Bill Leavens President Mid-Atlantic Aviation Coalition	93
APPENDIX:	
New Jersey General Aviation Study Commission Draft Agenda	1x
"Lakewood Area Industries" submitted by H. George Buckwald	3x
Miscellaneous letters from individuals and businesses addressed to the Lakewood Industrial Commission	38x

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
"Outline of New Jersey Tax Issues Presented to General Aviation Study Commission" plus attachments submitted by Michael A. Guariglia, Esq. and Susan Feeney, Esq.	64x
"Airport Development Right Purchase Program The Time Has Come" submitted by Bill Leavens	103x
"Township of Lakewood Feasibility Study Regarding Potential Acquisition of Lakewood Airport June, 1994"	105x

mjz: 1-102

JOHN J. McNAMARA JR, ESQ. (Chairman): Good afternoon. I'm Jack McNamara. It is October 31, 1995. I would like to call to order this meeting of the New Jersey General Aviation Study Commission.

Before we call the roll, I would like to introduce to everyone here present Bob Yudin, who is going to be the representative of the Department of Commerce and Economic Development. I had the pleasure of having a chat with Bob just a few minutes ago. His regular position is to be the Executive Director of the New Jersey-Israel Commission. As important as that is, his real recommendation is that he comes to us after having been in the Navy as a navigator on a C-130, which is an aircraft that his son is now seeing service in. Welcome, Bob.

Now I will call the roll:

Abe Abuchowski? (no response)

Assemblyman Bagger?

ASSEMBLYMAN BAGGER: Here.

MR. McNAMARA: Linda Castner?

MS. CASTNER: Here.

MR. McNAMARA: Ben DeCosta? (no response)

Jack Elliott? Jack Elliott is here. He will just be a minute arriving.

Phil Engle? (no response)

Senator Haines?

SENATOR HAINES: Here.

MR. McNAMARA: Pete Hines?

MR. HINES: Here.

MR. McNAMARA: Bob Yudin?

MR. YUDIN: Here.

MR. McNAMARA: Wesley Jost? (no response)

Jack McNamara is here, of course.

Suzanne Nagle?

MS. NAGLE: Here.

MR. McNAMARA: Joe Odenheimer? (no response)

Jack Penn?

MR. PENN: Here.

MR. McNAMARA: Henry Rowan? (no response)

Fred Telling? (no response)

All right, we have a quorum.

Have there been any problems about receiving notice for this meeting?

MR. PENN: The only time a notice is sent out, Mr. Chairman, is if there is not going to be a meeting. All meetings are set for the last Tuesday of every month. The only time we would send a notice out-- Unless you want to change that, that is the way it has been.

MR. McNAMARA: No. It is just a formality. It is appropriate to observe asking about whether there has been any failure of notice. I don't anticipate that for a meeting that is scheduled in accord with our bylaws, or the resolution of one of our first meetings that we meet on the last Tuesday of each month, that there should be any tenured notice.

However, there will be a concern perhaps for some future meetings, because at the end of this meeting we are going to see if we can shift our schedule around and avoid meeting on the day after Christmas, and also maybe schedule a few additional meetings.

With respect to the minutes of our prior meetings, the transcripts, I am told, for June and September, will be available within the next couple of weeks. I was told just this afternoon that one of the transcripts has been completed. All the reporter needs is to have the appendix which must be attached. I will undertake to deliver that to her during the course of this week.

Excuse me for one second, please. (brief pause)

There was an article about our Commission in a recent issue of The Newark Star-Ledger. Because of that article, I have had a few items of correspondence come across my desk from a Robert Matthews, who lives in Bedminster, who would like to come before our Commission and give testimony. I have invited him to do so. Also, from a Rudy Zayfel (phonetic spelling). I will have to ask Jack Elliott if he knows this gentleman.

He writes: "John McNamara, General Aviation Study Commission, Far Hills, New Jersey.

"Read your article by Jack Elliott. I would like to testify before your Commission. I would also like the names of the people on the Commission and where I can contact them.

"McNamara, since you" -- that is the letter "U" -- "are in Far Hills, I hope your ideas are not sleeping with Malcolm Forbes Jr. I flew out of the old Hadley Airport, so I would not be happy if the Bedminster Airport was to close. Forbes is giving those people a lot of trouble. My articles to the VFW and the American Legion -- 'Forbes Is Out.'

"Where and when is the hearing going to be held? Rudy Zayfel"

Of course, I was pleased to receive the letter. I tried to call Mr. Zayfel, but I have not been successful so far. I look forward to his coming to give us the benefit of his comment.

In addition, I received a call from a Frank Steinberg, who is an attorney in Somerset County at the Chamber of Commerce and at the Task Force on Airport Preservation. He would like to come.

I have also received a letter from State Senator Bill Schluter from the 23rd Legislative District, which is Hunterdon, Warren, and Mercer Counties. He would like to come.

All of these people will be invited and will be put on our agenda for future meetings.

Just a quick word: We, myself and my fellow Commissioners, are going into a period of hearing from a rapid succession of witnesses. The procedure for conducting these hearings is going to be-- First of all, we are going to hear all of the witnesses. We will let them make their comments, present us with their testimony. After we are finished, which I would hope would be sometime in January or February -- once we are finished with this group of witnesses coming through, then we will have meetings for the purpose of deliberation and discussion among the Commissioners.

I would ask the Commissioners-- I don't mean to foreclose any questions of any witness, but I would ask you, in terms of lengthy discussion, to withhold your comments until we get to those meetings for deliberation.

There are no Commission reports that are going to be made today. We are going to proceed forthwith to calling our

first witness, who is the Honorable Robert Singer, State Senator. He is here in a couple of capacities, the first of which would be to talk to us about Lakewood Airport.

S E N A T O R R O B E R T W . S I N G E R: Thank you, Mr. Chairman, and I thank you for the opportunity to be here today to talk about the concerns we have concerning the Lakewood Airport and to inform you of what exactly has happened.

I have also brought with me today the Honorable H. George Buckwald, who will be testifying. George is the former Mayor of Lakewood, former Freeholder Director of Ocean County, and presently the Executive Director of the Lakewood Industrial Commission in Lakewood. His second job, I think, is Treasurer of the Republican State Committee, but we don't mention politics at these things.

MR. McNAMARA: Senator, for the record, could you please spell Mr. Buckwald's name? Is it B-U-C-H-W-A-L-D?

H. G E O R G E B U C K W A L D: No, B-U-C-K-W-A-L-D.

SENATOR SINGER: Thank you, Mr. Chairman.

Let me give you the background of some of the concerns we have and where we are today. Approximately two years ago, we were approached by the owners of Lakewood Airport, a small residential airport in Lakewood Township adjacent to our Industrial Park -- and George will talk to you about our Industrial Park and the success story that is.

The Airport has been breaking even based on being leased to an operator for several years. With the new tax assessment, it now went into the red. Therefore, the people owning the property were interested in selling it either as an airport or, of course, to develop it as an industrial tract.

They first approached the Township under the impression that since we are a governing body, if we were to buy it, we could tap into both State and Federal funds to purchase the Airport. We were interested at that time. We contacted Jack Penn, who came down and talked to us about it. He informed us that there was a possibility at that time that we could purchase the property through both State and Federal moneys.

The first thing we had done -- and the State was very gracious to pay for it -- was a pro forma study done on it that would let us know whether, if we purchased the Airport, it would be economically feasible to at least maintain the tax base that was coming into the Township so it would not be done as a loss.

We selected someone who was recommended by the State to do this. I am not going to go into that. If you would like, at a future date, I could provide you with copies of that.

The only concern I had was -- and something we should learn from this, please -- the study was not done in a simplistic way where the average person could understand it, as well as the fact that I do not believe the study was done on a pro forma basis, as most of us in business would have done. Therefore, though the study showed it was economically feasible for the Township to do it -- the payback was over three to five years -- it left a lot of questions unanswered, which, in turn, gave the public a mixed review and the newspapers a mixed review whether it made good economic sense for the Township to purchase the Airport.

Secondly, as you know, in today's world, the public is always skeptical when the public sector wants to operate something in the private sector, since they always feel that if

we do that we run into problems and it becomes a pork barrel type of situation where we are creating jobs for our friends.

We then had the Federal government recommend two different people to do an appraisal of the Airport, so we would have some idea of the money we were talking about. Now, this Airport was purchased -- excuse me -- George, about 25 years ago, or more than that?

MR. BUCKWALD: By whom, by the present owners?

SENATOR SINGER: By the present owners about 25 years ago, for several hundreds of thousands of dollars, I think, about a quarter of a million dollars at the time.

MR. BUCKWALD: Three hundred thousand dollars.

SENATOR SINGER: Three hundred thousand dollars. When the appraisers came back in, it was appraised at over \$8 million. Now, we can sit here today and understand how things have changed over 25 years. The public, of course, has been very upset about that, because the figure of \$8 million to them is that someone is making a land sale profit beyond belief.

So I would have to tell you that, though the appraisers appraised it for its value in its present use, in the future we have to, when we look at these things, make sure we do a better explanation of how we appraise things and what values are, because we have had a little bit of a problem with it as though we are giving away tax dollars to somebody for something that is not worth that.

The next problem we have is that the Airport is not in particularly good shape. It is going to need extensive work on the runways. It does not have hangers for the airplanes. They are going to have to be built. It doesn't have, really, an

up-to-date service center. Though there is a tremendous amount of acreage -- and George will get into that -- that we can use for other purposes, it is going to need money beyond the purchase price to bring the Airport into the modern day age. Of course -- again, thanking Jack Penn and the people from the State -- we realize that if we purchase this Airport, we will be able to tap into those funds to bring the Airport up to current standards.

The governing body has made the decision that they are going to purchase the Airport. We are in the process right now of finalizing the contracts with the owners. When we do that, we are going to, again, do the same thing that the county airport has done very successfully, put it out for bid and have a professional operator operate it.

Now, based on the former, in year three, we will start to see a greater return than we would have gotten from taxes, and that is a very positive thing. The owner has agreed to put five years' worth of taxes in escrow, so no matter what it guarantees us for the next five years, there would be no loss to the municipality of any funding. That is a very, very good thing, because we are able to assure our residents that, though we will purchase the Airport, there will be no loss in revenue to the Township for the next five years, guaranteed. Our pro forma says that in the third year we will start turning a profit, but beyond that, they still have an assurance that both the school taxes and the local property taxes will not suffer from that.

Next, we have looked at the feasibility of upgrading the Airport. We are doing some studies on that. Jack Penn's

Department has been very, very positive to us as to how we can tap into that. Unfortunately, the public, again, has to understand that as a public entity not only can we take the money from the airplane fuel tax to purchase it through the Federal government, but we can also upgrade it, which moneys are not available to the private sector in the same way.

I think the retention of this Airport-- Jack's group did an excellent job explaining to the public how important it is to save the Airport and what it means not just to Lakewood Township, but to Ocean County, and to the State of New Jersey. It is something that is very, very important, because, again, there is a natural resentment for the public sector, being the local governing body, to get into a private business.

The last thing we ran into -- and it is certainly a concern that we have all had -- is, where is the Airport going to go after purchase, not just as an Airport? Fortunately, because of the amount of property that is being bought with the Airport, there is plenty of room there for additional development of Airport services. So we will be enhancing that property, not just as an Airport, but all the auxiliary manufacturing, all the items, and anyone who wants to be related to any type of freight can house themselves there. So the property surrounding the Airport which will come with the Airport can be very, very beneficial to the Township.

We consider this, when everything is said and done, a win/win situation for our community. I am not only the Senator there, but I also sit on the governing body. It is amazing. I have to tell you, for some strange reason, we have been unable to convey to the newspapers what a positive thing this is for

our community. It has made it very, very tough. As a matter of fact, we had the State audit team come in to do an entire audit of our Township, which, of course, the Governor has offered to all of the municipalities to tell us all the beneficial ways that we can save money. One of the big pluses they talked about in that audit was the purchase of the Airport.

Again, these are all positive things. I am still a little dismayed as to why both the press and the general public have not embraced this as a positive thing for our community. I again go back to three factors:

1) I will caution you in the future that the study be done, or the pro forma be done so that when the press questions it, it is simplistic in the answers.

2) I think it is more business oriented so people will understand it.

3) We should do it -- maybe spend a little more money and put a little more of some factual entities into it that would help us to prove our end result being the purchase of the Airport.

I think we have to have a heavy PR understanding that though this is tax dollars, it is not tax dollars that would come back to New Jersey or to Lakewood Township. You know, it is the old adage: Well, it may not be-- It's tax dollars, it's still our money. This is money that would go to other airports and other states. This is not money that would come back to reduce their property taxes. This is not money that would come into the General Fund of the State. This is only money that can be used for airport use. Again, we have to do that, and I think

it is better done at the State level, because you have more credibility than we do at the local level.

Lastly in this, I think we have to have a better understanding of the appraisal method. When the average person knows that someone bought something for \$300,000 thirty years ago, or twenty-five years ago, and is now selling it for over \$8 million, it sounds as though there is some inside deal. We know that is not the case at all. We understand that because we are businesspeople. But the average person we are dealing with is not a business owner or a banker who deals with those types of money. All they hear is \$300,000 bought, \$8 million sold, there has to be some kind of deal.

As you know, we are looking to upgrade that Airport, spend an additional \$4 million or \$5 million. In my mind, our community will be receiving, through you, the State of New Jersey through Jack Penn's Division, and the Federal government, in excess of \$13 million to \$14 million to purchase and upgrade a local municipal Airport. After the day you purchase it, not only do you own it, but all the additional property that goes along with that that we can develop into industrial use will be beneficial to our community. It is a win/win all the way around.

Unfortunately, for some reason -- I take part of the blame from the community's part in it too -- we have just not gotten this point across. Now, we are going ahead with this project, because it makes good sense. If it were not for Jack Penn and his staff's diligent work on this we would not have gone ahead. It is amazing that something so positive, something you think would be getting such great press, has really been

getting negative press and has really been used as a tool against us politically as though we are doing something that is wrong for the community.

I would like George Buckwald, who is the expert on our Industrial Park, and who also has a history of the Airport, to let you know about our Industrial Park and how much of an important role this plays on our industrial campus.

George?

MR. BUCKWALD: Thank you, Senator. It is pretty hard to follow a young man that I helped get started. He learned very well.

Just to add on to what the Senator said, let me approach it a little bit historically, and I will not take up too much time.

This Airport was built by a couple of World War II veterans in the late 1940s on a grassy piece of ground -- not too good a piece of ground. It didn't get to be known as an Airport until much later, because it was used for recreational flying only.

At the time the Leisure Technology Company developed the leisure villages in Lakewood, it became very successful. The owner bought the Airport and the surrounding property and built his international headquarters there, where our friend, Larry Bathgate, has his law office now. But he developed the Airport to the extent that it had a paved runway, a taxiway, a mobile type office, and some kind of a shelter for mechanical repairs. It just came limping along.

Along with the limping came Parachutes, Inc. You may remember that. They started an Export Parachute Center there,

maybe one of the first in the State. It lasted for several years. It phased out to other areas of the State and New England. The operators didn't want to spend more money, and you know what happens to small airports.

But let me jump ahead to the point where we are now. Let me tell you first that I have been involved in this promotional effort to make that private Airport into a public Airport three different times in my career. This is the second time on the municipal level, and one time on the county level, when we got the studies right up to the final point until the vote came. As you know, airports are not popular with people -- some people. You have to be interested.

Let's go to today. Today, we have approximately 75 aircraft -- resident aircraft there. We have a going business with refueling, with mechanical repairs and engine repairs. We no longer have the complication of the ultralights which came in there for awhile. So what we have left and now ready to bloom is a small Airport that could serve a direct purpose.

In the audience I was talking to Ed Brown. Ed Brown operated Lakewood at one time. Of course, we can never compare our small Lakewood Airport to what he calls Allaire Airport, or Monmouth Airport. There is no comparison, no competition.

I was involved with Ocean County Airport, Robert J. Miller Airport as manager for about eight years. I am fully acquainted with what you need to do to make an Airport work. I had discussions with Arlene Feldman when she was involved, and with all of the different good people who have been involved in aviation. I read Elliott's column in the paper. He is one of our greatest assets as far as people who are interested in

keeping airports, and not losing any. I know that is a tough job.

Our Airport is in our Industrial Park. Mr. Chairman, I am going to leave you some things that you can look at later, those of you who want to. We featured the Airport in our advertising for the Lakewood Industrial Park to try to get companies. By the way, we have 260 companies -- international, national, and local companies. We have 1800 acres altogether in use. We are the second largest Industrial Park of its kind in the State, and we are growing. We had an application, I hate to tell you, for five years before certain State agencies to enlarge our Industrial Park by 457 more acres, which will make it the largest.

Anyway, one of the features we use to attract business is the availability of executive aircraft to land in Lakewood and take off from Lakewood. I want to tell you, as big as it is or as small as it is, Citations have flown in and flown out, small jets, and the new planes that require shorter takeoff and landing space are always coming in.

It needs to have the kind of funding that the Federal government and the State government can give us to produce an Airport which will be of use to many, many people, not only recreation flying, not only the pilot school to teach flying, but also business aircraft. We already have had -- unfortunately to businesspeople -- the pickup of checks that go to the Philadelphia Federal Reserve, so that you don't have time to get the money up where your check is. Your checks go, like, in hours, instead of two or three days. That is another matter.

But we really have an asset, and that asset should be looked at -- 192 acres. Senator Singer said we picked up more property than the Airport itself in the negotiations for the purchase. We intend to use that extra property, which is nearby, for aviation-oriented business. Hopefully, we will attract some companies that must or have to be on an airport, small or large or whatever.

I think it is important for the people of New Jersey to maintain -- and I should say "support" -- small airports, because small airports give the ability to people who want to fly, who need to fly, and who will, in the future, bring the added values that a town has with an airport. We have cited many times the availability of forest fire aircraft equipped to pick up water to fight forest fires, or the medevac for State Police helicopters, for helicopters from every walk of life. If they have to land, we have one of the largest hospitals in the county a few minutes away. These are all the things that we keep citing.

The political flavor of it, as Senator Singer just mentioned, is but part of the action. I hope that flavor, the ins who want to stay in and the outs who want to get in, does not compromise this effort. If we do not take care of it this time, I think we will lose the Airport. Losing an Airport that has been in existence as long as Lakewood Airport should not happen. It is not good for the State. It is not good for the public. It is not good for anyone. There is no competition. That you could say to the county, and I know that personally. I don't think Mr. Brown feels that this is a competition to

Allaire Airport, so it is a gem sitting ready to be fixed up, to be brushed up, and to be advertised.

I thank you for this time.

MR. McNAMARA: Thank you very much.

I would just like to ask a couple of questions. What would have happened to the Airport had the Township not come forward to purchase it?

SENATOR SINGER: What would have happened to the Airport is that the owners would have closed it as an operating Airport and divided up the property into industrial sites.

MR. McNAMARA: Why was that going to happen? Had the former owners died or did a corporation dissolve? What event triggered that?

SENATOR SINGER: What was happening was, the present owners were land banking the land for future development. The Airport itself, being leased out to O'Brien Aviation, was covering the taxes on the property. When we did a reevaluation in 1991, it was revalued up. The property taxes were no longer being covered by the rental. Since the leasee was not going to invest money in something it did not own, and the current owners were not going to invest money in the property themselves, the Airport not being upgraded, there was no more revenue generated. Therefore, it went into the red and they were no longer able to cover their taxes each year.

MR. McNAMARA: Essentially, an increase in taxes triggered -- hit the first domino, and the rest fell.

SENATOR SINGER: Right.

MR. BUCKWALD: May I add something, please? Excuse me.

I brought with me some letters from residents and other people who use the Airport with their arguments for keeping the Airport.

I would just like to add one more thing that I forgot. If you think about the valuation as it is today at \$8.9 -- I think -- million, the reason it got that high from the appraisal is that we are selling nearby land at \$75,000 an acre. I think they compromised on a figure below \$75,000 an acre to get to the figure that they appraised it at. That should explain some of it.

MR. McNAMARA: Are those letters to be submitted to us to be appended to the record?

MR. BUCKWALD: Yes.

MR. McNAMARA: If so, we will be very happy to receive them. If you will just deliver them to the hearing reporter, please, they will be appended to the record.

A second question I would like to ask is: What is the relationship between the Airport -- the 190-acre Airport -- and the 1800 acre Industrial Park?

MR. BUCKWALD: The Airport sits squarely in the middle. We have maps here that I am submitting as well so you can see them.

MR. McNAMARA: You say it is because of the location of the Airport that the Industrial Park has been able to develop to the extent it has?

MR. BUCKWALD: I think the additional facility of an Airport in the Industrial Park brings a lot of attention via certain companies. As I said, we have international, national,

and local companies. They have the availability to fly in and fly out.

By the way, we have applied and have the Urban Enterprise Zone in our Park. We are applying momentarily for a--

SENATOR SINGER: Free Trade Zone -- Foreign Trade Zone.

MR. BUCKWALD: --a Foreign Trade Zone. We feel we are eligible to have a Foreign Trade Zone in our Park. So I think the Airport just fits in with all of this.

SENATOR SINGER: It is really an added tool to the arsenal of why someone should locate their company in New Jersey, in this case, Lakewood. We have tax abatement. We are a UEZ. We have good transportation, including our own Airport. They may never use it. It may never be part of why they bring their business there, but psychologically knowing there is an Airport in your Industrial Park becomes a positive aspect of how we sell our place for development. That is why we have over 200 companies and 12,000 jobs in Lakewood.

MR. McNAMARA: You have roughly about 200 companies, isn't that right?

SENATOR SINGER: Correct.

MR. McNAMARA: And 12,000 jobs?

MR. BUCKWALD: Yes. We are the first industrial development in the County of Ocean especially giving 12-months-a-year jobs. Those of you who sit here know that Ocean County is primarily a summertime, seashore resort economy. We have a 12-month economy. The workers who come there come from as far away as 40 miles and commute in. We have that kind

of a problem to meet, too, but what I'm saying is, it is a regional job source. It is not a local job source.

MR. McNAMARA: I was trying to keep notes as you were testifying. The Industrial Park is the largest industrial park in the country. Is that right?

MR. BUCKWALD: No, no, I wish. It is the second largest in New Jersey.

MR. McNAMARA: The second largest in New Jersey?

MR. BUCKWALD: Yes.

MR. McNAMARA: What is the first largest?

MR. BUCKWALD: It is down in Gloucester County. It is a 3000-acre park, but 1000 acres are not to be used. Those acres are to be kept in their environmental state. We have 1800. With the addition of 457 acres, we will be the largest. It is really in three sections. We have rail on the western end of town, and in the original location we have Garden State Parkway, Route 70, Route 9, the Airport, and I-195 just north of us in Monmouth County. So the address is very important.

MR. McNAMARA: Senator, you mentioned that there was a study done prior to your considering the purchase. Is that study available?

SENATOR SINGER: Absolutely. Jack, do you have copies of that for them?

MR. PENN: Yes.

MR. McNAMARA: All right. We would like to append that study to the record, not so much for its content as for its method.

Do you recommend, Senator, that this is a good method to follow, or do you recommend a different method?

SENATOR SINGER: I recommend that this is now a method not to be followed. Though the outcome of the study was positive, when you look at the study -- and Jack will get it to you -- it was not a study that was easily deciphered by the press or by the public, and it left too many gaps.

Again, we in government today are under a microscope every time we want to do something in the private sector. On one hand, you know, we're talking about privatization, where we are turning things away from government to the private sector. Here we are taking something that is in the private sector and taking it to the public sector. You have to be squeaky clean with this type of a proposal. You have to make sure that it is easily decipherable so that people can understand why you are doing it and that it makes good economic sense.

Though the conclusion of this report was that it made good economic sense, there are too many gaps in it. Either they didn't do the job the right way, or we didn't ask for it the right way. I am not sure. Maybe Jack, at some point, will take a look at that and discuss it with you. But I am recommending, since it is so crucial, that in the future when we do it -- you paid for it; the State paid for this study -- that we do it differently. I suggest that you take a look at this study, and I think you will come up with the same conclusion. It has to be done better for us to be able to sell the public on these types of purchases.

MR. McNAMARA: I have only one other thing, which is an oversight on my part. We are taking all testimony under oath before this Commission. I just might ask you each if the

testimony you have given and will continue to give to this Commission is the truth under a penalty of perjury?

Mr. Buckwald?

MR. BUCKWALD: Yes, sir.

MR. McNAMARA: Senator Singer?

SENATOR SINGER: Yes, I do.

MR. McNAMARA: I hope it is not inappropriate to ask a Senator to take an oath in the State House Annex.

SENATOR SINGER: Not in the least bit.

MR. McNAMARA: Do other members of the Commission have questions for the witnesses? Yes, Mr. Yudin?

MR. YUDIN: Do you have an idea on traffic -- landings, takeoffs -- and how those numbers have either increased or decreased over the last few years?

MR. BUCKWALD: They have increased.

MR. YUDIN: Do you have the actual numbers?

MR. BUCKWALD: I don't have them.

MR. YUDIN: Can they be made available?

MR. BUCKWALD: Yes, I think we have--

SENATOR SINGER: Jack has them.

MR. YUDIN: We have that available.

SENATOR SINGER: By the way, we were told by many people who have airplanes that if there were hangers available, they would bring their planes there. Since there are no hangers, many people do not want to keep their planes there. So there is additional business. That is part of the study that shows surveys done that they are ready to come in -- by the way, not from Allaire Airport, but from other airports -- but that

people would be more than willing to keep their planes there and bring more business there.

MR. YUDIN: Does the study break it down to recreation versus business?

MR. PENN: I believe it does. I don't have the study in front of me right now, but as I remember, I believe our figures show that 75 percent of the flights in and out of the Airport are somehow business related in one way or another. In other words, it has become a business-oriented type of Airport in which many of the people -- at least our sales polls and so forth in and out of the Airport -- use it that way.

We have the figures which are available on the number of takeoffs and landings. I don't know how that relates. We also are in the process of doing an economic impact study of the State that shows not only the income from the Airport, but also the induced income from the businesses that are affected by the Airport -- the fact that it is there.

MR. YUDIN: That study will be part of the record, so that we can--

MR. PENN: No, that study is a separate study which will be available in about-- It is pretty much in its final stage. It will be available to this Commission-- The study will probably take another five or six months to complete, because it involves 37 airports in the State of New Jersey.

MR. YUDIN: Okay.

MR. PENN: But we do have the figures on Lakewood Airport. We do have a copy of the feasibility study that was done, and I think we have a copy of the master plan on file, which is available through the Division of Aeronautics.

MR. YUDIN: If the upgrading is to take place, does that include bringing modern technology into the Airport if it does not have that for year-round operation?

MR. PENN: Well, the master plan would, but, incidentally, this Airport does operate on a year-round basis. This Airport is not an Airport that really caters to what you would consider to be the tourist crowd. It is an Airport that -- more or less from what our investigation has shown -- is a business-oriented Airport.

MR. McNAMARA: Are there other questions? Senator?

SENATOR HAINES: Yes. What are the lengths of the runways and what directions? Are there two runways or just a single runway there?

MR. BUCKWALD: There is one runway. It is approximately 3600 feet.

SENATOR HAINES: What direction is it?

MR. BUCKWALD: North to south, generally. There is a plan for a cross runway.

SENATOR HAINES: There is a plan for an east/west runway?

MR. BUCKWALD: Yes, but it has never been accommodated yet.

SENATOR HAINES: When you look at the 190 acres, are you projecting that some of it will be used for an industrial park?

MR. BUCKWALD: Yes.

SENATOR HAINES: What percentage of it?

MR. BUCKWALD: Well, Airport Road, which is appropriately named, on one edge of the Airport, has 30 acres

which the owners were prevailed upon to include in the negotiation. Those acres, in lots, we will use, hopefully, for aviation-oriented use, if not other uses.

SENATOR HAINES: Many companies, if they have an expensive jet or something, like to have it on their own property. Could some of these have an industrial plant and have a hangar and some airplanes there and just taxi right onto the runway? Is this going to be possible, do you think?

MR. BUCKWALD: I think it will be entirely possible. I did some of these things at the Ocean County Airport -- the Robert J. Miller -- which you may be familiar with. It is near your area of the State.

SENATOR HAINES: Sounds great.

MR. McNAMARA: Is there land there to expand the length of the main runway?

MR. BUCKWALD: While we feel, at this time, that it could be lengthened somewhat, we don't need to make it a major Airport. It will land all of the types of aircraft that have the capability of landing and takeoff at that sized Airport, including, as I said, the Citation jet, which has been in and out. All of the new aircraft that are being designed, of course, have been designed for shorter takeoff and landing.

MR. McNAMARA: Thank you.

Are there other questions? Linda Castner?

MS. CASTNER: The recommendations the Commission is going to make, of course, have a lot of financial implications, whether it will be purchase of property, transfer of development rights, that kind of thing, so your testimony on appraisals is, I think, very relevant. We are looking at some individuals to

come in and give testimony on how appraisals have been done on airports in the past. Can you somehow enlighten us as to what they really need to be looking at? You said they had problems and they couldn't--

SENATOR SINGER: Well, I think one of the main reasons we were concerned about it was that people do not understand the process -- the general public doesn't. We have to get out there more and say, "Wait a second, here is how an appraisal is done. It is based on the highest use of that property."

For example, Mr. Buckwald mentioned that we are presently selling a minimum of three-acre lots, industrial property, for \$75,000 an acre. Now, although the 196 acres cannot all be used, because, of course, some of it is in wetlands and things like that, the computation of what that value was, was based on the fact that property is selling all around it, not across the street, right adjacent to it, for \$75,000 an acre.

I don't think the public thoroughly understands that and how an negotiation appraisal is done. So I think it becomes an obligation, first, for us to say up front, "We do an appraisal, and here is how an appraisal is done." They do not understand that. We never got that across, so for some strange reason, they thought it was some inside deal. Maybe there has to be more of a State agency involved on how that appraisal comes in, rather than a local municipality.

MS. CASTNER: Do you have any recommendations on people to come in and give testimony on how appraisals are done?

SENATOR SINGER: I would feel very, very comfortable if the Office of the Treasurer of the State of New Jersey were

involved in that. The reason is, that would give total credibility as to how we are arriving at that factor, because the Treasurer of the State is the keeper of our moneys. Since State moneys are still involved in this, I think it is important that they are involved in how that comes to factor into it.

MR. McNAMARA: Ms. Nagle?

MS. NAGLE: You're buying land that is presently zoned. How is the land presently zoned at the Airport? Is it zoned industrial or is it zoned residential?

SENATOR SINGER: Industrial.

MS. NAGLE: Oh, it's zoned industrial. What happens to the land that is not used as an Airport? If you get money from the AID funding--

SENATOR SINGER: What we have to do is, we can lease it for properties that are Airport related. In other words, there has to be some benefit to the Airport for that company going there. We just can't put anything we want there. So I can't build a school there, unless it is an aviation school. It has to be Airport related. That is why we are given the money, to do that, and there is that restriction to it.

For example, if a company needs an airport as part of their business, they can do that. If they deal with anything to do with aviation, they can be there. We can put a restaurant there that services the Airport, those types of things.

MS. NAGLE: Thank you.

MR. McNAMARA: Well, Senator Singer and Mr. Buckwald, thank you very much for coming in today. It sounds as if the project you are conducting there is a terrific one. It certainly makes one point, and that is that aviation, at that

Airport at least, has been beneficial to the State, and to the citizens of the State in terms of producing jobs and economic opportunities for entrepreneurs in the State.

SENATOR SINGER: Thank you, Mr. Chairman. We appreciate it very much.

MR. BUCKWALD: Thank you.

MR. PENN: Mr. Chairman?

MR. McNAMARA: Yes?

MR. PENN: I just want to say that working with George and the Senator on this project was very rewarding. They put a lot of effort and a lot of time into it. So I want to thank them both for their input.

George, I know you were a real proponent from the very beginning on this, and the Senator was on board also. It makes it a lot easier when you are trying to do something. Thank you very much.

MR. BUCKWALD: Thank you.

MR. McNAMARA: Is Ed Brown here? (affirmative response from audience) Mr. Brown is the owner of Allaire Airport.

Mr. Brown, do you swear that the testimony you are about to give this Commission is true, subject to the penalties of perjury?

E D B R O W N: I do.

MR. McNAMARA: Do you have statements that you would like to submit to us?

MR. BROWN: I have the wrong microphone. I talk loud enough.

MR. McNAMARA: The one to your right -- the microphone to your right, does it have a button on it?

MR. BROWN: Yes.

MR. McNAMARA: Push that button until you get a red light.

MR. BROWN: I wasn't real sure just what this Commission wanted to get out of me or what I could do to help the Commission. I submitted a statement to the Commission some time ago. They asked me if I would be interested in testifying, and I said I would, because I had read of the formation of your Commission. I feel your Commission has a terrific job to do and is going to need a lot of help.

I feel that my background experience-- It is a little hard to brag on myself, but I have to do this in order to help you, I think. I have been operating an airport in New Jersey since 1937. I started under old Gilrob Wilson (phonetic spelling), who was the first Director, I believe.

I have worked the Allaire Airport. It is a privately owned, successful operating Airport. We have a lot of problems as a privately owned Airport, many of them with the municipal government. There are a lot of problems. We have overcome most of them, but we are looking into the future.

When I read of the purpose of your Commission, I felt its time had come. You have a real job on your hands. It is really hard to sit here on one hand as a private enterprise person, running a private enterprise Airport, and rather proud. We do not have any Federal money, no State money, and, certainly, no municipal money in our Airport.

We are profitable. We pay over \$500,000 a year in local real estate taxes. We pay about \$200,000 to the State and Federal government in income taxes from our operation. I love the business, but we see a tunnel ahead that doesn't look too good. Now, I hope that part of your Commission's purpose is to listen to our problems and, hopefully, find a way to solve them.

In the report I wrote, I felt, speaking for my own Airport, that our problem is municipal zoning. Everybody wants an airport, except the people who are going to live around it. That has been spoken about for years. The people who live around it, obviously, elect local people to run the town. So immediately, we have an enemy built up.

Those who happen to live around the Airport, if a 727 comes in one night, or a noisy Challenge Air, or something like that, they call the town. The town gets back to us. I feel, after years of thinking about this, that one of the only ways I can see to get away with this is to have the zoning done in the State around an airport by the State.

The State knows our problems. You have a good State Department. I wouldn't be here today if it weren't for the State Division of Aeronautics. I get a little emotional about this, but I have gone to battle with the town so many times and I have been helped and helped and helped by Gil Melton (phonetic spelling) and the whole group down there. That's fine, but we are getting near the end. We are not going to be able to go ahead if the local municipalities, via their local politicians, can economically force us out of business. This is our problem.

We are making money. We have a good tax profit. In the last two years, the zoning in Wall Township -- the Township I'm in -- has become so severe that we now have empty buildings that we cannot rent, because the town will not approve those buildings for a sign shop, for-- You name it, they won't approve it. This is hurting us.

The zoning design is done to stifle us not to put a sign shop where a sign shop should be, or something else. For instance -- and this is something some of you may know -- we built a large hanger -- combination hanger and convention hall at the Airport. The idea was, economically, to build it as a hanger, and use it as a convention center until we booked enough conventions. Then we had plans, already drawn and located on the property, for a larger convention center.

Well, we made, I might say, the political mistake of allowing Ross Perot to come to speak at our convention center. That upset the politicians. We had to go to court. The judgment was to allow Ross to speak, and he spoke. But we have been at odds with the Republican regime for some time, because they didn't want Ross Perot. We won, and he spoke, but the building, still today, eight years later, sits empty. We cannot use it as a convention center because of local zoning.

Now, this is a political thing. I am probably a far, far right person. I will admit that. But aside from my personal feelings, I've got a good Airport. It is a fine Airport. We have 7500 feet of asphalt runways. We operate 727s, 737s, Citations, you name them, and we do a terrific job. But the end is in sight, because I can't pay my taxes if a town is closing down all my income properties on the Airport.

Aside from this, a small thing that I went to our Board of Freeholders with just within the last few months: The Naval Air Station at Lakehurst -- this is a hot argument -- they wanted to close it. I want to see the Air Station open. I was a naval officer, flew out of there, and that's fine. But in order to help to keep it open, they came to our Airport, pulled out the FBI unit, pulled out American Electronics, companies that pay us approximately \$20,000 to \$25,000 a month in rent. They said they would not renew their contracts, and they had to move down to the Naval Air Station at Lakehurst.

Now, that was a direct hit. The companies themselves-- One company has been on the Airport for 28 years, both the hanger they're in, the facility. They did not want to move. They had screened rooms as large as this chamber here for testing electronic work. All this now is being torn down to move to Lakehurst to satisfy that. Private enterprise cannot take blows of this strength. That is one of the reasons I am here.

Now, what will happen next year, I don't know. The members of American Electronics Labs have told me that the government is spending, at Lakehurst, more money to renovate facilities than they have paid us in the last 28 years. They have been on our Airport for 28 years, with three buildings, paying good rent, and employing a large number of people.

That is the kind of thing that a private Airport cannot take. That's on the county level or on the State level. Locally, in Wall Township, our neighbors around the Airport, I think, like me. I know they like me, and I like all of them. You always have one or two who race for the war paint about

something. Only recently did we have one that called the State on the tree situation, but I won't burden you with that. It has been resolved.

No private airport can exist in a town that is going to pass legislation to run us out. For example, within the last six months, they came along-- We have 7000 feet of frontage on a split secondary road. The town passed a zoning ordinance to take 150 foot of that and make it a setback. Ironically, our perimeter road borders at the end of the 150 feet. The other side is Airport operation. So, in essence, they took 30 acres of industrial property out of our use.

That's it. We can't do that. They will not approve. We have a lot of different kinds of businesses. We have air cruisers. That company has been there-- I went up there in 1954. They manufacture all the escape sheets and inflatable boats for the airlines. We went through a lot together there. Now they will not let these companies expand. They will not let us do--

A children's playground -- which some of you may know about-- We built a playground there six years ago. I was in court last Tuesday in front of Judge McCann. They have an action now to close our playground, close down our convention center building. They are fighting us continually to close down every economic operation we have. Fortunately for me, one of the businesses I got into on the Airport happens to be a newspaper, so we are able to contain them a little bit with the use of our newspaper.

It is a tough battle to keep that Airport open with the municipality fighting us on every hand.

I think maybe I have said enough, but we need your help. We have a good Airport. I don't think there is a better airport in the country. For those of you who are not familiar, we have a 7400-foot runway. We have an ILS, instrument landing system. We have a DME on it. We have marker beacons. We have a cross runway, all asphalt, all recently done over. It has all been paid for and built by us.

The thing that is important about an airport is that the person who builds it and has the property has to have the economic sense to say, "Well, we can put this here and this will support it." Landing fees and gasoline sales will not carry an airport.

I know George down at Lakewood very well. I operated the Lakewood Airport. The secret of that Airport is that they have an Industrial Park around it. That Industrial Park will support the Airport, and the Airport will support the Industrial Park. So it is probably a good investment for the State to make. In my case, we have just private investment.

I think, at this point, that I would just like to answer any questions you may have.

MR. McNAMARA: Thank you, sir.

Are there questions for Mr. Brown? Mr. Elliott?

MR. ELLIOTT: Ed, you said that you had many municipal problems, which we are aware of, you understand. But you said you had solved most of them. Could you tell us how you solved most of these problems -- the municipal problems? Do you have a formula?

MR. BROWN: Well, the municipal problems that we solved, I think, pertained to the recent ones over the trees.

It is hardly worth wasting the time of the members of this Commission with this story, but this is a true story:

We have trees that have grown up over the last 20, 30 years into the approach lane of our runway 3 and runway 21. Because of a municipal ordinance, and possibly even a State ordinance, we cannot cut trees down anymore without permits. We cannot get the permits to cut the trees down. So we called the State, the State Bureau of Aeronautics. They came down and said, "Fine, we can take care of that and do it legally."

They came down, and they cut down 27 trees. Well, I'll tell you, when they cut those 27 trees down, the neighbor who lives across from them acted as if they destroyed the rain forest or something. We had a meeting with the town. We had to have attorneys there. We went there. It cost us about \$1500 just to have this hearing over these trees.

Well, finally, the town administrator came out, saw that the trees were down, saw that we had cut the stumps out -- 27 stumps -- we had reseeded it, and put it back. We felt, "Well, maybe the person's objection was, you know, a little bit out of order." So that is what I meant. That has all been solved now, I think.

MR. ELLIOTT: In other words, the only way you solve municipal problems is to find somebody to overrule the local politicians.

MR. BROWN: That's right. You have to overrule the local municipality.

MR. ELLIOTT: There is no other way you have found to solve municipal problems?

MR. BROWN: Our biggest help is your State Division of Aeronautics. Now, oh, approximately five years ago, the State brought to my attention that there was an Airport Zoning Act in the State Legislature, and that all municipalities that have an airport must comply with the State and pass an airport zone.

Wall Township would not do it. Me, with the help of, I think it was (indiscernible), hired attorneys and took Wall Township to court, in front of Judge Milberg, I believe. You know, the government basically sides with the institution, but the Judge was good. He said, "Well, Brown is right, but the Township says they are going to plan it and they are going to do it, so we are going to give them six months to do their planning and put an Airport zone into effect."

Well, the next day, the husband of the Township clerk went out and got building permits and they built, I don't know, seven or eight houses right in the Airport zone, before this could happen. Those houses are there today. One of those houses is the house that complained about the trees being cut down at the end of the runway. This is just a real living example of why the State Division of Aeronautics has to get control of the grounds around the airports and make rules that are acceptable to the general public.

I am not saying that the State should say, "Ed Brown, you go out and paint it wider." We should be ruled and regulated, but-- We can't have airports if we are going to have people overcoming us. The only way I see that this can be eliminated is by having State laws that have a formula for the land around an airport, and then it is controlled by the State. The State is removed.

We all know what would happen in Newark if the Port Authority -- I mean, if the City of Newark took that Airport tomorrow. We went through that. Every airport today of any size or substance is run by an authority.

One last thing: I talked to Allaire about getting an authority formed with the Borough of Belmar so our Airport could go into an authority and eliminate this. The Mayor of Belmar was very helpful. Actually, the Borough of Belmar helped me 50 years ago when I first got the land degraded and did some things there. Belmar went to an election to have a Port Authority formed.

Well, Walt Hatchett (phonetic spelling) heard about it, went to the Senators, and had an act introduced to stop a neighboring municipality from taking land in another municipality for the purposes of an authority.

The home rule government in New Jersey is fine in some ways, but it is not for aviation. Unless that is circumvented or corrected, the future of airports in New Jersey looks bad. I have never seen a worse outlook than right now for our Airport, because of regulations only. Business is wonderful. We have more operations, more airplanes, more people pulling, but we cannot survive without supporting the Airport with the buildings around it. If they don't want us, they don't let us build there. They just took 100-and-some acres and ruled that as recreational land only.

MR. ELLIOTT: Still on the subject of municipal problems, how much money are you spending annually in legal fees to contest municipal rulings?

MR. BROWN: I published in our newspaper about a year or so ago my legal bills for the last couple of years. The legal bills are running between \$300,000 and \$500,000.

MR. ELLIOTT: A year? Over what period of time? (no response)

MR. BROWN: It's sinful. I don't mean to judge the lawyers, I have had some good ones. But it is not right.

MR. McNAMARA: Over what period of time, sir -- the \$300,000 to \$500,000?

MR. BROWN: I would say that was-- Well, it graphs, because, you know, the action-- I would say between 1990 and 1995 today, that's five years, we have spent \$600,000. Average it out so it will be correct, you know.

MR. McNAMARA: Senator Haines?

SENATOR HAINES: I was one of the sponsors of that legislation that set apart the airport safety zones, and so forth and so on. I know it hasn't worked as well as we would have liked it to work, because people have objected to it and have taken it to court. They talked about it infringing on property rights.

What I would like from you are any suggestions that you might have in terms of legislation that we can pass in Trenton that would be helpful. You know, sometimes an example is this airport safety zone. We passed the legislation, and then the courts decide whether it is right or wrong. Maybe the towns don't pay any attention to it. You know, it is not easy here. We would like to help you; we would very much like to help you. I think that is why we're here. That is why we have this Commission.

MR. BROWN: Oh, I understand that. I am not fault finding at all.

SENATOR HAINES: If you have suggestions for legislation, we would certainly be receptive to those suggestions, because that is why we are here. We know that airports like Allaire, the type of Airport you run, are essential to this State. The fact that you are making a profit running the Airport is wonderful. The fact that you have to spend as much as you do on legal matters is terrible. That is the type of thing that maybe we can help you with.

So if you have ideas, please get them to us.

MR. BROWN: Well, all the problems that we get that I can think of, as far as the Airport goes, come from zoning. The town can, at will-- Oh, they hold a local public hearing, but it is politically maneuvered. They will change the zonings twice in a year. They will come in and change this now. Right now, there is an outlet center that wants to build a \$50 million ratable at the end of our main runway. That is up for the planning board in the next few months. They want to build that 1500 feet out from the touchdown area on runway 32. It is on the approach to 32.

Now, I don't feel that that is the best spot for a shopping center that is going to employ 500 people, 1400 feet out from the end of the zone. By the same token, you could look for years, say, "We have been there for 50 years and an airplane has not gone down in that area yet," but they have a site that is just around the corner on highway 34 that would be in the open quadrant, would not be on an approach lane, and that is where I think it ought to go. But you are not going to convince

the people in Wall Township of that, because of the politics involved and the property that is owned there.

SENATOR HAINES: Can the airport safety zone be of any benefit to you in this regard?

MR. BROWN: Oh, I think it could be, if it were strong enough. Yes, if there were certain prohibitions put in there.

Many years ago, Wall built a high school. We went to the meetings and said that we felt the school should be a certain distance from the approach. There was a study then by a famous aviator -- I forget his name now -- and it came up that two miles out from the touchdown is a reasonable, comfortable place to put a high school, so Wall built it there. That was back in the days when people would listen to us, or the public was very interested in schools, and we got the high school located on the approach line, but two miles out -- a very nice piece.

Well, if the State can have legislation that will spell out what the towns can do around an airport-- We in the aviation business know that an airport is a lot safer than the public thinks it is, but you have to convince the public, too.

SENATOR HAINES: Well, it is ridiculous to have a high density anything on an airport approach. It is just absolutely ridiculous. You know, it doesn't make sense. It looks to me as though somebody is trying to force the Airport out of town, which is usually their reasoning when they do this type of thing.

MR. BROWN: Well, those of you--

MR. McNAMARA: Mr. Brown, in an effort to keep our meeting today moving along, may I ask, has that matter been

referred to the State Department of Transportation -- the Division of Aeronautics -- the location of that shopping center with 500 employees on the extended center line? Have you brought that up with Gil or Jack?

MR. BROWN: No, not yet. I think I did mention it to Gil on the phone a day or so ago, because we have not been officially notified that it is there yet. We saw the engineers out there. We went to a meeting of the 34-group businessmen, where the Clelsea Company, which is building this, announced that they were going to put this in that area. They wanted it there because-- See, our Airport is at the intersection of I-95, the Garden State Parkway, and 34, you know, a very terrific location.

MR. McNAMARA: I think when that becomes official, you should make an official notification to the Division of Aeronautics. If it is in violation of the safety zone-- That Act has now been declared constitutional by the court, and it is now a very enforcable Act.

Senator, do you have any other questions?

SENATOR HAINES: Yes. I agree with the Chairman here. I think the Department of Transportation can deny access to the roads as a method of enforcing the Airport Safety Zone, without additional legislation.

MR. BROWN: Well put.

SENATOR HAINES: It seems to me that the Department of Transportation has a lot to say about where you locate this type of shopping center, and should use its jurisdiction to enforce the Airport Safety Zone. It seems to me a clear-cut case, Mr. Chairman.

MR. McNAMARA: It would seem that way.

Let me just ask: Mr. Brown, how many jobs are there available on your Airport currently?

MR. BROWN: On the property of the perimeter of the Airport, I would say there are probably 1500 to 2000 employees.

MR. McNAMARA: What about working on your Airport?

MR. BROWN: Well, or contiguous land, property that was mine that I have sold. I have sold some pieces, like Air Cruisers. They employ 400 people. They wanted to buy the property and, to be honest, I sold them the property.

MR. McNAMARA: So either on the Airport or immediately in juxtaposition to it, between 1500 and 2000 jobs?

MR. BROWN: That is correct.

MR. McNAMARA: The primary problem in your business that will affect the longevity of your Airport is the municipality in which you live. That is a two-pronged problem. It's zoning and it's taxation.

MR. BROWN: That's right.

MR. McNAMARA: Is that a fair summary of your testimony?

MR. BROWN: That is a fair summary. You must remember from just the political side of it, if I go in and object to this \$50 million ratable the town wants to bring in, you can realize how popular I will be the next morning. I mean, that is a fact of life.

MR. McNAMARA: Are there other questions for Mr. Brown? Ms. Castner?

MS. CASTNER: Are you zoned Airport or industrial?

MR. BROWN: Airport.

MS. CASTNER: The acceptable uses that are within that zoning-- Are you saying that they change those?

MR. BROWN: Yes. They are not acceptable. They have changed them, and the entire Airport-- Our holdings, our entire property is not zoned Airport. What they did was, they came in and zoned that 1000-foot stretch by the runway as an Airport zone. Then the periphery, land that we own, which, when I got my original license was my Airport, they changed and made that a property that you can't do anything with.

MS. CASTNER: Okay. I am trying to get close to the things that we are going to recommend in writing. The Airport zoning would have worked if the town had not had the capability of restructuring the zoning.

MR. BROWN: Yes.

MS. CASTNER: Okay.

MR. BROWN: I retained a Mr. Moskovicz, who is a statewide claimer in New Jersey, recognized, you know, as an able claimer. At my own expense, we brought him down and had him write or propose an Airport zone for the property. He asked to meet with the Wall Township planner. It happened to be that the planner was a former student of his, and he said he would be delighted-- Mr. Thomas was his name, and he said he would be delighted.

The next day, Mr. Thomas got liquidated, and they put a new planner in Wall Township.

MS. CASTNER: Let me ask a question and you respond to this if you think it would help: If, as part of the Safety Zone Act -- and I am just saying that because it is in place, maybe it is some other legislation that is already in place, rather

than asking for new legislation-- But if it were possible in the Airport Safety Zone Act to have a model that was totally safety oriented, that said, "For the safety of this community" -- and so many acres around it and all that -- "these minimum standards should be met" -- this isn't just for Allaire Airport, but for all airports -- that a township that was giving you a hard time like this when you were looking at what you thought was an accepted use for the Airport, you could refer to that model, that standard and have the law behind you, in that it is not safe, not appropriate to have this shopping center at the end of the runway, just like it is pretty stupid to outline your safety zone without going by the property lines.

If I owned a piece of property where 50 acres of it were in it and 25 were out, then my whole piece of property better be in it or out of it.

MR. BROWN: That's right.

MS. CASTNER: So would some type of recommendation that could--

MR. BROWN: Oh, I think that would be very helpful. The planners I have worked with, you know, recognized planners, ought to have a referral law or statute to refer to in laying out their planning for the township. They would say, "Well, the Department of Transportation has these guidelines for our zones," and really, they must do it then.

MS. CASTNER: I am looking for more than a guideline. I'm saying, "This is the standard for safety for airports in the State of New Jersey. Here is what it is."

Now, you, as a township, go out and say you don't want those trees cut down, and a tree grows to 85 feet and displaces

your runway and someone crashes there, you are liable. Would that help you.

MR. BROWN: It sure would. I'll look for it tomorrow.

MR. McNAMARA: Are there any other questions? (no response)

I have a final question: Is it correct to say, Mr. Brown, that the primary problem that Wall Township has with your Airport is aircraft noise?

MR. BROWN: No. The primary problem that Wall Township has with our Airport, I believe, is zoning.

MR. McNAMARA: Is zoning-- They make the zoning.

MR. BROWN: Yes, they make the zoning. Well, I am looking at it from a different viewpoint. I see what you mean.

MR. McNAMARA: Look at it from their viewpoint.

MR. BROWN: Wall does not want, and they have gone on record-- In fact, I have a letter here that they wrote to the Department in the last three or four weeks saying that they do not want an Airport that is going to have airline flights. They don't want it to be a reliever Airport. They are satisfied if they can just keep -- as they call them -- the "little planes."

MR. McNAMARA: The reason for that is noise?

MR. BROWN: I would say it is a public fear of what might happen were the Airport to grow larger than it is.

Now, we have built on our--

MR. McNAMARA: But, what might happen? What does the public perceive might happen?

MR. BROWN: That it would become Newark Airport Number Two.

MR. McNAMARA: Their problem then would be noise?

MR. BROWN: Noise, that's right.

But let me tell you something that we have done. In the last five years, we have rebuilt the Airport. We have taken our runways and, in order to get the money to do this, we have mined the ground. We have mined the ground so that all the runways now are in the bottom of a bowl. We have cut them down and we have a bowl that comes up on the side. We accomplished the same thing as the State did with their concrete barriers on the Turnpike. The mounds kill the sound. You can see a jet starting from the takeoff position halfway down the runway, but you don't hear it anymore. Then finally, he gets up into the sky and you can hear him. The biggest noise that is generated by jets is the initial takeoff. Once they are in the climb-- It is just unbelievable.

Actually, I would like to take credit by saying that was a good design of mine, but it came from the necessity of having to sell the dirt to get the money to build the asphalt with and what to do with the sides, until we shaped these sides up. We found out after we got started that it was very good as a sound deadening thing. We don't have a noise problem at our Airport. If the phone rings once in six months from a neighbor, it is unusual. Our problem is Wall Township municipal government.

I didn't cover this, Jack. Elliott knows it, but the county government tried to take our Airport away from us about 15 to 20 years ago. I took them to court, and I beat it, and I kept it. That was the local Republican party. They made a statement and said, "Well, he may keep it, but he'll go broke. We will see that nothing happens." And there has been a feud

going on for 20-some years. That seems to be the problem, my side of it. You can ask them their side of it.

MR. McNAMARA: Thank you very much, Mr. Brown, for coming today.

May I reiterate Senator Haines' advice to you? If you and your attorneys have some ideas for legislation that would be helpful in your estimation to airports in general in the State of New Jersey, we would be receptive if you would send them to us.

MR. BROWN: We will.

Thank you very much.

MR. McNAMARA: Thank you, sir.

Mr. Davidson? Mr. Davidson very kindly was here last month, waited for us throughout the afternoon, and then returned this month.

Before we proceed, I want to ask, Mr. Guariglia, how much longer are you available this afternoon, sir?

M I C H A E L A. G U A R I G L I A, E S Q . : (speaking from audience) As long as you need, an hour.

MR. McNAMARA: No, we won't be that long. I just want to know what your schedule is. Thank you.

A L E X D A V I D S O N : Well, if he has a time problem, I will speak last.

MR. McNAMARA: No, that's fine, sir. You have waited long enough.

Mr. Davidson, do you swear that the testimony you are about to give this Commission is true, subject to the penalties of perjury?

MR. DAVIDSON: Yes.

MR. McNAMARA: Mr. Davidson is here to talk to us about Trinca Airport.

MR. DAVIDSON: My name is Alex Davidson. I am a coowner of the Trinca Airport, Green Township, Sussex County.

Trinca Airport was started in 1937 by John Trinca, who was a local farmer in Green Township. He started flying J-3 Cubs off his property. In 1939, I believe, it was licensed by the State of New Jersey as a public-use facility.

Approximately nine years ago, I had the opportunity to buy the Airport. The Airport itself takes up about 10 acres, and the remaining property we have is an additional about 110 acres. The remaining--

MR. McNAMARA: The total is what, sir?

MR. DAVIDSON: Approximately 110 acres. The remaining property other than Airport is being farmed. The adjacent farmer grows corn and hay.

Three years after we purchased the Airport, it was declared a Reliever Site, and at that time I applied for a grant to start the master plan. As soon as we--

Well, I just want to back up a little bit and talk about the property and the site itself. The Trinca Airport-- The zone around the Airport is commercial/industrial land, and there are approximately 500 or 600 acres of mostly vacant land, farmland. It is zoned that way. There are two intersecting, abandoned but intact right-of-way railroads which come either close to or into the site itself. We are also located approximately three and a half miles off of Interstate 80, and we have easy access to the Interstate.

As I said, we applied for a grant to develop a master plan. After we started that plan, that is when we started having problems with the neighbors and with the municipality. Needless to say, it has been a very difficult time for the last five years. We have not completed the master plan up to this point in time. It has become very political. As an Airport owner, it is very discouraging. I do not make money with this Airport. I subsidize it. Fortunately, I have a successful manufacturing business that is not too far away. However, this cannot continue. I have to develop this Airport to have it survive.

Right now, there are only 25 based airplanes. Most of them are for recreational use and are single engine. There is one multiengine airline there, and there is some flight instruction. But that is about the extent of the activity at this time.

In the process of developing the master plan, we identified that the Airport could be expanded up to about a 4300-foot-long runway with the purchase of some adjacent land. Needless to say, that got the attention of some people who were very concerned about whether that would be an attraction to jets.

MR. McNAMARA: How long a runway, sir?

MR. DAVIDSON: Up to 4300 feet.

MR. McNAMARA: Forty-three hundred?

MR. DAVIDSON: Yes. We are currently licensed for 2000 feet.

The other aspect of this, why we need to modernize the Airport, is because there have been some years that the Airport

has actually been closed for two to three months because of bad snow conditions. Again, it just makes it a limited-use recreational site.

The other unique thing about this site is that, by surface transportation from the Airport, we are 12 minutes to Newton, which is the largest town in Sussex County. We are 12 minutes to Hackettstown, and we are 12 minutes to the International Trade Zone, which is in Mount Olive, Morris County. People might know that it is a very growing location for business and activity with international trade.

As an example, BASF has located their North American headquarters at the site. I believe there are 5000 employees just at the one building.

MR. McNAMARA: That's at--

MR. DAVIDSON: That is at the International Trade Zone, which is a 12-minute ride from Trinca.

I have personally talked to Les Smith, who is, I guess, the Director of the International Trade Zone. They are in favor of the development of this transportation asset. There is also a plan for a hotel and conference center at that site. This would greatly impact the conference center in a positive manner.

MR. McNAMARA: When you said your master plan had caused problems with a municipality, was that when you invited them to participate? Was this a master plan that was being done under the Federal Airport Improvement Program?

MR. DAVIDSON: The grant was given to me by the State of New Jersey, which I have had a very good relationship with. They have been very cooperative.

MR. McNAMARA: When you were declared a reliever Airport, you were then eligible for Airport Improvement Program funding. Did you take any steps to take advantage of that?

MR. DAVIDSON: To take advantage of that I would have had to have an approved master plan, and the master plan was to come from the grant from the State.

MR. McNAMARA: Okay, that is what I am asking. So you were putting together a master plan that would conform to the requirements of the Airport Improvement Program?

MR. DAVIDSON: That is correct.

MR. McNAMARA: One of the requirements of that is the participation of the local municipality.

MR. DAVIDSON: That is correct.

MR. McNAMARA: And the creation, I believe, of some kind of an Airport commission or an Airport Committee.

MR. DAVIDSON: Yes, that is correct.

MR. McNAMARA: You advised them to participate?

MR. DAVIDSON: Yes, I did.

MR. McNAMARA: Then they reacted by-- I don't mean a hostile reaction. They, for the first time really, were recognizing your Airport, and they were negative about that. Did they participate-- First of all, is that correct, that they had a hostile reaction?

MR. DAVIDSON: Well, initially, I think they were somewhat confused as to what it was all about. One of the problems, it turned out, was the term "reliever Airport" -- the Reliever Program. What happened was, certain people who do not understand aviation assumed that we were going to relieve commercial airliners to this site if it were to be developed.

Once that hysteria started, as I see it, it was envisioned that there was this grand conspiracy between Trenton and Green Township, and that anything that we -- meaning the State of New Jersey and I -- had to say was a lie. They had all the answers that they were going to have this large Airport placed in their community, and they would suffer the results of noise and pollution.

MR. McNAMARA: Do you have any right to buy the adjoining land that would enable you to extend your runway to 4300 feet?

MR. DAVIDSON: I have spoken with the owner of the property. His words to me were, "Money talks."

MR. McNAMARA: How much adjacent land would you have to purchase?

MR. DAVIDSON: Approximately 15 to 20 acres.

MR. McNAMARA: That was all just for a point of information. I did not mean to interrupt you.

MR. DAVIDSON: That's okay.

After we announced that we were getting started on this master plan, that is when the telephones started ringing with noise complaints; people calling up saying, "What is this airplane flying over my house?" The activity at this Airport hasn't changed since the early 1950s, because the same operator that I lease it to has been there since the early 1950s. His activity level has been pretty much the same, but the noise complaints are all new.

The Township Committee, and there are five members in this town-- Three of them are home builders in the town, the fourth one does some renovation to residential homes, and the

fifth one is completely antidevelopment. They are very much against the Airport. They tell me they don't have a problem with the way the Airport is right now. However, with their way of doing things, this Airport will not exist if it is not allowed to develop, expand, modernize.

MR. McNAMARA: The fear the Township has of your Airport-- What do they perceive that causes them to be afraid?

MR. DAVIDSON: I believe it is noise, and I believe it is how noise will affect property values. However, in this process, over the last five years, one of the things that they asked for -- when I say they, the Township Committee -- was to develop an economic study on how this Airport would impact the town economically. That study came out positive. The person who did the study could not find anything that would show that property values would decrease.

MR. McNAMARA: Have you seen any indication of that personally? For instance, you are in the market to buy additional land. Is your perspective seller selling at a rate that is less than the community rate?

MR. DAVIDSON: Well, what has happened, as you know, is that things, in the last five years -- property values -- have declined, as compared to what was going on in the middle 1980s. A very good example that I have used, or talked to people about-- Maybe some of you people know the Dulles Airport in Washington. That is a jetport, an international jetport. There is a place called Reston, Virginia, that is located within five miles of that Airport, and properties sell very well there. That is, I think, a very good example as to what the impact on residential housing is. So I don't really think there is a

problem. I think there is a perceived problem. I also look at this -

From my experience in this process, I see an airport as an easy target. It is like a political football, and it can be used to gain momentum for one's own agenda. It is easy to beat up on an airport, or an airport owner. I never had a problem personally with the community prior to the Airport being attacked in the newspaper in the Letters to the Editor.

I have an 11-year-old daughter who, coming back from school -- this was about a month ago -- was approached by classmates who told her that her mother and father -- her mother and I are divorced -- are going to be responsible for killing all the animals in Green Township. These are the kind of tactics that are being used to try to get us to back away from the development of that Airport. It is very unfortunate that they use children in that manner.

MR. McNAMARA: You say you don't believe there is a real problem. Your Airport existed without complaints for a number of years.

MR. DAVIDSON: That is correct.

MR. McNAMARA: You invited the municipality to participate in the master plan.

MR. DAVIDSON: That became a sham.

MR. McNAMARA: They became concerned about having a reliever Airport there. You believe that their problem is only a perceived problem.

MR. DAVIDSON: Well, the example I used was that there is an adjacent Airport called the Andover Aeroflex Airport. Its activity level would be similar to what I am trying to develop

this Airport to, with about 60 to 70 based planes. Anyone knows that the Andover Aeroflex Airport is in a very environmentally sensitive area, which is now owned by the State of New Jersey. It is right next to the headwaters of the Pequest River. Again, I say this is a very environmentally sensitive area and they do not get any complaints.

MR. McNAMARA: What I am trying to get to is not so much environmentally sensitive in the nature of affecting waters but just affecting your neighbors. When you say it is a perceived problem, is that really another way of saying that there is a communication problem between the Airport and the community?

MR. DAVIDSON: That I have tried to address. I have a public relations person who works for me. In the beginning, the newspapers didn't treat us very well. However, that since has changed. The problem, as I see it, is that there are people out there now who do not-- I don't care what we say, or what anyone says, they don't want it. They are not going to believe it. They have already made up their minds that they want this environment, this countrylike environment -- nothing to change there. They just won't believe any of the facts that we present. Basically, they call us liars.

MR. McNAMARA: I would like to ask one other question. I would like to address this to Mr. Brown also. Are either one of you familiar with any company that either did not locate in the State of New Jersey, or did not locate in a particular municipality for lack of having airport services, or any company that may have left a particular municipality for failure of airport services?

MR. DAVIDSON: I can't come up with one right at the moment because of lack of airport services. Of course, there are a lot-- It is more than just airports that have caused these businesses to leave. I know businesses that have left for a business-friendly environment. I will also say, if I am written to or solicited by other states to relocate my business, and I employ between 50 and 60 people up in Warren County-- One state is North Carolina.

Something that North Carolina puts in a lot of their information when they try to attract these businesses, or at least from what I have seen down there, is what they call their Transparks. They have registered that name -- "Transpark." What that is, basically, is intermodalism, or multimodalism. They are taking advantage of what the future is dictating for us all.

I think New Jersey has to wake up to the fact that if we are slow and inefficient, we are going to be losers. The winners in the economic world are going to be the ones that can move people and product around as quickly as possible. If we do not develop our general aviation airports, we are going to lose economically. That is my view.

MR. PENN: Mr. Chairman?

MR. McNAMARA: Other questions for Mr. Davidson? Mr. Penn?

MR. PENN: Hello, Alex. When you first came to the Division, you came with members of the Council -- I believe, the Mayor and the head of Economic Development for the county and the town. Were they not in favor of the Airport at that time?

MR. DAVIDSON: Initially, they seemed to be somewhat positive about maybe working something out.

MR. PENN: Are those people still serving in the capacity which they were serving in?

MR. DAVIDSON: No, they have new players in place.

MR. PENN: So the people who supported the Airport are no longer serving on the Economic Development Council or as a member of the Council. Is that correct?

MR. DAVIDSON: Yes, that is correct.

MR. PENN: Secondly, I wear another hat that I have down in Trenton. We have opened up a railroad up there, as you know, the Short Line Railroad, and we are about to open up the other one, which are adjacent to your property. Don't they, in fact, make a lot more noise than is ever generated by the Airport?

MR. DAVIDSON: Oh, I believe so, yes.

MR. PENN: I think that is something the rest of the Commission should be aware of.

Also, the fact is that I have never seen, in my time, a group opposed to railroads as they are to airports.

MR. DAVIDSON: That's true.

MR. PENN: Thank you.

MR. McNAMARA: Mr. Hines?

MR. HINES: Do I understand from your comments that you would go ahead and expand the Airport if somehow, through State means or whatever, you would receive State support and be able to buy that land? You would invest the necessary moneys to expand that Airport?

MR. DAVIDSON: As crazy as it sounds, I would do that, because I do have a love for aviation. I see the power and the potential. However, I just want to go one step further.

I am looking at this site as more than just developing an Airport. I want to develop adjacent pieces commercially and industrially. I think the Airport has great attraction for that purpose.

MR. HINES: So this is for more than just the Airport. You want to develop an industrial site there, so to speak, if it is possible.

MR. DAVIDSON: That is correct, very similar to what you heard earlier.

MR. HINES: I would gather from what has been said that the Trinca problem is somewhat different than the Allaire problem. Here we have an Airport that wants to expand and needs some assistance, through State legislation or whatever, where Allaire has an existing Airport and what we are trying to do is protect any encroachment on that Airport.

MR. McNAMARA: To that extent, yes, but I perceive similar problems. I see problems -- primarily problems of misunderstanding between the community and the Airport. The community perceives the Airport as a threat of some sort, or a nuisance of some sort. Whether or not it is noise, we really haven't found out, but it is true that both communities perceive both Airports as some kind of a nuisance.

One community, in Mr. Davidson's case, will not work with him. I don't think it is incredible, but he says whatever an Airport owner would say with respect to Airport growth, that neighbors of the Airport and members of the community are not

disposed to believe, despite the fact that he is telling the God's honest truth.

In Mr. Brown's case, I think the community, for some reason, perceives his Airport as some kind of a nuisance, the nature of which we are not sure. They, too, are ill disposed to work with, cooperate with, or even communicate with the Airport owner.

MR. HINES: My point is, it looks as though that is a different problem, and it should be addressed by the Commission; that is, how can we help a small Airport to expand where it does require the acquisition of property, the purchase of property?

MR. McNAMARA: Yes, I agree.

Are there other questions? Ms. Castner?

MS. CASTNER: I was thinking the way Peter was, that this was a different issue, but legislatively we would want to deal with both of them somehow.

It seems to me that the right of any business -- whether it is small to start with, medium, or large -- that wishes to expand, that there should be some type of legislation, standard, whatever, that would allow that to occur, because it is part of this law. I can't see anyone telling a grocer that he is not allowed to expand his store by buying the building next to him, but yet they feel they can tell an airport owner that he is not allowed to expand his business, because they plain don't like it.

The difference between what Ed's problem is here and what Alex's is-- It is really two separate problems, but I think we need legislation that does deal with both ends of this. It is totally incorrect to tell someone just because you don't

like their business, "You must keep it as it was in 1937." If you went to the developer sitting on that committee and said, "Fine, you may not build one more home as a developer," you would be telling him exactly the same thing. It is inappropriate. So somehow there should be legislation that deals with both of those.

MR. McNAMARA: Mr. Penn?

MR. PENN: Alex, most of the opposition, as I remember, has come from a developer who is building houses in the district at this time. He was the real crux. He started the problem.

MR. DAVIDSON: That is correct.

MR. PENN: Thank you.

MR. McNAMARA: For the record, I want to take a form of judicial notice of the comment made by Mr. Davidson about Reston, Virginia.

My childhood was always a New Jersey childhood. My father did own a cattle farm down on the west side of Dulles Airport before the Airport was built. I, at the time, was attending the Georgetown University and I used to drive back and forth as they built Dulles Airport. Where Dulles Airport is today was simply a number of farms perhaps zoned -- maybe it wasn't zoned, but, in fact, it was probably one living unit per 200 or 300 acres. Reston, Virginia, was a very similar community.

Today, around Dulles Airport, as close to the fence, it seems -- as close to the fence as it can get -- is intense and thick development, and Reston, Virginia, has become an enormous community, with a mixture of light industry and

residential buildings that seem to have moved to the Airport, rather than what so many people representing townships might say to the effect that they might want to move away from airports. So Reston, Virginia, has proved that that doesn't happen. So, also, have all those businesses that have located all around the Dulles Airport.

Mr. Davidson, what you said, I think, is an exciting idea, to try to copy, even if you can't copy their registered trade name, the Transpark concept, and have railroads, highways, airports, and industry all meeting in the same nexus for the rapid transfer of goods and people.

I congratulate you on the concept, and thank you very much for coming today.

MR. ELLIOTT: Jack, may I ask something?

MR. McNAMARA: Oh, I'm sorry. Of course, you may.

MR. ELLIOTT: Alex, I just wonder what support, if any, you have-- Do you have any support from members of the business community, from the chamber of commerce, what have you, or have you sought support?

MR. DAVIDSON: Yes. We are starting to develop some positive reactions toward this project. Again, it is very difficult to do. One of the problems is to overcome the negative political view. It is very difficult, for some reason, for people to stand up and say, you know, "This will bring jobs. This will be good for the community," because the opposition, I guess, has been at it too long doing the yelling and screaming about not wanting any development out that way.

But, yes, we are making some progress there. Again, I had to utilize people in public relations to help the local

public relations person, who has been very helpful, introducing us to the local players up in Sussex County. That is starting to help.

MR. ELLIOTT: Thank you.

MR. McNAMARA: Thank you very much, sir.

Now, Mr. Guariglia. Am I pronouncing your name correctly?

MR. GUARIGLIA: It's Guariglia. (correcting pronunciation)

MR. McNAMARA: Say it again, please.

MR. GUARIGLIA: Guariglia.

MR. McNAMARA: Guariglia?

MR. GUARIGLIA: Yes.

MR. McNAMARA: Please forgive me.

Would you please introduce the lady next to you?

MR. GUARIGLIA: Sure. This is Susan Feeney.

MR. McNAMARA: Susan Feeney.

Do you swear that the testimony you are about to give to this Commission is true, subject to the penalty of perjury?

MR. GUARIGLIA: I do.

S U S A N F E E N E Y, ESQ.: Yes.

MR. McNAMARA: How do you spell Feeney?

MS. FEENEY: F, as in Frank, E-E-N-E-Y.

MR. McNAMARA: All right.

I should tell you that Mr. Guariglia is here today at the invitation of Assemblyman Bagger. He and Ms. Feeney are attorneys with the law firm of--

MR. GUARIGLIA: McCarter & English.

New Jersey State Library

MR. McNAMARA: --McCarter & English. They are here to talk to us, having done a study, an analysis, of various tax laws that would affect airports, especially one that affects the taxation of railroads, and how that might apply.

Am I correct in saying that, Mr. Guariglia?

MR. GUARIGLIA: Yes.

MR. McNAMARA: All right. Please proceed, sir.

MR. GUARIGLIA: Mr. Chairman, we have a paper that we have put together. We have copies for everyone on the Commission. Would you like me to distribute them now?

MR. McNAMARA: If you would, please. Also, please give one to the hearing reporter.

MR. GUARIGLIA: Sure.

MS. FEENEY: We have extra copies.

MR. McNAMARA: Did you give one to the hearing reporter?

MR. GUARIGLIA: Yes.

MR. McNAMARA: It wouldn't hurt for us to take several extra copies. We'll take nine, if you have them.

MR. GUARIGLIA: While Susan is up there handing those out-- What we have here is a paper that we have prepared at the request of Rich Bagger, and Fred Telling, Vice-Chair. The single-page outline that you have also is just a summary of the points that are covered in this memo. I thought it might be easier to follow what we have to say today by looking at the outline.

As you said, Mr. Chairman, we are with the law firm of McCarter & English. We are both tax attorneys specializing in State and local -- in particular, State and local taxation. Ms.

Feeney has a particular specialty also in local property taxation, and she will be addressing that issue.

What we have done-- We have put together a paper which provides an overview and some recommendations concerning the tax issues which impact general aviation and general aviation airports as a whole. We really just addressed tax issues, and there are two caveats. We do not consider how any of these tax issues may impact some of the other topics that are being discussed. We really looked at it in a vacuum in that regard. Also, we have not considered any fiscal issues that these tax proposals, or tax recommendations may raise. We thought we might approach it just from a pure tax analysis, and then let the Commission take it from there -- or, we can provide further input later.

Now, the two viewpoints from which we have approached it-- It was also from a supply side and from a demand side, the supply side being the general aviation airport itself. The primary tax issue affecting the airports, we think, is the local property tax issue. We offer a solution for that.

Also, on the demand side, we are looking at the users of those airports and the three State-level taxes that may impact them much more indirectly than the local property tax issue, but still something that should be considered, or at least examined by this Commission. We address those three taxes also.

The first and most important is the local property tax issue. I want to turn that over to Susan Feeney to address.

MS. FEENEY: I would first like to give you about a five-minute background on property taxes generally, because a

lot of what I will say later as far as the recommendations and some solutions-- We will come up with those recommendations and solutions as a result of what the current law is. Some of you may be familiar with some of this, but I think it would help if we all started with the same basic premises.

As you know, basically property taxes are imposed on all real property in New Jersey, unless some specific exemption applies. I will deal with the exemptions a little bit later. Generally, the taxes are levied by each taxing district. The taxing district is in charge of collecting the taxes and assessing the taxes, and they do so not only for the municipality, but also for the schools, and also for the county. So, to that degree, there are basically uniform laws in place for the actual assessment and collection.

Where the problems come in, though, as far as uniformity, is in the actual valuation process, and then in regard to the actual tax rates. Now, let me take that a little bit further.

Under the New Jersey Constitution, property has to be assessed at basically what they call "uniform rules." Now, within those parameters, the Legislature has adopted certain laws telling the local taxing districts and local assessors how to assess property. The first thing an assessor in a taxing district has to do is assess all property as of October 1 of the pretax year. So, for instance, for 1996, the assessor will look at property tax values as of October 1, 1995. Basically, an assessor in a taxing district has to say, "Okay, what would the property sell for at a bona fide sale as of October 1 of the pretax year?"

Now, that sounds very simple and it sounds like each assessor should come up with the same value, but they don't. The reason is that basically the assessors have three basic ways to approach property valuation. They can do an income approach; they can do a cost approach; and they can do a sales comparison approach. Depending on the type of property it is, sometimes one method of valuation may predominate over another, but basically that is what they do determine.

Now, obviously within each of those approaches to value, there can be a number of conclusions an assessor reaches which, therefore, may change the bottom line. But basically, that is what an assessor is to do when they start valuing property. Also within that, an assessor also has to say, "What is the highest and best use?" So where you may have property that is vacant, the highest and best use may be for some income-producing property on there. An assessor has to determine that.

Now, when the assessor determines value, then what the assessor does is determine what the taxable value is. What I mean by that is, as you know, most municipalities in New Jersey are assessing property at 100 percent of value. Instead, it is frequently 80 percent, 90 percent. Whatever that certain percentage is, the county tax board, in conjunction with the Division of Taxation comes up with what that percentage is, but generally each taxing district has a percentage of value that it assesses its property at, and within that taxing district all property has to be assessed at that same percentage. That is why you might have a property of a true market value in one community of \$100,000. Possibly that assessment, if it is assessed at 75 percent of value, may be on the books at \$75,000,

where in another municipality, to the degree of a revaluation just done and property assessed at 100 percent of value, that same property might carry an assessment of \$100,000. But those are just some of the variables you see.

Lastly, also different among municipalities are the tax rates. As you know, a tax rate generally reflects what the municipal budget is, but then also would reflect what the county budget is and what the school district budget is. I gave you an example on page 3 of the outline, where just looking at Essex County alone in 1994 you have the City of Newark with a tax rate of about \$21.00 per \$100.00 of assessed value, and you have the Borough of Fairfield -- which is only about 20 minutes away from Newark -- at a tax rate of \$1.88. So tax rates also can come into play, because generally the taxes that are due on a property-- What you do is, you take your assessment, divide by 100, multiply times your rate, and that is how you get what your property assessment -- or what your property taxes are.

Now, within the assessment scheme the Constitution does say that the Legislature can act to exempt certain types of property. There are basically two general types of exemptions we deal with: First of all, the Constitution itself in New Jersey has already exempted certain types of properties. Those properties are educational, religious, charitable types of properties. Then, also within that, the Constitution itself provides for certain exemptions for war veterans, surviving spouses, senior citizens, the disabled. Again, these exemptions are basically covered in pages 4 and 5 of the paper you have in front of you.

After that, the Legislature then also acted to exempt certain types of properties. There are about 15 types of properties that are currently exempt. I am not going to spend time reading through them all, but they are on pages 5 and 6 of your paper. Most of them have to do with the actual use the property is put to. Obviously, any property owned by the State, owned by municipalities, owned by any authorities are generally exempt from tax. Again, you have your educational, religious, and charitable kinds of exemptions. Cemetery property, volunteer fire departments, those types of uses, have, by the Legislature, been deemed exempt from tax.

Now, in addition to exemptions, as you all know, there are a couple of other methods of valuation -- actually one other method of valuation that has been approved by a constitutional amendment, and that is farmland assessment. In 1963, basically, we amended the New Jersey Constitution to say that farmland does not need to be valued at full tax value. Instead, you can put an assessment on it that reflects its value as farmland, horticultural or agricultural use. Basically, there are some prerequisites to having farmland assessment. You have to have five acres, you have to produce a certain income, you have to put the property to farming use two years prior. But if you can meet those requirements that were -- well, they were legislated and passed pursuant to a constitutional amendment -- you can have farmland assessment.

Then what happens is, instead of an assessor coming in and saying, "Well, the highest and best use for this property is as developable land at \$100,000 an acre," the assessor has to come in and say, "Okay, it is in farmland assessment. It has to

be valued as horticultural or agricultural use, which is a much lower type value." The Division of Taxation, in conjunction with the Rutgers Agricultural School, sets those values.

Then, lastly, New Jersey also, in the last 10 years, has adopted a Right to Farm Act. Again, this figures into the Farmland Assessment Act. Most properties that are already in the Farmland Assessment Act-- There are a number of schemes under the Right to Farm Act where you can either sell your development rights, sell the actual land itself to the State, and/or agree to keep the property in farmland assessment for a certain period of time -- or farmland use for a certain period of time.

The reason I gave you that overview was so that you would have a better understanding of what we see the issues are with general aviation airports. This, again, starts on page 7. I think that is really what you want to hear from us about.

We saw, basically, three problems in the property tax area of the general aviation airports phase. The first is high true values; the second is the high tax assessments; and thirdly, the high tax rates.

Now, clearly one and two are related. Obviously, if a tax assessor comes up with a high true value, depending on what the percentage value in the town that it is assessed at, you are still going to have a relatively higher assessment than if the assessment comes up with a lower value. The reason why general aviation airport values tend to be high is that when the assessors come in they look at the property and they determine generally that highest and best use is as developable property. So they take a per-acre base based upon what comparable lands

are selling for in that community, in that area, and that is where you get a high tax rate. They may also do some type of income approach or some kind of cost approach, but in my discussions with appraisers most of them told me that generally if they had an airport to value, they would conclude highest and best use was for development, and the value would be higher on it.

The third issue there -- the high tax rate -- again, that is an issue that, as most of the municipal budgets have increased over the last 10 years as the municipalities have picked up more of the services, you have seen tax rates gradually creeping up in New Jersey. So when you apply the tax rate to the assessment, you have high taxes.

Now, what we propose, basically-- First of all, what we consider to alleviate those problems are the following, and then I will tell you the solutions we suggest. The first thing we considered was whether or not there could be a special general aviation airport assessment. In making this analysis, we said, "Okay, let's take the farmland assessment." Could we say, "Well, let's tax general aviation airports in a special way?" The reason we don't think that would work is as follows:

First of all, there would have to be a constitutional amendment, because the Constitution, as it is written right now, says that all property in New Jersey has to be assessed at full value. So if you were going to carve general aviation airports out, there would have to be a constitutional amendment, and that is somewhat of a nuptial vow. Even if you could get that amendment passed, though, there is still a problem.

The reason why there is a problem is that you can't attach a value to the use of a general aviation airport. In the farmland assessment context, you can say, "Well, an acre of horticultural or agricultural property is worth 'X.'" The Division of Taxation keeps sales of that type of property and they can come up with a value. The problem with the airports is, though, there is not a value that is attached to that kind of use. So you would still have the local assessors going in and saying, "Let's value this," and they would still use the three approaches to value.

You still would not have any uniformity among the taxing districts, and you would still have the problem of probably relatively high assessments, because they would most likely-- Even if you said to them, "Use an income approach, because general aviation airports should be valued by the income approach," you still might have one assessor stabilizing an expense in one way, or coming up with a stabilized income in another, or applying a different capitalization rate. So you still have variations in the actual appraisal technique that can create problems. That is why we said--

MR. McNAMARA: Ms. Feeney, may I interrupt for a second?

MS. FEENEY: Sure.

MR. McNAMARA: If you are going to get so far down the road before I get the answer to my question, I might not understand the rest of your testimony.

Did you say that it would not be possible, under the Constitution, to direct the tax assessor to do a valuation according to income, instead of highest and best use?

MS. FEENEY: Well, what you would have to do-- First, you would have to pass a constitutional amendment carving out the airports from the general constitutional provision that says, "All property has to be assessed at full value."

Now, if you could pass that amendment, then basically what you could do is, you could pass a constitutional amendment saying that airports are carved out of that. They are in a special category. Then it would be up to the Legislature to act to say how we tax that property, similar to how the farmland assessment works. The reason why I do not think that is possible, is that there isn't a method of valuation that really attaches to general aviation use. That is the problem. Technically, it may be possible for you to pass the law, but in reality when you tried to put the law into practice, I think most appraisers would tell you that there isn't a value that attaches to aviation use. That is where the problem comes in.

MR. McNAMARA: Thank you.

MS. FEENEY: Okay.

So we basically concluded that that wasn't going to solve the problems, because you would still have the variations among the various taxing districts.

The second option we considered was selling the development rights of general aviation airport property. Under that, we considered the Right to Farm Act that is currently in effect. There we considered, well, you can either sell development rights to the State, or possibly what you could do would be to even sell the land to the State, or have a program where you would promise to keep it in airport use for a certain period of time.

The way that would help in valuation is, any tax assessor that would value a property that was subject to those types of restrictions would have to consider that in the valuation process. But where the problem comes in, again, is that one assessor could decide that that decreases the value by 25 percent. Another assessor might find that decreases the value by 50 percent. So you still wouldn't have any type of uniformity, and you would still have the initial problem where the assessor's initial valuation of the property would still be open to a lot of different interpretations. So we really didn't think that was going to solve the problem either.

MR. McNAMARA: A question at this point: If there were a commitment to operate as an airport for a certain period of time, would it be possible for the Legislature, without a constitutional amendment, to state what the valuation would be?

MS. FEENEY: No, it wouldn't be, because, again, the Constitution currently says the property has to be assessed at full value. Within those parameters, the assessor has to consider the highest and best use of the property. So it would be impossible to do that.

MR. McNAMARA: Well, now we are saying the highest and best use for a certain period of time would be an airport.

MS. FEENEY: But, again, to a degree that you are getting away from full value, I think a constitutional amendment would have to first be in place, again, to say, "We are going to especially tax general aviation airports." Then, within those parameters, you might want to set up something similar to the Right to Farm Act, only a special General Aviation Assessment Act. Just so you know, in the Right to Farm Act it specifically

says that the only way properties get accepted into that program is if they have already been accepted into the Farmland Assessment type of program, so you already have the constitutional amendment there.

So I think you first would need the constitutional amendment if you are going to try to legislate how the property is taxed. That is the problem. As soon as you try to legislate how a piece of property is taxed in New Jersey, you first need a constitutional amendment either taking it out of the premise that it has to be taxed at full market value, or exempting it from taxation and doing something else with it.

MR. McNAMARA: Thank you.

MS. FEENEY: Okay.

MR. PENN: May I ask a question? I don't mean to interrupt you.

If you had a-- For instance, if we lend money to an airport, there is a 20-year provision in that money that that property can be used for nothing but an airport for the next 20 years. Therefore, that has an impact on the value of that property. Is that something that can only be determined at the appeal process and not the assessor process?

MS. FEENEY: It should be determined at the assessor process. An assessor is an appraiser. He is really, in a sense, to work appraisal questions. Okay? Basically, if someone has made an agreement to keep a certain property in a certain type of use for a certain period of time, that is a restriction on the use of the property. It is similar to a moratorium. If there is a moratorium in place, then the tax assessor should consider it.

Unfortunately, some of the assessors do not always know how to consider that, so they slap a full assessment on it without considering that, and then the taxpayer has to go through the appeal process so that either the county tax board or the New Jersey Tax Court determines how the property should be valued.

An assessor, really, is supposed to act as an appraiser. They are licensed appraisers. They are supposed to take all those types of issues into consideration in fixing value, and restrictions on property are always one of the considerations they should take into consideration.

MR. PENN: Thank you.

MR. McNAMARA: Now, I am more confused.

MR. PENN: I'm not. I was before I asked the question. No, I'm not, Jack.

MR. McNAMARA: Let me ask my question this way: We are not talking about a constitutional amendment. I use the example of an airport that has land that if it were to sell it would sell for \$80 million. It accepts \$20 million from the Federal and State governments to improve the airport facilities -- runways and taxiways. It makes a commitment to operate as an airport for 20 years -- to continue operating as an airport for 20 years.

As an airport, it generates a profit of \$10,000 a year. How should that airport be-- Under current law, how would that airport be assessed?

MS. FEENEY: Under current law, the Constitution tells you at full value. Now, one appraiser could sit down and say, "The first determination you have to make in considering what

full value is, is what is the highest and best use for that property?" This is a perfect example of why you see different values in different taxing districts.

One assessor can sit down and say, "Well, the restrictions are only for"-- Did you say 10 years, 20 years?

MR. McNAMARA: Twenty years.

MS. FEENEY: Twenty years, okay. One assessor can sit down and say, "Well, the restriction is for 20 years." At the end of the 20 years, they can still sell that property. So that assessor might say, "I am going to conclude that the highest and best use is still developable property. I am going to put \$80,000 an acre on that as the going rate of October 1 is, and I will discount it." Discounting, again, is something that frequently is just pulled out of a hat. One assessor might decide it is 20 percent; another might decide 30 percent, whatever. There isn't a book you can turn to and say, "What discount should I apply?"

Another assessor might sit down with the same set of facts and say, "Okay, I have to value this at full value, because the Constitution tells me that." That assessor might conclude, "Well, a 20-year restriction. That is an awful long time. I think because of that 20-year restriction that the highest and best use is now airport use. Because I have concluded it is airport use, I don't think the sales comparison approach is right. I don't think the cost approach is right. I am going to do an income analysis, and that is how I am going to value the property."

There are cases every day going through the county tax board and the New Jersey Tax Board where the sole issue in the

case is, what is the highest and the best use of the property? So it is really an issue of highest and best use, the question you're asking, but both assessors think they are complying with the Constitution, which says assess the property at full value. They have just made a different determination as to what highest and best use is.

MR. McNAMARA: Okay. Given that, and in an effort -- again, without constitutional amendment -- to bring uniformity to taxation of airports, could the Legislature adopt legislation making it mandatory for assessors to use an income approach for airports that had made a commitment -- that had participated in the State and Federal programs and made the commitment to operate as an airport for a period of a given number of years?

MS. FEENEY: Legally, I don't believe so. I think you could phase the constitutional challenge to it because, again, the constitutional challenge would be, "The Constitution tells us to value it at full value, and the Legislature has tried to legislatively tell us how to value this property in a different manner, and that is not permissible." I think you would still need the constitutional amendment there. Michael agrees with me on that.

MR. PENN: I agree you're right.

MR. GUARIGLIA: What you are positing, Mr. Chairman, is mandating an approach to valuation. The program you are suggesting -- let's say a 20-year moratorium, or whatever -- is a factor that a local assessor may take into consideration in valuing the property, but the Legislature still can't tell him how to take that into consideration.

MR. McNAMARA: Okay.

MS. FEENEY: That is what the courts are basically for, to determine which appraisal technique is right.

MR. PENN: I think probably the Director of Taxation could direct him to take it into consideration, but what that consideration might be would be up to him.

MS. FEENEY: Right.

MR. GUARIGLIA: It will vary. You still don't get your uniformity.

MS. FEENEY: The Director, through regulations, could say, "Gee, we think the correct approach for this type of property is an income approach," but there are a couple of things about that.

First of all, it doesn't mean that you are not going to have an assessor in a particular town ignoring that and pretty much doing what he wants to do. Again, they really are supposed to always consider the three approaches to value, and first and foremost, always consider what the highest and best use is.

Really, what you are trying to do is, through an appraisal technique, tell them what the highest and best use of the property is. That is where I think your constitutional problem comes in, because the Constitution says, "You can't direct an assessor as to what the highest and best use is." The Constitution tells you it has to be valued at full value. Within that parameter, the assessor, or the person appraising the property, determines what highest and best use is.

MR. McNAMARA: Thank you.

MR. PENN: Highest value does not-- For instance, if you use the income approach, you might have a building that cost

you \$300 million to build, but it only produces "X" number of dollars. Therefore, the value is based on the income stream that it produces, not on what it cost to build or construct.

MS. FEENEY: Correct. With most income-producing properties, such as office buildings, the correct approach to take is the income approach, unless it is some very, very special-purpose office complex campus.

MR. PENN: I think of AT&T--

MS. FEENEY: Or Beneficial, up in--

MR. PENN: --appeal up in Basking Ridge a number of years ago.

MS. FEENEY: Right, right. Even within that, as you are aware of, you can read different opinions of different tax court judges. Some reach the conclusion that, you know, maybe a cost approach is applicable for a building like that, where others would reach a different conclusion. These are really appraisal issues. Perhaps you should take testimony next from some of the appraisers so they can explain some of these issues, too.

Now, to get to what we do suggest -- okay? -- the uniform tax scheme with some kind of property tax exemption. What we would propose basically is passing an exemption through the Legislature exempting general aviation airports from local property taxation by the local tax industries. That would solve the initial problem and you wouldn't have all the different taxing districts trying to separately tax these things with, you know, different values, different rates, what have you. And also, exempt general aviation airports from the corporation business tax. Mike will really address more of the State taxes,

but for right now say there is no tax on the income of the airports either.

What we would suggest instead is, implement a State tax that is administered by the Treasurer, by the Division of Taxation, and legislatively pass legislation saying, "These types of properties will now be subject to a State tax." We would suggest two parameters for the State tax, two levels of the State tax: One, a property tax. What we would suggest there are different classes of property. You yourselves, in a sense, come up with what property at the airport should be subject to tax. We suggested, in our memo, that perhaps since the actual income-producing part of the property tends to be the terminals and the hangers, possibly you would just want to tax that property, and leave the runways and leave the other aspects at the airport not subject to tax. The nice aspect of this, too, is, you could set the tax rate.

So right now where you have tax rates in New Jersey, you know, as little as \$1 and as high as \$25, you could set it at a couple of dollars, whatever you felt. Again, once the revenue projections were done and you decided how much money had to come in as a result of that, you could set it.

Then, on the income tax portion of it, again, you would define what general aviation net operating income is, or what have you, and what percentage you want to tax. You know, State tax, 9 percent, 10 percent, whatever. We have taken this from the railroad tax. In the memo we address this. In New Jersey, railroads are exempted from the property tax. Instead, the State currently imposes a tax on railroads based on property tax and an income tax. What they do with railroads is, they

divide their property into three separate classes: The first class is the actual tracks; the second class is-- Well, actually, it will be easier if I define the first and the third.

The first is the tracks, and the third is the actual passenger facilities. Everything else falls into the second class, and the second class is what the tax is imposed on. The tax is imposed at \$100 of assessed value, and I believe the rate is \$4.75. So that is the property tax aspect. It gets paid to the State, administered by the State, and any problems, the State deals with them.

The income tax side is similar to what I suggested. You basically have to find, in the legislation, what railroad net operating income is, and they apply, I believe, a 10 percent tax to that. The money goes to the State. What you can also do-- I assume you would probably have municipalities that currently have these airports in their jurisdictions. They would be quite upset if they found out they were losing a ratable. So what you could also do in this type of legislation is, you could have a portion of that money parceled back to the municipalities that are going to lose these ratables. The railroad tax does that. The railroad tax gives relief back to the municipalities that lose municipal tax as a result of the taxation of railroads. We believe it would withstand constitutional challenge because, again, what you have done is, the Legislature, under the Constitution, is allowed to pass exemptions for property tax, as long as there is basically a rational basis for it, and the basis here would be that there are currently problems under the uniformity clause in the Constitution of the valuation of these airports; plus, to the

degree the Legislature makes a finding that they think it is best for the State to keep these airports in the State. So basically the Legislature would have a reason for passing such an exemption. Then, within that, you could pass the legislation necessary to tax them at the State level.

Also, the railroad tax which is in place, which is similar to the scheme I am suggesting, did pass the constitutional challenge. It was under the old State Constitution and the old Railroad Tax Act, but both the provisions of the old Constitution are very similar to today's Constitution, and the provisions of the old railroad tax is very similar to today's railroad tax. We don't think you would have a constitutional problem.

That, basically, is what we suggest from the property tax aspect of the problem.

MS. CASTNER: May I ask a question?

MS. FEENEY: Sure.

MS. CASTNER: Did you take any examples and run them through this little pro forma to see what one airport, like Allaire, that has a lot of incoming--

MS. FEENEY: No. We did not know the type of revenue, fiscal studies-- We really did not have access to that kind of information at all.

MS. CASTNER: I think that is critical, because I am just sort of looking at this thinking this could end up costing me, in particular, more money.

MS. FEENEY: You know, it could to the degree the taxing districts with the airports currently have them assessed at full market being developable property. Giving them tax

relief is clearly going to change the picture in those taxing districts, sure.

MS. CASTNER: I would like to see, like, a variety of airports taken and go through some type of local performance to see what comes out.

MS. FEENEY: Basically, if someone has the information as far as what the current assessments are on those properties, and what the current taxes are on those properties, somebody would have to sit down and deal with what property those airports have, what would be subject to tax under this scheme, what wouldn't be subject to tax, and you could play with that property, too, to come up to the numbers you really need, to the degree a determination is made of that.

MR. McNAMARA: Did everybody get that?

MR. PENN: I think it is a good idea. By the way, in dealing with the railroads I think you can say that the short line railroads, which are covered under this Act-- Most of their property, other than the actual tracks, is class two property. They seem very well pleased with that.

The thing is, they serve the same basis as we do. If you look at our public use airports, our runways are the same as the short line tracks. They serve a public purpose, and they are open to the public. But they are taxed, under this present law, as a private enterprise, where actually they are a public service enterprise and should be, I believe -- and I talked to Jack about it before -- taxed under the same scheme that they used for the railroad tax.

I think that if you ran this a couple of times at a couple of airports you would find that using this scenario would be quite good for the airports.

MS. FEENEY: The advantage the railroads have right now is that they have been taxed in that manner since, I believe, the late 1800s. So no municipality has been used to getting that property tax revenue. I think it is going to be a political battle when you are trying to remove ratables from a municipal tax base.

MR. McNAMARA: What was the reason that the railroads were taxed this way? What is the reason the railroads are taxed this way?

MS. FEENEY: Originally, in the 1800s, it was public purpose, but it was certain fiscal considerations also. There is a case that is cited, actually, in the memorandum that is a case that upheld the constitutionality of the railroad tax. If you would like to read a nice history of the railroad tax, that case -- my recollection is -- was over 100 pages long. It gives a lot of the history of the railroad tax. I'll try to point you to it. It was the State Board of Assessors v. Central Railroad Company, 48 N.J.L. 146.

MR. McNAMARA: What page is that on?

MS. FEENEY: That is on page 12 of your memorandum. My recollection is that that gave both the public purpose reasons and also the fiscal reasons for putting the railroad properties in a special type of tax treatment.

MR. McNAMARA: Could I ask you to, in a nutshell, just cover again what is the difference between what you are

proposing and what I asked before? Why is this not unconstitutional, what you are proposing?

MS. FEENEY: Okay. The reason this isn't unconstitutional is that in New Jersey all property under the Constitution has to be assessed at full value, unless it is specifically exempt. In the Constitution itself, not only does the Constitution exempt certain types of property right from the get go, but it also gives the Legislature the right to exempt other types of property. The Legislature can legally act to exempt a category or class of property as long as all property treated in that class or category is treated the same.

So what you would be doing here -- what the Legislature would be doing here -- is acting under the Constitution, which gives it the power to pass a law exempting a certain class or category of property. Once it does that, though, it is going to treat all property within that class or category the right way. Again, to the degree someone tried to challenge the Legislature on that, you do have a reason for passing the law as far as that. The Legislature makes the decision that some type of tax relief is necessary for general aviation airports if we are to retain them in this State, and the Legislature believes this is a better method of taxing these airports currently. Right now, it seems they are not being taxed really constitutionally at full value, because you have so many different assessors determining so many different types of value for these properties.

MR. McNAMARA: So what you are saying is that the Legislature, constitutionally, could exempt all airports from taxation, step number one. Having done that, they then could

impose a tax on all airports which would be a tax that would be assessed by the State and paid to the State. If the State thereafter determined to pay a certain portion of the tax collected back to the municipality, it could do that. Or it could determine to pay that tax to the Division of Aviation (sic), I suppose, in the Department of Transportation as a user tax, or could keep it as general revenue. Essentially, it is simply exempting all airports from taxation and then imposing taxation on all airports legislatively.

What you are saying is, if this were done, the Legislature-- Do not confuse us, by the way, with the Legislature. We are just a study Commission appointed by the Legislature, despite our appearances.

The Legislature could divide this tax into a property tax and an income tax, and then, you said, for the railroads they value all property at \$100.00 and then pay \$4.25 per \$100.00.

MS. FEENEY: Well, actually, I think where they get it is, any property in New Jersey, the rate is applied to \$100.00 of assessed value. In other words, when you try to calculate your taxes on your home, if you divide your assessment by 100 and multiply times your tax rate, that is what your taxes will be. I think, basically, that when they drafted this law, they just pretty much took that from the property tax law.

So what they do is, they divide the aggregate assessed value by 100, and then apply a rate of \$4.00. You can apply a smaller rate to the total assessed value, if you choose to do it that way. That is really just a mathematical equation they go through to come up with the number.

MR. McNAMARA: Which makes the effective tax rate for the railroads essentially four hundreds of four cents?

MS. FEENEY: Right. Divide \$4.75 by 100.

MR. McNAMARA: What's that?

MS. FEENEY: You divide the rate by 100, and you should get that.

MR. McNAMARA: And what am I getting? I'm getting four cents -- \$4.25 per \$100.00.

MS. FEENEY: Right.

MR. McNAMARA: All right.

Are there any other questions? (no response)

Do you have further comments, Mr. Guariglia?

MR. GUARIGLIA: In the interest of time, let me just quickly summarize the other side of the tax scheme. That is the taxes that primarily may impact the users of the airports, and will certainly have more indirect effect on the business of general aviation in New Jersey, and I think should be considered by this Commission.

The three taxes are: fuel tax, sales tax, and the corporate income tax, called the corporation business tax formally.

As far as fuel taxes go, New Jersey has a-- Well, there is about a twelve-and-a-half-cent tax on gasoline and diesel fuel for motor vehicles used on the highways. Now, of course, aircraft are not motor vehicles using the highways, so they are entitled to an exemption of a piece of that tax, or a refund of a piece of that tax -- of ten-and-a-half cents of that tax. The other 2 cents of that tax is the tax that is dedicated under the Airport Act of 1983 to the Airport Safety Fund.

The way the scheme is set up, the ten-and-a-half cents per gallon has to be received by way of refund. To be perfectly blunt, I do not know to what extent any aviation user of the fuels in this State seeks that refund, but it seems to be a cumbersome process.

Our neighboring states have similar, if not worse, taxes on fuels. New York has an exemption at the distributor level for those fuels used by aviation users. So one of the things this Commission could consider -- and this is on pages 13 through 16 of the memo -- is maybe allowing the exemption under the motor fuels tax to be imposed at the pump, so that it can be passed on immediately and directly to the purchaser of fuels at airports. It would make it more friendly in New Jersey.

I know this Commission is familiar with two identical bills that were introduced last year in the Senate and the Assembly involving reducing the 2-cent tax to 1 cent for the Airport Safety Fund. I know the industry, as a whole, has supported that legislation.

Just for your information, right now, the Assembly bill has been withdrawn, and the Senate bill is now sitting in committee in its first reprint. That, of course, would reduce the tax overall on all fuel by 1 cent purchased by aviation users in New Jersey.

Sales and use tax: Any use of an airplane in this State will attract a sales and use tax. Common carriers are exempt. Now, due to the mobility of this business, somebody can easily choose, especially businesses out there -- can easily choose where to keep an aircraft anywhere from Delaware up to

Connecticut in the several metropolitan areas where big businesses may be located.

The way the sales tax has evolved in this area is that large carriers are clearly exempt from the sales tax on their purchases and repairs of aircraft. However, any other use, including legitimate business use by corporate aircraft, seems to be still subject to the tax, unless there is a real common carriage or carrying passengers for higher use. Mere business use, say carrying executives, is not going to qualify.

One thing to consider -- and this may have fiscal issues that should be considered by the Treasury Department -- is maybe liberalizing the standards, or this exemption, under the sales and use tax to maybe attract more corporate aircraft to be kept in New Jersey airports. That is on page 17 of the outline.

MR. McNAMARA: How would you do that?

MR. GUARIGLIA: Pardon me?

MR. McNAMARA: How would you do that?

MR. GUARIGLIA: Well, one of the ways to do it-- Certainly, you are not getting to the private owner of the aircraft, the recreational user. Right now, we are talking about the business owner who uses it for some type of carriage of executives. Many of them are Part 135 aircraft, qualified as carriers under Part 135.

New York has a standard where they say if 75 percent of your use is carriage for hire, then the exemption applies in New York. Maybe we want to play with the percentage, fix the percent each year as to what carriage may qualify for the exemption.

MR. McNAMARA: If an aircraft is based in New Jersey and is used exclusively to fly business executives to St. Louis, and each flight it departs New Jersey, flies over New Jersey for five minutes, and then spends another two hours completing the flight to St. Louis, is it said to be used exclusively in New Jersey, 5 percent in New Jersey, or not at all in New Jersey?

MR. GUARIGLIA: You said, "Based in New Jersey," correct?

MR. McNAMARA: Yes.

MR. GUARIGLIA: It is taxable by New Jersey in full.

MR. McNAMARA: Simply because of where it is based?

MR. GUARIGLIA: Correct.

MR. McNAMARA: Okay. Thank you.

MR. GUARIGLIA: Finally, the corporation business tax. This is probably the most indirect issue we have here, but one still worth mentioning.

The business tax is a corporate income tax, 9 percent on income allocated to New Jersey. This issue comes up for users of airports, because they can create subjectivity to the tax by merely having aircraft based in New Jersey. Merely having property in the State subjects you to the corporate income tax.

There is also an allocation issue here. Anyone who is subject to the tax, the more property you have in this State, the higher the income that is allocated to the State that is subject to the 9 percent. So one suggestion may be to consider exempting or carving out of the property allocation that goes into the computation of the corporate income tax, say corporate-owned aircraft, or even saying entirely that mere

ownership, the mere keeping of aircraft in New Jersey does not alone supply nexus to subject a company to the corporate income tax. I am not really quite sure what impact that would have, although, again, it does add to a user-friendly atmosphere on the tax side.

That concludes what I have to say on the State-level taxes.

MR. McNAMARA: Are there any questions for Mr. Guariglia?

MR. PENN: Well, I want to address one question across to Pete. I would like him to tell me-- You mentioned to me a number of times the loss of sales to large corporate aircraft because of our sales tax on those particular items. I remember that you had one sale you lost -- it was in Delaware, not in New Jersey, to a Jersey company so that it did not have to pay the 6 percent tax.

MR. HINES: But, Jack, there are a lot of companies today that still get away with not paying the 6 percent sales tax. I think you have to be in New Jersey -- what is it now, six months? (no response) If a company is less than six months in New Jersey, they don't have to pay the sales tax. I believe that is the way it still reads. I am not quite sure. I believe that's so.

But nevertheless, we do have companies that do not wish to, say, take the chance, or take the risk of trying to cheat the State out of money by doing that. We get close to making sales -- and I am sure this is true of us as it is of any other PO in the aircraft sales business-- You can make the sale to the customer, and what have you, until it gets to the

Treasurer's Office. They compute the tax on top of the sales price and that, all of a sudden, is the final straw that breaks the camel's back, so to speak. The sale is lost.

I think what this gentleman here has been proposing are various means by which we can attract more industry and business into the State, which, of course, is what other states are doing, such as North Carolina and South Carolina. They have a minimum tax -- sales tax -- on aircraft, specifically aircraft to encourage business to move their aircraft down there and establish a business down there. The 6 percent sales tax here in New Jersey -- or 7 percent, 8 percent, whatever it might be in New York -- is a very discouraging incentive for companies to locate in New Jersey.

Yes, we have all lost sales with the 6 percent sales tax. Some companies can afford to do it, like J&J, which pays the tax, but there are not that many companies around.

MR. GUARIGLIA: I might add, also, that that tax extends to parts and repairs, too, not just the aircraft.

MR. HINES: Oh, that's true. Engine overhauls-- You can go out and buy a \$300,000 engine and you have a 6 percent tax on top of everything else. It is very discouraging.

MR. GUARIGLIA: Correct.

MR. McNAMARA: Are there any other questions? (no response)

Well, Ms. Feeney and Mr. Guariglia, thank you very much for coming. It has been very constructive. We appreciate it. I think we have all learned something from this. Personally, I am taking your paper home this evening to read it, because this problem is obviously a problem that has caused

airports in the State of New Jersey to go out of business. It is one of several problems that this Commission must address. In addressing it, we will be able to do it at a higher level with what you have presented us.

Thank you.

MS. FEENEY: Thank you.

MS. NAGLE: Mr. Chairman, may I ask one question?

MR. McNAMARA: Oh, there is another question.

MS. NAGLE: How do certain areas get the 3 percent sales tax versus the 6 percent? Is that done legislatively, or is that--

MR. GUARIGLIA: You're talking about the Urban Enterprise Zone Program.

MS. NAGLE: Like Elizabeth and certain areas of Trenton.

MR. GUARIGLIA: That is designated legislatively.

MS. FEENEY: It is a legislative designation of an Urban Enterprise Zone. Then, basically, a vendor has to qualify as a qualified vendor by showing he is going to do certain things. Basically, it is keyed to employment. Once they have qualified, then they are permitted to charge a 3 percent sales tax on all sales of tangible personal property they are making within that zone. They also get a break themselves when they are a qualified business. Any purchases of tangible personal property and services that they are buying to use in their own business -- for instance, if they are buying office furniture, things of that nature -- they buy that close to tax free.

So there are two levels of the Urban Enterprise Zone. It is legislatively done. The idea, from the beginning, was to

change the zones every so often. Once one area was rehabilitated and was in a better economic picture, then they would switch to a different part of the city. So far, they haven't really done that, but there are a number of Urban Enterprise Zones.

MS. NAGLE: Thank you.

MR. McNAMARA: Thank you again.

MS. FEENEY: Thank you.

MR. GUARIGLIA: Thank you, Mr. Chairman.

MR. McNAMARA: During a meeting, Mr. Leavens -- who is the President of the Mid-Atlantic Aviation Coalition -- attended to give us his testimony, we recorded some questions to him on a tape recorder provided by the State, and it didn't work. I have asked Mr. Leavens if he would return today and answer any questions we may ask him about his report -- or his comments, and I will lead off with respect to those questions.

B I L L L E A V E N S: Good afternoon, Mr. Chairman and members of the Commission.

MR. McNAMARA: Good afternoon, and welcome back.

MR. LEAVENS: Thanks.

MR. McNAMARA: I will remind you that you are still under oath to tell the truth under the penalty of perjury.

Mr. Leavens submitted a written report of his testimony. On page 2 of this report, he makes some comments with respect to the local political problems that are centered on small airports. He says, "A few noisy and influential citizens have preached an inordinant amount of complaints about airport issues, such as: 'Airplanes make too much noise; they are a threat to the neighborhood; airplanes are going to crash

in my backyard; airports are a nuisance to my town, because they attract these noisy, dangerous things.'"

Mr. Leavens, at the end of that testimony, I asked you, "Do you believe that aircraft pose any serious safety threat to any community or to anyone in the community?"

MR. LEAVENS: To answer that, no, I do not believe they do any more than buses, automobiles, or bathtubs. I think the National Business Aircraft Association has statistics published which indicate that the safest form of executive travel is general aviation. Again, that is in a rarified atmosphere with IFR-rated pilots, generally two pilots, in extremely capable aircraft.

The fact of the matter is, as I understand it -- and I cannot quote statistics, I have to refer you to the AOPA Air Safety Foundation -- that general aviation aircraft travel is exceedingly safe. The problem we have is one of perception. Whenever there is an accident -- an aircraft accident -- it shows up on the news and people are left with a stinging image -- impression of that accident, whereas automobile accidents happen every day. They are commonplace, and they are not news. I think, in many cases, we are manipulated by the media to develop fears when, in fact, the law of averages favors general aviation.

MR. McNAMARA: When bathed in the harsh light of statistical analysis, you're saying that in the end the National Business Aircraft Association has done a study, and that study indicates that general aviation is the safest form of business transportation. Is that what you said?

MR. LEAVENS: That is correct.

MR. McNAMARA: You said that the AOPA has done a study that indicates that general aviation compares favorably to other human activities, such as traveling by car, train, bus, or even taking a bath. Is that what your testimony was?

MR. LEAVENS: That is substantially correct.

MR. McNAMARA: Thank you.

MR. LEAVENS: There is no more of a danger than other activities.

MR. McNAMARA: You make a comment on page 2 of your prepared testimony that there is a larger national problem concerning the demise of recreational aviation. Student starts have plummeted this year even relative to the horrendous numbers of last year.

Do you equate student starts in flight schools with recreational activity or recreational slide?

MR. LEAVENS: No. I think that really ought to be looked at as a different category of flying altogether. Everybody has to start somehow. Everybody has to go to driver school to get a driver's license. You have to go to pilot school to get a pilot's license. What that was symptomatic of is what has been a nationwide trend toward a decrease in the activity of learning to fly. But I think student activity ought to be categorized differently from recreational flight and, of course, from commercial or business flight.

I would like to believe that students starting aviation would be seeking to embark on a career, a very worthwhile career in aviation. I would like to see more students start school.

MR. McNAMARA: Thank you.

New Jersey State Library

Again, on page 2, you say, "There is little positive awareness among the general population of the economic, social, and recreational attributes of aviation. Nearly everywhere in New Jersey is within a three-hour drive of everywhere else. Nobody who confines their life to the State really needs to be able to fly anywhere." Is that correct?

MR. LEAVENS: Well, of course not. We don't need automobiles. I just came back from France. I spent a week on a bicycle, and it was quite enjoyable. We could walk everywhere, if it came down to that. No, we don't need aviation, but it does make-- In many cases, it makes business work better, the fact that executives can get from point to point within the State.

I believe that 40 percent of the trips -- business trips -- within the State are within the State. In other words, the ones that originate in the State wind up someplace in the State. I have learned that since writing this, but my point was, again, that the public perception is, "No, we don't need airplanes." Sitting on a bicycle I can say, "No, we don't need automobiles."

MR. McNAMARA: That is your testimony about--

MR. LEAVENS: The perception.

MR. McNAMARA: --what you perceive the public perception to be.

MR. LEAVENS: That is correct.

MR. McNAMARA: But it is not your testimony about what you believe is the fact?

MR. LEAVENS: No. It was worded unfortunately. What I meant to do was to describe what I understand is the public perception.

MR. McNAMARA: Is there, indeed, an economic benefit to people traveling within the State? Are there studies to show that traveling by aviation within the State--

MR. LEAVENS: I don't know of any studies. I would have to probably take a look at the survey -- the Economic Benefit Survey that is being done. I have seen some advance information on that, but not enough to make any qualitative judgment on it.

But it is common sense. If a business can afford to equip an aircraft and fly it, they obviously value the time of those who will be using the aircraft or the value of the product which must be conveyed in that aircraft at a very high enough value to justify the use of the aircraft. Business does not do anything that doesn't make economic sense, generally. People do, but business doesn't.

MR. McNAMARA: On page 4, you have a sentence here that reads: "Surviving airports could only be zoned as permitted uses." Are not all airports in New Jersey under the Airport Safety Zoning Act zoned as permitted uses?

MR. LEAVENS: It was my understanding that in framing the legislation it was the intent of the Legislature -- I don't speak for the Legislature, I only speak for those I have talked with about the bill -- that airports should be permitted uses. I note that some municipalities have not adopted ordinances which are required under that law. One in particular, Bedminster Township -- where Somerset Airport is -- has adopted

zoning in the airport which is permitted with conditions. That speaks to me that that is conditional approval, because those conditions can change over time. I don't know of other airports in the State, but I am sure there are, that have conditional restrictions placed on their use. In my view, and in the view, probably, of most of the people who are sympathetic to airports, this State should determine how those airports are to be zoned and used; that they should, in fact, be permitted uses, if that answers the question.

MR. McNAMARA: Thank you.

Those were my questions. Does anyone else have any questions for Mr. Leavens? (no response)

Thank you very much for coming back in.

MR. LEAVENS: Thanks for having me.

MR. McNAMARA: What is this?

MS. NAGLE: This was passed to me.

MR. McNAMARA: Oh, this was passed to you? Did everybody get a copy of this "Airport Development Right Purchase Program - The Time Has Come"? (no response) Where did this come from?

MR. LEAVENS: (speaking from audience now) It just came out of the sky. It is my present to you.

MR. McNAMARA: Oh, this is something submitted for the record?

MR. LEAVENS: Yes. It is additional testimony. (remainder of comment indiscernible; no microphone)

MR. McNAMARA: Oh, you have to come up here to a microphone.

MR. LEAVENS: What has been presented is a thing that the Board of the Mid-Atlantic Aviation Coalition has approved discussing an amplification of the idea of the Airport Development Right Purchase Program, which I mentioned in my previous testimony. We have taken that and refined it a little bit. We are offering that as an example of what might be done to ameliorate the airport owner situation.

MR. McNAMARA: Did you give one of these to the hearing reporter?

MR. LEAVENS: I gave them all to the hearing reporter.

MR. McNAMARA: Okay. That's fine.

Thank you very much.

There are just a couple of other items on the agenda. One is, we have a meeting scheduled on December 26. It has been suggested to me that this is an inconvenient date, as it follows Christmas. Many of our members are going to be away that day, and will be unable to attend.

We are also caught in a bind where the number of witnesses to appear before this Commission are mushrooming, or increasing. Our time line for finishing our work is shortening, so we have to-- We cannot give up meetings. We want to reschedule this one, I propose, for December 19, if that is convenient for those present. That would be the Tuesday preceding the date on which the meeting is presently scheduled.

Does anyone here have a problem with that? (no response) Let me ask this: Does anyone here have a problem with December 26?

MR. PENN: Yes. That's Boxing Day, Mr. Chairman. I am concerned, after the election, that this is (indiscernible).

MR. McNAMARA: There is only one person present, I believe who doesn't have-- What about you, Pete?

MR. HINES: I have no problem, Jack, with either date, but let me ask you this: Are we passing November altogether?

MR. McNAMARA: No, no. There will be a regularly scheduled meeting on the last Tuesday of November. That will be November 28.

MR. HINES: All right. So we are talking about December then.

MR. McNAMARA: At our November 28 meeting-- I have a draft agenda for that already. We have coming to speak to us representatives from the National Business Aircraft Association, Solberg Airport, and Princeton Airport. Hopefully, at some point, we are going to hear from Somerset Airport. Possibly we are going to have a citizen from the Township of Bedminster who lives next to the Airport, who has been vocal in his opposition to the Airport.

MR. HINES: What are the dates in December again?

MR. McNAMARA: The date in December would be the 19th.

MR. HINES: No problem.

MR. McNAMARA: I wanted to talk to you, also, about additional days for holding meetings, but the problem is that we have had the logistical problem of talking to the person who schedules this room. We were on a cycle where we could not schedule it until the beginning of the calendar month in which we were going to hold the meeting. That meant that if we were going to hold a meeting on November 1, we would have to schedule it on the morning of November 1.

I had a talk with the person in charge -- the young lady in charge of scheduling the room. She has asked me -- or she has agreed with me now that for the next several months, if I will put together a schedule of days, she can let us know within three weeks prior to the scheduled event whether or not the room is available.

If we were going to schedule a second day during the month to have meetings, is there any particular day that would be more convenient than others for those here, or are they all similarly inconvenient?

MR. PENN: That's about it.

MR. McNAMARA: They are all sort of similarly inconvenient.

MR. HINES: I would like to avoid Wednesday, if I could.

MR. McNAMARA: Avoid Wednesday? Okay.

MR. PENN: That's golf day.

MR. HINES: I wish it were.

MR. McNAMARA: Do we have to do that after it snows?

MR. HINES: No, not after it snows.

MS. CASTNER: Jack, did you schedule those guys -- the appraisers, those named--

MR. McNAMARA: I have not called them, because I had no place to put them. But I will be calling them as soon as we set up additional meeting dates.

MS. CASTNER: Just judging from information we are getting from people, they would be extremely important.

MR. McNAMARA: Oh, yes, they are. They always were.

Now, I will try to put together a schedule then. I will meet with the lady down here to put together some time when we can have this room, and will let everybody know when that is.

The final thing is: On December 1, which is a Friday, there is an annual event which is conducted at my home for people involved in aviation in the State of New Jersey for giving their own time freely for the benefit of aviation. It is cohosted by-- Well, it is at my house, and I would like all of you, if it is convenient for you, to set aside that day, because no one has given more time than the members of this Commission. We would all love to see you up there. Come and have some dinner with us.

Now, that takes care of all I have on my schedule. Is there anything else that needs to be addressed? (no response)
Then the meeting is adjourned.

(MEETING CONCLUDED)

APPENDIX

NEW JERSEY GENERAL AVIATION STUDY COMMISSION

DRAFT AGENDA

For Meeting On

OCTOBER 31, 1995
at 1:30 PM

State House Annex
Hearing Room 11
Fourth Floor

Call to order

Roll Call:

Abe Abuchowski	Mike Hollan (Dept Economic Dev.)
Assemblyman Richard Bagger	Wesley Jost
Linda Castner	Jack Mc Namara
Ben De Costa (NYNJPA)	Suzanne Nagle
Jack Elliot	Joseph Odenheimer
Philip Engle	Jack Penn (NJDOT)
Senator William Haines	Henry Rowan
Pete Hines	Fred Telling

Proper Notice

Minutes of prior meeting - Transcripts of June and September
will be available within 2 weeks.

Chairman's Report / Correspondence

1. Due to an article which ran in the Star Ledger letters have
been received from :
 - Robert Matthews of Bedminster (722-0747)
 - Rudy Zaepfel of Newark (591-0588)
 - Frank Steinberg (685-0600)
 - Sen Bill Schluter - 23d Dist. (806-3483)
2. Procedure for conducting hearings: First hear all
witnesses' testimony and thereafter deliberation and
discussion among the Commissioners.

Committee Reports

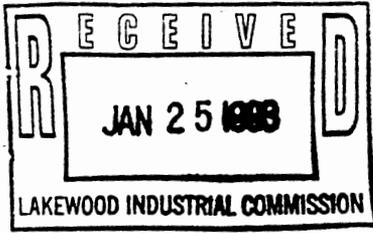
Integration of Aviation in State Transportation
System (Bagger/Penn/Hollan) NR
Reliever Airports (Nagle/Jost/De Costa) NR
Municipal Relations (Engle/Odenheimer) NR
Airport Closures (Elliot/Castner) NR
Preservation and Expansion of the Airport System
(Hines/Abuchowski) NR
Airport Funding (Haines/Rowan) NR

Old Business:

New Business:

1. SEN ROBERT SINGER - Lakewood Airport
2. ED BROWN - Allaire Airport
3. ALEX DAVIDSON - Trinca Airport
4. ~~DANNY WALKER - Somerset Airport~~
5. ~~NAOMI NEURENBERG - Princeton Airport~~
6. MICHAEL GUARIGLIA, ESQ. - Taxation Issues
7. BILL LEVENS - MAAC
8. Additional meetings schedule.
9. Reschedule Meeting of December 26th
10. December 1, 1995 - Dinner

Adjournment.



LAKEWOOD INDUSTRIAL Commis:
A. WADE HANCOCK, CHAIRMAN
MUNICIPAL BUILDING
3RD ST.
LAKEWOOD, N.J. 08701

Dear Chairman Hancock
and fellow Commissioners,

Hello! I'm a private pilot and by choice base my airplane at Lakewood Airport. I fly for pleasure and spend most of my discretionary income in Lakewood. I not only do business at the airport but also at a local gas station, hardware store, tool stores, paint store, electronic shop, auto supply stores and restaurant, (you get the picture) all related in some way to my flying activities.

Over-all I'm just a small-fry in aviation but I see some of the high rollers in the business world coming and going at your airport and they all have business interests in the immediate area. I can only imagine what they contribute to the local economy.

In addition, the State Police, the military, the State Forest Fire Service and other agencies use

(2)

your airport because of its convenient location.

I can't emphasize location enough. If there are to be airport neighbors (and eventually there always will be) an industrial park is an ideal neighbor. It is a mutually beneficial relationship. What's better for business than convenient access to rapid, dependable transportation?

On the other hand, what's better for an airport than neighbors who need it?

Please keep in mind that we are losing small airports at a steady rate and once an airport is closed it doesn't reopen elsewhere.

You folks have a unique opportunity to develop something very special. Other towns may build good industrial parks but Lakewood has the best industrial park in the State partly because it has the rare benefit of a long established, active airport.

Please don't let this opportunity slip away because I'm afraid there won't be another one like it!

Thank you for your kind
considerations!

Sincerely,
Ron Lovenberg
RONALD G. LOVENBERG



From the desk of

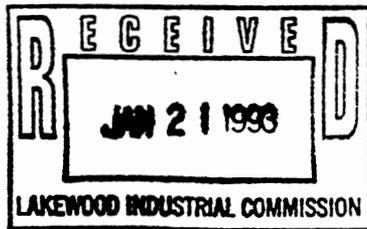
TONY MURO

MURO AVIATION INC.
35 CABANA DRIVE
BRICK NJ. 08723

JANUARY 15, 1993

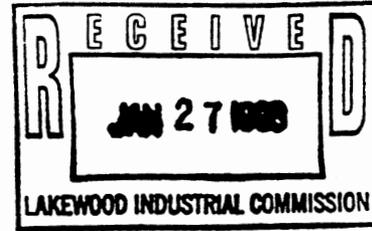
MR. A WADE HANCOCK

MY BUSINESS IS SALES. I HAVE AN AIRCRAFT
BASED AT LAKEWOOD AIRPORT. THERE ARE MANY
TIMES I DEPART AT THE SPUR OF THE MOMENT.
LAKEWOOD AIRPORT IS LOCATED 10 MINUTES FROM
MY OFFICE AND MAKES QUITE ACCESSABLE TO
DO THIS. IT WOULD BE A GREAT INCONVIENCE
NOT TO HAVE THIS AIRPORT AVAILABLE.



SINCERELY
Tony Muro
TONY MURO

40x



Dear Mr. Hancock,

I am writing this letter to let you know more about the benefit the Lakewood Airport brings to the surrounding area.

During the month of March, the state of N. J. posts a fire fighting aircraft there and has personnel and a water supply tank truck. This equipment is used to fight fires in the area. A few years back you may remember a huge forest fire which closed the Garden State Parkway. During this fire 8 fire fighting aircraft utilized Lakewood Airport as a base to refuel and replenish the approx 400 gal. water tank on each aircraft.

O'Brien Aviation the F.B.O. does a great job of flight instruction, and introducing a lot of people to the wonders of flight.

I, myself, have an aircraft based there mostly for recreational flying. Living in Manasquan, the accessibility of the airport and the friendliness of all people you meet is a big plus. Location to the town of Lakewood and its Industrial Center are excellent, as industry likes having accessibility for its customers. Over time it brings more business. I have noticed times quite a few people have gone in and out on charters.

Sincerely,

A handwritten signature in cursive script that reads "Jack Sturtevant".

Jack Sturtevant

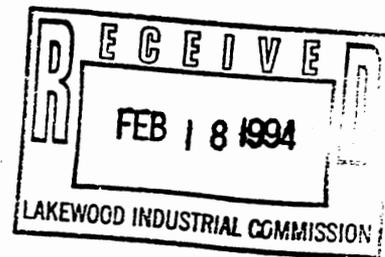
Knipper

Copy to: A.C. Ferrante
Township
Mayor

Direct Mail and Fulfillment Services for the Health Care Industry

J. Knipper and Company, Inc.
1645 Oak Street, Lakewood, New Jersey 08701
908-905-7878 FAX: 908-905-0469
February 16, 1994

Mr. H. George Buckwald, Executive Director
Lakewood Industrial Commission
231 Third Street
Lakewood, NJ 08701



Dear George,

We are aware of the consideration by the Township of Lakewood to purchase the Lakewood Airport.

I would like you to know that I support and encourage the purchase of the airport.

J. Knipper and Company provides Direct Mail and Fulfillment Services for the Pharmaceutical Industry and we number as our clients some thirty plus major pharmaceutical companies located throughout the continental United States. We presently use O'Brien charters to call on our accounts in Worcester, Massachusetts, Swiftwater, Pennsylvania and in Maryland. We will arrange for some of our clients to fly into Lakewood. Our ability to fly to some of our accounts saves many hours of time and the stress of metropolitan traffic.

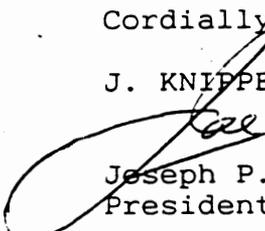
We find the presence of the airport and our ability to fly to make a portion of our sales calls so important that we will consider leasing a plane in the near future.

I believe the presence of the airport to be important to our business and its close proximity a valuable asset to the Industrial Park.

I would offer the strongest support for the town to complete the purchase of the airport.

Cordially yours,

J. KNIPPER AND COMPANY, INC.

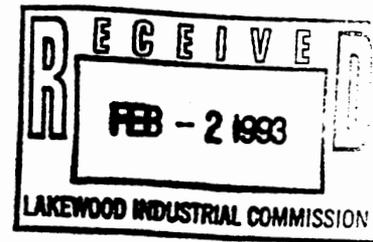

Joseph P. Knipper
President

JPK:jp/2.16

42X



Miller & Chitty Co., Inc.



February 1, 1993

THE LAKEWOOD INDUSTRIAL COMMISSION
3RD STREET
LAKEWOOD, NEW JERSEY 08701

ATTN: MR GEORGE BUCKWALD

SUBJECT: LAKEWOOD AIRPORT

DEAR MR. BUCKWALD,

I AM A PILOT AND AIRCRAFT OWNER BASED AT LAKEWOOD AIRPORT. MY AIRPLANE IS USED MAINLY TO SUPPORT MY BUSINESS, WHICH IS SALES AND SERVICE OF LARGE INDUSTRIAL BOILERS.

HOW DOES LAKEWOOD BENEFIT FROM THIS? WE HAVE MANY CUSTOMERS IN OCEAN COUNTY, MANY OF THEM IN LAKEWOOD, SOME ARE IN THE INDUSTRIAL PARK. THERE ARE FREQUENT OCCASIONS WHEN RESPONSE TIMES ARE CRITICAL TO OUR CUSTOMERS OPERATIONS, WITH LAKEWOOD AIRPORT BEING CENTRALLY LOCATED AND IT'S EASY ACCESS, WE ARE ABLE TO RESPOND TO THOSE NEEDS. WE ALSO BRING MANY OF OUR CUSTOMERS IN BY AIRPLANE TO PLAY GOLF AT WOODLAKE COUNTRY CLUB, WHICH ALSO BENEFITS THE LOCAL RESTAURANTS AND MOTELS.

I ALSO BELONG TO A NON-PROFIT CHARITABLE ORGANIZATION CALLED AIRLIFELINE. THE PURPOSE OF AIRLIFELINE IS TO TRANSPORT AMBULATORY PATIENTS WHO MUST RECEIVE LIFE-SUSTAINING TREATMENT AT A MEDICAL FACILITY FAR FROM HOME AND CANNOT AFFORD THE COST OF TRAVEL. THERE IS NO CHARGE FOR THIS SERVICE, THE PILOTS OF AIRLIFELINE DONATE THE ENTIRE EXPENSE OF THE MISSIONS INCLUDING FUEL COST. WITHOUT LAKEWOOD AIRPORT WE WOULD NOT BE ABLE TO PROVIDE THIS SERVICE TO THE PEOPLE OF LAKEWOOD. I HAVE ENCLOSED A MORE DESCRIPTIVE ARTICLE ON AIRLIFELINE FOR YOUR REVIEW.

I ALSO BELONG TO CIVIL AIR PATROL WHICH IS BASED AT LAKEWOOD AIRPORT. CIVIL AIR PATROL PROVIDES THE COMMUNITY WITH TRAINING OF OUR YOUNG ADULTS, PROVIDES ASSISTANCE WHEN LOCAL DISASTERS STRIKE OUR AREA (HURRICANES, FLOODS, LOCATING LOST CHILDREN AND ELDERLY ADULTS), PATROLS OF OUR COAST LINE IN THE SUMMER MONTHS FOR STRANDED BOATERS AND DRUG ENFORCEMENT AND OF COURSE SEARCH AND RESCUE FOR AIRCRAFT THAT HAVE GONE DOWN.



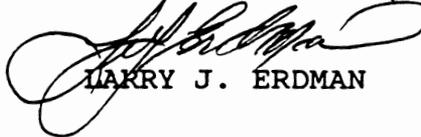
Miller & Chitty Co., Inc.

PO Box 256
35-139 Market Street
New York, New York 10108

February 1, 1993

THE LOSS OF LAKEWOOD AIRPORT, AS I SEE IT, WOULD BE A GREAT LOSS TO THE TOWN AND PEOPLE OF LAKEWOOD. MANY OF THE BENEFITS TO THE COMMUNITY GO UNNOTICED, AS THE PEOPLE ARE UNAWARE OF THE ACTIVITIES THAT TAKE PLACE AT THIS AIRPORT. YOU CAN GO TO THIS AIRPORT ON ANY WEEKEND AND SEE THE ACTIVITY THERE, PEOPLE ARE THERE TO FLY, TO JUST GO FOR AN AIRPLANE RIDE OR MAYBE JUST TO BRING THE KIDS THERE TO WATCH THE PLANES TAKE OFF AND LAND. YOU MIGHT WANT TO HAVE A BANNER FLOWN TO ADVERTISE YOUR BUSINESS OR WISH YOUR SWEET-HEART HAPPY BIRTHDAY. REMOVE THE AIRPORT AND ALL OF THIS IS GONE FOREVER.

VERY TRULY YOURS,



HARRY J. ERDMAN

44X

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February 1, 1993

Mr. A. Wade Hancock, Chairman • LAKEWOOD INDUSTRIAL COMMISSION
Municipal Building
Third Street
Lakewood, New Jersey 08701

To The Members Of The Lakewood Industrial Commission:

Gentlepeople-

I hope this letter does not arrive too late to help you in your deliberation regarding the proposed sale of Lakewood Airport by its present owners. It has taken awhile to compose my thoughts about the real merit of your possible purchase of this asset for use by future aviation enthusiasts.

I use the word "future" because I believe the airport represents a resource that can be truly utilized in helping our youth away from drugs and crime and toward a love of flying and possible careers in aviation and related fields. Already in existence on the field is a Civil Air Patrol squadron - a youth oriented program. There are also two Experimental Aircraft Association chapters who meet using airport buildings - both of whom sponsor "sport aviation for kids" activities. Now, add all the moms and dads (especially) with their wide-eyed sons and daughters who come to the airport to watch the airplanes - and wish about the joys of flying - and wonder about the mysteries of flight. Or the local school children who enjoy field trips to learn about aircraft and airport use.

Certainly the airport is a commercial enterprise used by business to enhance its ability to compete and profit. Of course the airport is a viable base for pleasure flight that adds a significant recreational facility to the town. Yes, I have "an ax to grind" because I use the airport for both business and pleasure. And, there are jobs at stake. These include mechanics and paint shop technicians, terminal personnel, flight instructors, commercial pilots flying everything from banner tow planes to fire bombers

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and corporate aircraft. Sure, the airport is utilized by state trooper helicopter patrols and medical emergency teams. But, ultimately, I believe the airport is a tool to help shape Lakewood's future - and the strength of that future - our youth.

Please make the right decision. Purchase the airport. Protect a vanishing resource.

Thank you for the opportunity to present my view.

Sincerely,



E. Geo. Chandler, Jr.
NEW AD VENTURES, INC.



MAIN OFFICE:
190 OBERLIN AVENUE N.
LAKEWOOD, NEW JERSEY 08701
FAX * (201) 905-9628
(201) 905-1000
TOLL FREE IN NJ 1-800-852-0124

January 26, 1993

Mr. George Buckwald, Executive Director
Lakewood Industrial Commission
231 3rd Street
Lakewood, New Jersey 08701

RE: Lakewood Airport

Dear George:

Recently it has been brought to our attention that the Industrial Commission is considering the purchase of the Lakewood Airport.

The purpose of this letter is to unequivocally provide the Commission with our recommendation that this facility be acquired by the Industrial Commission.

Without a doubt, the Lakewood Industrial Park is the successful manifestation of visionary public officials, which serves as a model for industrial parks not only in New Jersey but along the east coast. Part of this success is the proximity of the existing airport.

This facility has been a major corporate benefit for our organization. Annually, countless major vendors and potential customers visit our facility and arrive at the Lakewood Airport. We consider this facility to be a vital link to our suppliers and customers.

We recognize that the acquisition will be expensive, yet it is our belief that the existence of an airport near the Industrial Park is a positive inducement to businesses to continue to locate and maintain their businesses in the Lakewood Industrial Facility.

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Middletown, N.J. 07701
(201) 530-7200

401 Main Street
Avon, N.J. 07717
(201) 775-5270

830 Route 22
Bridgewater, N.J. 08807
(201) 725-0666

737 Route 9
Forked River, N.J. 08731
(609) 693-0077

47X

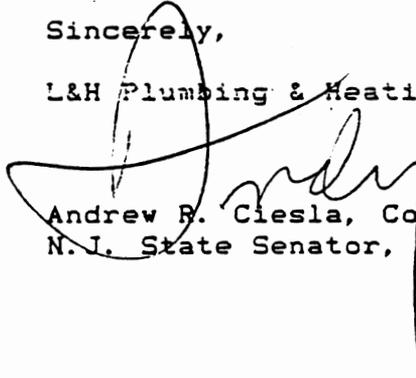
Mr. George Buckwald, Ex. Director
Lakewood Industrial Commission

January 26, 1993
Page 2 of 2

As always, we compliment you on your continued vision and if you would like any additional information regarding the need for the acquisition of the airport facility, please do not hesitate to contact us.

Sincerely,

L&H Plumbing & Heating Supplies, Inc.

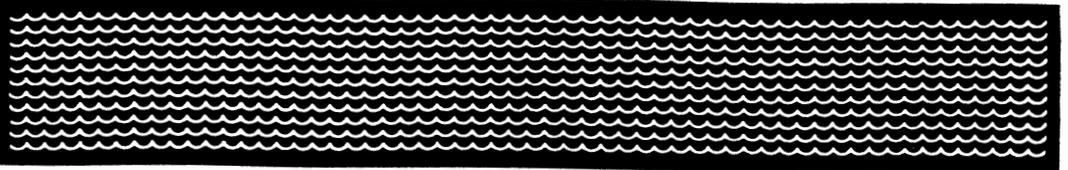


Andrew B. Ciesla, Controller
N.J. State Senator, 10th District

/ems

48X

MARINE EAST



January 27, 1993

Mr. H. George Buckwald
231 Third Street
Lakewood, NJ 08701

Dear Mr. Buckwald:

I presently own three businesses in Bricktown, all Marine related. One is a marina and sailboat dealership. On several different occasions in the past, different boat manufacturers have flown in to see us. One flew in a Beech Turbo pressurized Baron. This high performance airplane was marginal to get into our small airport, but he made it. Improvement is sorely needed in the facilities if we are going to be able to handle high performance Corporate aircraft that the larger businesses need.

Our second business is a retail marine store and in the past several months, marine sales representatives have flown in to see us. Without having the airport nearby, these calls would not have been made. Such sales calls are generally made to show us the newest products. This enables our store to be known as an up-to-date Marine product store, having all the newest merchandise before our more isolated competitors.

Our newest and largest business is designing and manufacturing plastic Marine Hardware. It is not generally known, but we are the largest Manufacturer of Plastic Marine Hardware in the world. We are selling internationally and even though our industry went through a severe recession caused by the luxury tax we have continued to grow. Our growth in 1992 was over 50%. This luxury tax caused a 75% decline in marine sales in 1989 and our industry is now slowly recovering.

Due to New Jersey and Bricktown's anti-business government policies, we manufacture in Indiana and only warehouse in Bricktown. We are considering moving to a southern state but have chosen to remain in Brick largely due to the proximity of the Lakewood airport as we occasionally have to fly to our Manufacturing plants as well as to our nearer customers.



802 MANTOLOKING ROAD (RT. 528) / BRICK, N.J. 08723 (201) 477-7484

908

49X

This has become so important to us that I am personally taking Flying lessons at an advanced age and have also purchased my first airplane. Naturally, it is based at Lakewood. The reason for using the Lakewood airport primarily is due to the fixed base operator school. O'Brien aviation has one of the best schools in the state regarding safety as the primary rule. The airport is terrible as far as facilities. The runways and taxiways sorely need repaving and widening. We need a hanger, but the waiting list is several years long. With the present ownership, there is no chance of these much needed improvements and the town taking over the airport seems to be the logical solution. If the airport was to close it would hasten our departure from this state.

Sport aviation, as well as transportation benefits to business, are a growing industry. In order to keep this area on the map and permit the kind of healthy business environment in which industry and our fellow residents will prosper, we need a local airports with modern safety facilities.

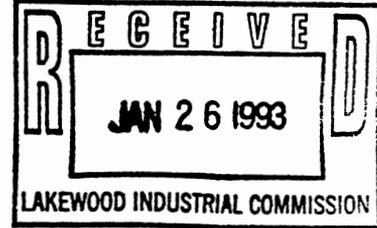
Sincerely,

A handwritten signature in black ink, appearing to read "David M. Thompson". The signature is fluid and cursive, with a large initial "D" and "T".

David M. Thompson

23 January 1993

Lakewood Industrial Commission
A. Wade Hancock, Chairman
Municipal Bldg., 3rd Street
Lakewood, N. J. 08701



Sir:

I have based my private aircraft at Lakewood airport since January 1985. In fact, during that time I have owned three aircraft that I fly strictly for pleasure. However, I feel that my selection of Lakewood, in addition to being convenient for me, has contributed to the economy of the area. Parking space rental, fuel purchases, and miscellaneous training expenditures paid to the flight base operator equals or exceeds \$1500 per year. Maintenance on my aircraft performed by Lakewood Aircraft Service amounts to about \$2000 per year. In addition, two of my airplanes were repainted by them at an average of \$3500 per plane and my existing aircraft will be repainted this year. There is no other comparable painting facility in the state and they have an average backlog of several months of aircraft owners in the northeastern states.

I am just one average private airplane owner at Lakewood who would like to stay there, continue to contribute to the local economy and, hopefully, be part of the growth we would like to see there. Remember- 100 like me represents \$450,000 per year spent in Lakewood.

Sincerely,

DONALD B. PERSONS

2008 Highway 71

Spring Lake Hts., N.J. 07762

cc: FOLA

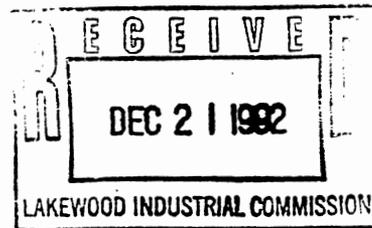
51X

Reynolds

For Meeting

December 18, 1992

Mr. Gerwin K. Bauer
Chairman
Lakewood Industrial Commission
231 Third Street
Lakewood, NJ 08701



Dear Mr. Bauer:

I started to fly in 1974. In 1975, I purchased property and constructed a Service Building and Distribution Center for our Reynolds stores in the Lakewood Industrial Park. I selected Lakewood for numerous reasons; one of which was the proximity to Lakewood Airport.

In 1975 we had four (4) stores; we now have twenty-five (25) stores and employ 89 associates, including most of our executive staff, in Lakewood. Our original building was 15,000 square feet; we now occupy or control 60,000 square feet on land that was vacant in 1974.

Flying, and the convenience of Lakewood Airport, has been a significant factor in our growth, and will be more of a factor in our future growth. I fly between fifty and sixty (50-60) business trips a year in and out of Lakewood and as we expand Reynolds and Rafters outside New Jersey, I will be required to fly even more.

The Lakewood Airport has been a major asset to our business, and I fervently hope it will continue to be so.

Sincerely yours,

Charles H. Reynolds, Jr.
Charles H. Reynolds, Jr.
Chairman

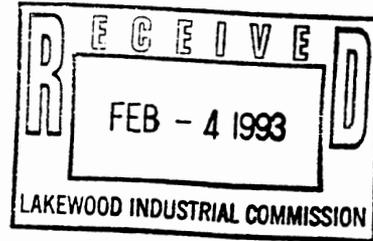
CHR, Jr.:ehc

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REYNOLDS & RAFTERS STORES
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908 • 367 • 5600
FAX: 908 • 367 • 3625 *52X*

Craig R. Cornelius
978 Cedar Grove Road
Toms River, NJ 08753

February 3, 1993

H. George Buckwald
Municipal Building
3rd Street
Lakewood, NJ 08701



Dear Mr. Buckwald,

It was a pleasure meeting you at the Friends of Lakewood Airport meeting on January 21st. I'm writing you to let you know how important Lakewood Airport is to me, my family, and my business.

I own a Beechcraft Sundowner which I keep tied down at Lakewood. I live in Toms River with my wife and daughter, and work in Wall, so Lakewood Airport is very convenient to me being about half way between the two.

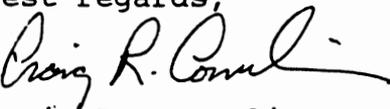
I am originally from Connecticut and frequently use the plane to fly my family there to visit my parents. I also use my plane for recreation, taking day or weekend trips to various locations.

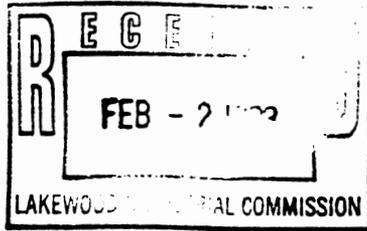
Professionally I use the plane for entertainment of my clients. I am a commercial insurance agent and my agency insures many area businesses including several in the Lakewood Industrial Park. Premium Coffee, and Belair Watch are two accounts that we wrote new in 1992.

Although I am new to the area, and have only been at Lakewood Airport for about a year, I have developed a strong affection for the airport and would hate to see it close.

I'd like to offer my support in your efforts to keep the airport open by having the town become its owner. My home phone is (908) 929-8041, and my work phone is (908) 449-0333. Please call me if there is anything I can do to help.

Best regards,


Craig R. Cornelius



8 Easy Street
Lanoka Harbor, NJ 08734
January 30, 1993

The Lakewood Industrial Commission
3rd Street
Lakewood, N.J. 08701

RE: LAKEWOOD AIRPORT

Dear Madam/Sir:

This letter is in support for the town of Lakewood to purchase Lakewood Airport. I believe that this airport serves a useful and vital function both in terms of the area and in the training of future pilots. Furthermore, I believe that the property tax dollars which the township will lose by owning the airport will, in time come back to them by way of the potential, both commercially and recreationally which a well-maintained and competently managed facility of this type can provide.

I hold an Airplane Single Engine Land Commercial Pilot Certificate with an Instrument Rating. I can personally attest to the professional manner in which the airport is run, having received some instruction from O'Brien Aviation over the past years. Additionally, the airport has been very supportive of educational training.

Thank you for your future consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph F. Vastano".

Joseph F. Vastano

54X



CODDINGTON ADJUSTMENT CO.

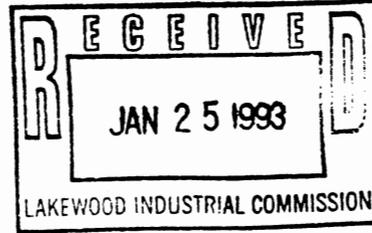


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January 20, 1993

Lakewood Industrial Commission
Municipal Building
3rd Street
Lakewood, NJ 08701



Attn: A. Wade Hancock
Chairman

Dear Mr. Hancock:

I am writing on behalf of Coddington Adjustment Company in regards to Lakewood Airport and its future.

We are insurance adjusters covering 17 states primarily from Howell, New Jersey and utilize Lakewood Airport as our home base for our aircraft. At one point in the past, we had two aircrafts at the airport and currently have a Cherokee 6 that we utilize in handling claims throughout our multi-state area.

We occasionally have customers fly into Lakewood Airport although our primary concern is the continuance of Lakewood Airport as an airport, not only for our use but also for the benefit of Lakewood and the surrounding community as a friendly user airport.

In conversing with our friends and associates, many have advised that they would seriously consider moving their aircraft, some of which are personal and other are for business use or a combination thereof, to Lakewood Airport if they saw upgrades and improvements similar to that which are currently present at Robert Miller in Toms River and what has been in the past and will be in the future Monmouth/Allaire Airport.

Whereas we are a small company and the undersigned utilizes the company aircraft primarily for business and occasionally for personal use, the convenience has enabled us to maintain our service to our customers throughout our territory and we are confident that any improvements made to the airport after the sale will only enhance its use by the local aviation community as well as potentially to bring in additional business and traffic from other areas.

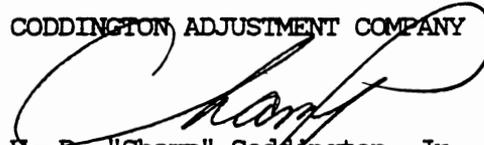
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Page 2

We would appreciate your support and the support of Lakewood Industrial in having the airport maintained as a user friendly airport for our area.

Respectfully submitted,

CODDINGTON ADJUSTMENT COMPANY

A handwritten signature in cursive script, appearing to read "Champ", is written over the typed name of the signatory.

V. P. "Champ" Coddington, Jr.
Heavy Equipment Specialist

VPC/cs

56X

CENTRAL JERSEY ENGINEERS, INC.

1182 OCEAN AVENUE
LAKWOOD, N. J. 08701



ROBERT B. POWERS, P.E. & L.S.
PRESIDENT

AREA CODE 908
TELEPHONE 364-2030
FAX 908-364-7920

January 25, 1993

Mr. A. Wade Hancock, Chairman
Lakewood Industrial Commission
Municipal Bldg.
Lakewood, NJ 08701

Re: Lakewood Airport

Dear Mr. Hancock:

As a user of Lakewood Airport since right after its construction, I want to go on record as stating that the Lakewood Airport should be owned and operated by Lakewood Township.

Since the 1960's, my firm, Central Jersey Engineers, Inc., has based an airplane at Lakewood Airport. During this time, the airplane has been used to take clients and officials to look at various projects from the air, to get an overall picture of these projects. Also, we have gone to visit various sites and projects in the eastern USA which might be desirable for our local area. The ability to show clients and designers what a project looks like in the flesh is only possible because we have an airport that is convenient.

Lakewood is fortunate to have an existing airport, for when one looks at New Jersey on an aeronautical map, one finds that New Jersey has few airports. In my various travels, I have noticed that a convenient airport is an important factor in the commercial, industrial, and recreational development of an area.

Therefore, I would urge the Lakewood Industrial Commission to make all efforts to have Lakewood Airport become municipally owned. Then the airport could become eligible for FAA and NJDOT grants for reconstruction, maintenance, and safety facilities, as well as having its future secured.

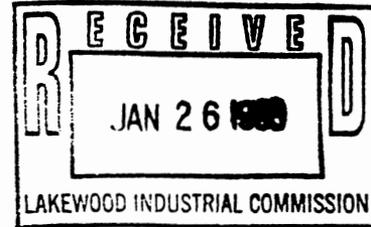
Very truly yours,


Robert B. Powers

RBP:kp

57X

Mr. H. George Buckwald
Lakewood Industrial Commission
Lakewood Township, N.J.
01-26-93



Dear Mr. Buckwald:

I am a licensed pilot and own an aircraft which is based at Lakewood.

I write to you, chairman of the Lakewood Industrial Commission, in an effort to seek your support in keeping the Lakewood Airport alive. The facts of the matter indicate that the only viable alternative in achieving this goal would be via municipal government control and ownership.

Having an airport, such as we are graced with here in Lakewood, is a commodity. As small airports throughout New Jersey vanish, this commodity becomes moreso rare and further enriches the township and region, in general. The pluses are obvious in regard to our local industry and commerce. I can tell you that the industrial complex is an impressive site from aloft. But, other positive factors are less evident, such as tourism and transient traffic coming into Lakewood and learning about our unique region. A few years ago, I had a rewarding conversation with Christopher Reeves, (of the film's "Superman" fame), one morning as he waited for his driver after flying his small twin into Lakewood. He was vacationing in Mantaloking and had chosen Lakewood Airport as his destination point due to it's convenient location. Many others think likewise.

Lakewood Airport has never achieved it's true potential, either. Through the combined effort of both municipal and private concerns, Lakewood Airport can be developed into a premier attraction to the benefit of many.

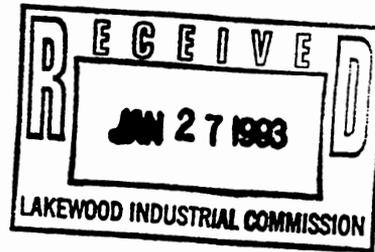
In closing, I must confess. My plea is in fact self serving. I love to fly, and I wish to continue flying out of the greatest "sleeper" airport in New Jersey, Lakewood Airport!

Sincerely,


John Latyshev

Louis De Fazio
441 Preston Street
Brick, New Jersey 08723
January 22, 1993

Lakewood Industrial Commission
Municipal Building
3rd Street
Lakewood, New Jersey 08701



ATTENTION: A. Wade Hancock, Chairman

Dear Mr. Hancock:

I am a member of FRIENDS OF THE LAKEWOOD AIRPORT. I was a flight instructor at Lakewood Airport for 16 years and in that time I have seen a lot of Corporate Aircraft, Charter Aircraft, State Police Aircraft, Air Ambulance Choper, State Police Choper and the Fire-fighter Aircraft land at Lakewood Airport.

A lot of business people in aircraft have landed at Lakewood Airport to attend to business in Lakewood Industrial Park.

There is one businessman, Mr. C. Reynolds, of Reynolds which is located in Lakewood Industrial Park who keeps his aircraft at the Lakewood Airport and uses this aircraft for business trips.

Lakewood Airport has had a lot of Charter Flights for the Lakewood Industrial Park and also to enjoy our beaches.

Two movie actors have also landed at Lakewood Airport. Cliff Robertson and Christopher Reeve have landed during the summer months. They were glad that Lakewood Airport was near the Shore because they had friends at the shore where their children were visiting.

There is also a pilot who comes down from Long Island everyday and has business in one of the industrial plants. He is happy that Lakewood Airport is so near the plant.

There are also people who land at Lakewood Airport to go to GREAT ADVENTURE Amusement Park and to the LAKEHURST Naval Air Station.

Mr. Larry Bathgate has had many visitors land at Lakewood Airport such as Ex-First Lady, Barbara Bush.

With all the above I have mentioned proves that Lakewood Airport is a vital airport and does bring in Revenue to Lakewood.

Sincerely,

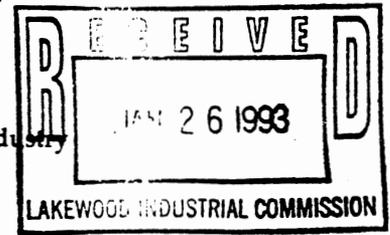
Louis De Fazio

59x

Knipper

Direct Mail and Fulfillment Services for the Health Care Industry

J. Knipper and Company, Inc.
1645 Oak Street, Lakewood, New Jersey 08701
908-905-7878 FAX: 908-905-0469



25 January 1993

Mr. A. Wade Hancock
Lakewood Industrial Commission
Lakewood Municipal Building
Third Street
Lakewood, New Jersey 08701

Re: Lakewood Airport

Dear Mr. Hancock

J. Knipper and Company, Inc. has been located in the Lakewood Industrial Park since 1987 and currently leases 100,000 square feet and employs some 130 people.

In the past years we have found Lakewood Airport to be of a tremendous asset to our business. We have a number of valuable clients who use the airport to fly in for meetings, in addition we charter a number of flights to travel to the client's facilities every year. The time and money saved has proved to be most valuable.

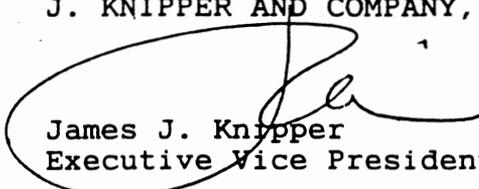
In addition to using the airport for business, for the past year I have also enjoyed its facilities for recreational use. Currently, I am half way through the work required for obtaining my private pilot's license. I intend to use the license for both business and pleasure.

We sincerely hope that Lakewood moves forward with the purchase of the airport. We look forward to what hopefully will be a modified, improved facility with enhanced services.

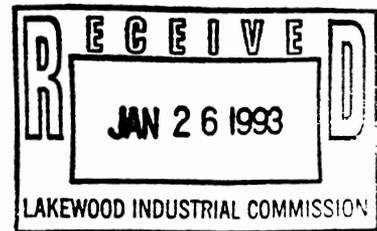
Please let me know if I can be of further assistance.

Very truly yours,

J. KNIPPER AND COMPANY, INC.


James J. Knipper
Executive Vice President

60X



TO: Mr. H. George Buckwald
% Lakewood Industrial Commission
Municipal Bldg 3rd St
Lakewood, N.J. 08701

FROM: Ronald Nimick
RD 2 Box 56C
Wrightstown, N.J. 08562 Phone: 609-758-0064

DATE: January 23, 1992

Re: The Future of Lakewood Airport

I would like to encourage and urge you and the Industrial Commission to take advantage of the opportunity to secure the future of Lakewood Airport by purchasing it for the township.

I had a business in Lakewood for over 20 years, I learned to fly at Lakewood Airport in the early 1970's and as a result of my love for flying, I, with a partner bought an airplane which till this day is housed at Lakewood Airport. The friends that I have taken for rides and therefore have been introduced to Lakewood are many, and I am only one of many airplane owners at the Lakewood Airport. It would be very sad to lose it.

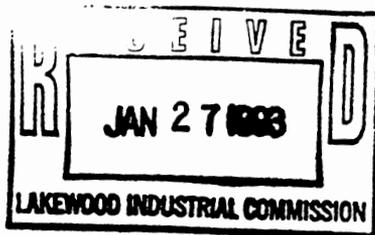
I see many people using the airport for business functions, because of its easy access. I also note the firefighters airplanes there in the summer. My son belonged to the C A P group stationed at the airport, and there is an EAA chapter at the airport.

Lakewood Airport, the Lakewood recreational Park system, Lakewood Industrial Parks, Lakewood Businesses, and Lakewood residents all meld well together to make a nice and complete township. Let's keep it that way and help it grow in a positive way.

Again, I would like to encourage the Industrial Commission to take advantage of the opportunity to secure the future of Lakewood Airport by purchasing it for the township.

Ronald Nimick

61X



Melvin Young
1600 Central Ct.
Lakewood, N.J.

Jan. 25, 1993

H. George Buckwald, Executive Director
Lakewood Industrial Commission
Municipal Bldg., Third Street
Lakewood, N.J.

Dear Sir:

I have lived in Lakewood for over forty years, in which time I've purchased several airplanes that I've always parked at the Lakewood Airpark. Having this airport in our town is certainly a plus. It provides recreational and business transportation, and in the future it may provide emergency medical transportation. I hope the Township Committee votes to purchase it.

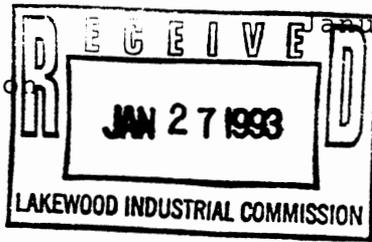
Thank you,

A handwritten signature in cursive script that reads "Melvin Young".

Melvin Young

62X

Lakewood Industrial Commission
Municipal Bldg.
3rd Street
Lakewood, N.J. 08701



January 22, 1993

Dear Commissioners,

I am requesting that you consider the many positive aspects of retaining Lakewood Airport as an integral part of the present industrial park.

As you are aware, Civil Air Patrol has been located at the airport for the last 30 plus years. During this period of time, Civil Air Patrol has responded to requests by state and local authorities with both personnel and aircraft to assist in searches for lost aircraft and people. Each year the Forest Fire Service stations aircraft and personnel at our facility to fight forest fires. Civil Air Patrol's Pineland Composite Squadron has provided guidance to numerous cadets (ages 13 to 19), without regard to heritage or residential status. Our cadet programs provide the opportunity to participate in a structured program of military courtesy, leadership, aerospace education and an introduction to piloting skills. Programs such as these have and will continue to provide a sound basis for responsible young adults.

As a post Squadron Commander, I have had the opportunity to watch some troubled youths grow morally and ethically and to see them pass on into this new world with positive attitudes.

We were pleased to see many of our cadets gain acceptance to the Air Force Academy, Naval Academy and West Point, and to believe that we had some small part in shaping these young men and women as they become our nation's future leaders.

I believe that because of the central location of the airport proper, the educational goals of Civil Air Patrol were more easily attained, and to close a facility such as this purely for monetary gain without considering all aspects would be devastating to the cadet program.

I respectfully request that you consider the long range results of the loss of this facility and that this airport remain and become an integral part of the Industrial Park's Master Plan.

Sincerely,

A handwritten signature in cursive script that reads "Thomas G. Maiorine".

Thomas G. Maiorine
Councilman, Township of Brick
Major CAP

63X

**OUTLINE OF NEW JERSEY TAX ISSUES
Presented to
GENERAL AVIATION STUDY COMMISSION**

October 31, 1995

- I. Introduction
- II. New Jersey Property Tax
 - A. Background
 - B. Property Tax Issues Facing General Aviation Airports
 - C. Options to Alleviate Property Tax Burden
 - 1. Special General Aviation Airport Assessment
 - 2. Selling of Development Rights of General Aviation Airport Property
 - 3. Uniform Tax Scheme with Exemption from Property Tax
- III. Other New Jersey Taxes
 - A. New Jersey Fuels Taxes
 - 1. In General
 - 2. Other States' Fuel Taxes
 - 3. Fuels Tax Issues and Recommendations
 - a. Motor Fuels Tax
 - b. The Airport Safety Fund Tax
 - B. New Jersey Sales and Use Tax
 - 1. In General
 - 2. Sales and Use Tax Issues and Recommendations
 - C. New Jersey Corporation Business Tax
 - 1. In General
 - 2. Corporation Business Tax Issues and Recommendations

MCCARTER & ENGLISH

MEMORANDUM

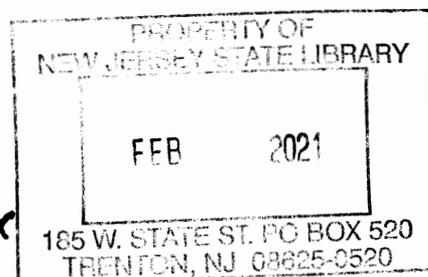
TO: General Aviation Study Commission
FROM: McCarter & English
DATE: October 31, 1995
RE: New Jersey Tax Issues

I. Introduction

The overall purpose of the General Aviation Study Commission ("Commission") is to study the role of general aviation in New Jersey's transportation system. Particular attention is directed to a study of the role of reliever airports, ways to prevent the closure of general aviation airports and the relationship between municipalities and the airports located within their borders or nearby.

We have been asked to provide an overview and some recommendations concerning the New Jersey tax issues which impact general aviation airports and general aviation as a whole. Our analysis in this memorandum solely addresses those tax issues. It does not consider how these tax issues may impact or interact with the other issues currently under consideration by the Commission, nor does it consider the revenue impact of the recommendations.

We have approached our tax analysis from two viewpoints. First, on the "supply" side, we examine the problems raised by local property taxation of general aviation airports, probably the single most significant tax issue confronting general aviation in New Jersey, and



offer a solution to achieve tax equity and uniformity. Second, from the "demand" side, we review the three tax areas which potentially impact the users of general aviation airports in New Jersey and offer some suggestions to make these airports more attractive to such users.

II. New Jersey Property Tax

A. Background

Property taxes in New Jersey are imposed and collected on all real property, unless exempt, pursuant to the provisions of the Revised Statutes of New Jersey. N.J.S.A. 54:4-1. Taxes on real property are levied by the local taxing districts which assess and collect the taxes under the supervision of the county boards of taxation. N.J.S.A. 54:4-34, 54:4-66, 54:4-67. Local taxing districts assess and collect real property taxes on behalf of the municipalities, the county and school or other districts. Thus, all general property taxes are assessed and collected on one tax bill and assessment and collection procedures are generally uniform throughout the State. However, the valuation of property, the percentage of value at which property is assessed and applicable tax rates can differ in each taxing district.

The New Jersey Constitution requires property to be assessed under uniform rules. N.J. Const., Art. 8, §1 par. 1(a). Real property is assessed according to its "full and fair value" which is defined as the price the property would sell for at a fair and bona fide sale by private contract on October 1st. N.J.S.A. 54:4-23.

Each taxing district in New Jersey appoints a municipal assessor whose duty is to determine the names of the owners and the value of each parcel of property located in the taxing district. Generally, assessors value property on the income approach, cost approach

and sales approach. Handbook for New Jersey Assessors, Division of Taxation, §501.22.

In determining the value of property, the assessors are required to take into consideration all factors which may affect the value of the property. Factors to be considered include, but are not limited to, actual sales price, depreciated replacement cost, rental value, sales of similar properties, use to which the property is put and general market conditions.

Real property is assessed annually as of October 1st by the local assessor.

N.J.S.A. 54:4-23. The assessor must express the assessment of property in terms of its taxable value. N.J.S.A. 54:4-2.25, N.J.S.A. 54:3-17 through N.J.S.A. 54:3-19. The term "taxable value" is defined as the percentage of true value established by each county board of taxation for all taxing districts within the county. N.J.S.A. 54:4-2.25 through 54:4-2.27. Therefore, the percentage of true value at which property is assessed varies among the taxing districts. For example, if taxing district X values property at 75% of true value, a property with a fair market value of \$100,000 on October 1 should carry an assessment of \$75,000 for the tax year; whereas, if taxing district Y values property at 50% of true value, a property with a fair market value of \$100,000 on October 1 should carry an assessment of \$50,000 for the tax year.

Tax rates can vary among taxing districts. In general, the tax rate is the aggregate of levies in the local taxing district (county, school, municipal, etc.) and the taxing district's share of county taxes. N.J.S.A. 54:4-52. The rate is applied per \$100 of assessed value. To illustrate how rates can vary, the 1994 tax rate for the City of Newark in Essex County was \$21.34, whereas the 1994 tax rate for Fairfield Borough in Essex County was \$1.88.

Although the New Jersey Constitution expressly requires property to be assessed under uniform rules, it does not require all property to be assessed for taxes. The Constitution does not deny the Legislature the power to determine which property will be subject to tax and, using this power, the Legislature has exempted certain categories of property from tax entirely. If the Legislature does not act to exempt property, then all property within a class must be assessed and taxed uniformly. General Elec. Co. v. City of Passaic, 28 N.J. 499 (1958), appeal dismissed 359 U.S. 1006 (1959).

The New Jersey Constitution provides that all exemptions validly granted and in existence at the date of its adoption, November 4, 1947, are continued. N.J. Const., Art. 8, §1 par. 2. The Constitution authorizes the Legislature to grant additional exemptions from taxation by means of general laws. N.J. Const., Art. 8, §1 par. 2. The Constitution also empowers the Legislature to alter or repeal exemptions except those exempting real and personal property used exclusively for religious, educational, charitable or cemetery purposes and owned by any corporation or association organized and conducted exclusively for one or more of such purposes and not operating for profit. N.J. Const., Art. 8, §1 par. 2.

The New Jersey Constitution contains additional provisions either requiring or permitting the Legislature to enact certain partial or temporary exemptions. The provisions include a mandatory deduction for war veterans and the surviving spouses of such veterans; N.J. Const., Art. 8, §1 par. 3; and a rebate property of senior citizens who are at least sixty-five (65) years old and property of persons who are permanently and totally disabled. N.J. Const., Art. 8, §1 par. 4. The Constitution also provides that the Legislature may enact general laws under which tax districts may adopt ordinances granting exemptions or

abatements from taxation for up to five (5) years with respect to properties in areas declared in need of rehabilitation. N.J. Const., Art. 8, §1 par. 6; or with respect to property developed by public or private corporations engaged in the renewal of blighted areas. N.J. Const., Art. 8, §3 par. 1.

All property tax exemptions in New Jersey are provided for by statute pursuant to the authority granted by the State Constitution. New Jersey does not recognize any common law tax exemptions. Unless a property is entitled to an exemption pursuant to a statutory provision, no exemption may be granted.

The numerous statutory provisions which exempt properties from local property taxation are generally based on ownership and use of property. New Jersey law provides for the following principal exemptions:

- a. Property of the United States;
- b. Property of the State of New Jersey and its political subdivisions used for public purposes, N.J.S.A. 54:4-3.3;
- c. Property owned by certain veterans organizations, N.J.S.A. 54:4-3.25;
- d. Property used for educational, charitable, religious, hospital, etc. purposes, N.J.S.A. 54:4-3.6;
- e. Cemeteries, N.J.S.A. 54:4-3.9;
- f. Property of volunteer fire companies and first aid squads, N.J.S.A. 54:4-3.10;
- g. Railroad property used for railroad purposes as the main stem or facilities for passenger service, N.J.S.A. 54:29A-4;

- h. Fallout shelters erected on residential property up to \$1,000 in value, N.J.S.A. 54:4-3.48;
- i. Air or water pollution control equipment, N.J.S.A. 54:4-3.56;
- j. Certain water supply and sewage disposal facilities, N.J.S.A. 54:4-3.3;
- k. Dwelling houses and lots of one hundred percent disabled veterans, N.J.S.A. 54:4-3.31;
- l. Property of the Young People's Associations, Boy Scouts or Girl Scouts, N.J.S.A. 54:4-3.24;
- m. Property of nonprofit fraternal organizations or lodges, N.J.S.A. 54:4-3.26;
- n. Certain historic property owned by a nonprofit corporation, N.J.S.A. 54:4-3.6.

In addition to these exemptions, the New Jersey Constitution was amended in 1963 to permit the assessment of farmland at less than full market value. N.J. Const., Art. 8, §1 par. 1(b). Subsequently, the Legislature adopted the Farmland Assessment Act of 1964 in order to reduce the property tax burden on farmland owners. N.J.S.A. 54:4-23.1 through N.J.S.A. 54:4-23.23. The Act establishes criteria for qualification of land as farmland and provides for the administration of the benefits of farmland assessment. Generally, any parcel of land of at least five (5) acres may qualify for farmland assessment if it is devoted to agricultural or horticultural use. The land must have been devoted to such use for two (2) preceding years. The land must also have produced a specified amount of gross sales of agricultural or horticultural products in each of the two preceding years. Property that

qualifies for farmland assessment is valued at its value as agricultural or horticultural land and not on its face value for development or other purposes. Non-qualified farmland is valued according to its true value. Buildings and structures do not qualify for farmland assessment.

In 1983, New Jersey adopted a Right to Farm Act. N.J.S.A. 4:1C-1, et seq. This promotes the continuation of agriculture in the State by providing for a long-term farmland preservation program. Options available to owners of land in this program include the sale of development rights to the State for land in the program, the sale of the land itself to the State and/or an agreement to keep the land in farm use for a certain period of time. Generally, land in this program was subject to farmland assessment prior to being placed in the program. See N.J.S.A. 4:1C-21.

B. Property Tax Issues Facing General Aviation Airports

The property tax issues facing general aviation airports involve (1) high true values, (2) high tax assessments and (3) high tax rates. Clearly, issues (1) and (2) relating to high values and high assessments, are related. Frequently, general aviation airports have real property which is highly valued. The obvious reason for the high values attributed to general aviation airports is that vacant land in many parts of New Jersey is extremely valuable for development purposes. When the local tax assessor values the property of a general aviation airport, the tax assessor has to consider its highest and best use. This means the use of the property which supports the highest present value as of the valuation date. Frequently, highest and best use is for development purposes. The high value results in a high assessment.

In regard to the third issue, tax rates, New Jersey tax rates have continued to climb as municipal and county budgets and school costs increase. General aviation airports located in taxing districts with high tax rates face large tax bills not only due to high values and assessments but also due to high tax rates.

C. Options to Alleviate Property Tax Burden

We have considered a number of options to alleviate the high property tax burden of general aviation airports. These options, along with our comments regarding availability of each option, are addressed below:

1. Special General Aviation Airport Assessment

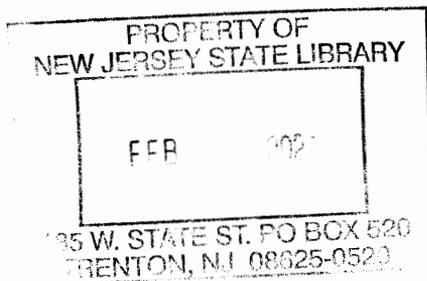
One option is to establish special general aviation airport assessment option similar to farmland assessment. We conclude that this option is not possible. First and foremost, due to the Constitutional requirement that property be assessed under uniform laws (N.J. Const. Art 8 §1 ¶ 1(a)), a Constitutional amendment would be required to provide for special assessment of general aviation airport real property. However, even if a Constitutional change could be achieved, there is still no uniform method to value general aviation airport real property. General aviation airports would still be subject to valuation under the sales approach, income approach and cost approach. Even if the Legislature provided that general aviation airports should be valued by using the income approach, uniformity is certainly not guaranteed. Each local assessor would perform an income approach using different economic income, expense and capitalization rates. Valuations would not be uniform.

2. Selling of Development Rights of General Aviation Airport Property

Another possible option is to allow an owner of general aviation airport property to sell development rights to the State to keep the property in airport use. This would require a State fund to purchase future development rights from owners of general aviation airports. We conclude that this option will still not provide the definitive tax relief required by the Commission. Each local assessor would still be permitted to value the property with some type of discount applied for consideration of the sale of the development rights. Although this discount should decrease the value of the property, it still would not provide for uniform taxation as each local assessor would still be able to value the property within a particular taxing district in a different manner. Under these circumstances, general aviation airport property could still be subject to high values, high assessments and high rates.

3. Uniform Tax Scheme with Exemption from Property Tax

Another option which would stabilize property taxes for the general aviation airport and at the same time provide for uniform taxation involves establishing a property tax on certain general aviation airport real property at a uniform rate and a franchise tax on general aviation airport income at a uniform rate. General aviation airports would be exempt from all other property tax and franchise/income tax. This option would require legislation exempting general aviation airport property from taxation and general aviation airport corporations from the New Jersey Corporation Business Tax, N.J.S.A. 54:10A-1 et seq.



This proposal is similar to the tax scheme applied to railroads in New Jersey. N.J.S.A. 54:29A-1, et seq. Property owned by a railroad and not used for railroad purposes is taxed by the local taxing districts in the same manner as other real property in the district. However, railroad real property used for railroad purposes is exempt from local tax and instead such property is subject to a state property and franchise tax.

Railroad property is classified by the Director of the Division of Taxation into three classes: Class I, main stem (railroad, tracks and appurtenances to the roadbed); Class II, real estate use for railroad purposes other than main stem and facilities used for passenger services; Class III, facilities used in passenger service. The property tax is not imposed on Class I or Class III property. Class II property is subject to the state tax. N.J.S.A. 54:29A-17. The state tax on Class II railroad property is imposed at the rate of \$4.75 for each \$100 of true value of such property. N.J.S.A. 54:29A-17.

The state railroad property tax is in lieu of all other state or local taxes on or measured by property. N.J.S.A. 54:29A-11. Property subject to railroad property taxes including Class I and Class III property not included in the valuation for calculating the railroad tax base is exempt from the general property tax provisions. However, municipalities are free to assess property taxes on railroad property when the purpose of the assessment is to provide benefits for streets, sidewalks, sewers or other municipal improvements. N.J.S.A. 54:29A-5, N.J.S.A. 54:29A-11. Assessments for benefits must be made against railroad property in the same manner as assessments against the property of individuals in the jurisdiction. A taxing district receives replacement revenue as a result of the imposition of the state tax. N.J.S.A. 54:29A-24.1.

In addition to the property tax, an annual franchise tax is imposed on all railroad companies operating within New Jersey. N.J.S.A. 54:29-13. The railroad franchise tax is imposed at the rate of ten percent (10%) of net railway operating income of the preceding year of each system and each railroad that is not part of the system. A system is any independently operating railroad that operates its transportation facilities and those other railroads as a single entity. Net railway operating income consists of total railway operating revenues from all sources, including revenue derived directly or indirectly from property used for railroad purposes less the sum of the following, N.J.S.A. 54:29A-14:

- (1) Expenses of railroad maintenance and operations;
- (2) Depreciation and amortization limited to the amount of depreciation and amortization deductions allowed by the Interstate Commerce Commission;
- (3) Railway tax accruals;
- (4) Uncollectible railway revenues;
- (5) Rentals for equipment leased for less than one (1) year or interchanged; and
- (6) Joint facility rent.

Net railway operating income of each system and of each railroad not part of the system must be allocated to New Jersey according to the following percentage:
Number of miles of track over which the railroad or system operates in New Jersey, total number of miles of track over which the railroad or system operates everywhere. N.J.S.A. 54:29A-14.

A similar tax scheme could be developed for the general aviation airports and property. The problems with high values, high assessments and high tax rates under the current property tax scheme would be solved because the Legislature could select and define the class and amount of property which is subject to tax. For example, the Legislature may decide only to tax the actual improvements which are involved with the income producing aspects of the airport, such as terminals and hangars. Other property, such as runways, could be placed in a nontaxable class. In addition, the Legislature could fix the rate for each \$100 of assessed value of the class taxed. A low rate would obviously result in greater tax relief.

The franchise tax portion of the tax could be similar to the general aviation airport's current tax scheme under the corporation business tax. It should be noted that a tax scheme of this sort would conceivably expand the base of general aviation airports subject to income taxation because it would include airports operated by entities other than corporations.

This type of tax scheme should sustain a constitutional challenge. The legislative intent would be to provide for uniform property taxation of general aviation airports by the State for the purpose of avoiding varying methods and standards of valuation by different taxing districts in which such property is located, and to secure uniform assessment. A prior similar version of the railroad tax law (L. 1884, p. 143, §3) was sustained as constitutional under the New Jersey Constitution of 1844. State Board of Assessors v. Central R. Co., 48 N.J.L. 146, 276, 281, 305 (E&A 1886). Similar to New Jersey's present Constitution, the 1844 constitution provided that property should be assessed

by uniform rules, according to its true value. In upholding the railroad tax law of 1884, the court recognized the Legislature's power to select the class or classes of property which are to be taxed and to treat all property within the class uniformly. State Board of Assessors, supra at 277-280.

Since taxing districts may balk at having a ratable removed from the tax list, the Legislature could provide that a certain portion of the tax paid by general aviation airports be given back to taxing districts with such properties for some type of property tax relief.

III. Other New Jersey Taxes

A. New Jersey Fuels Taxes

1. In General

The Motor Fuels Tax is a tax imposed on the sale of gasoline, diesel fuel or liquefied petroleum gas and compressed natural gas which is to be used in motor vehicles on public highways. N.J.S.A. 54:39-27a. The rate of this tax is \$.105 per gallon. N.J.S.A. 54:39-27(a). The tax is not imposed on kerosene jet fuel. N.J.S.A. 54:39-2. Since the purpose of this tax was to raise funds for highway maintenance, if the gasoline was used for a purpose other than highway use, such as for aviation, the end-user may get a refund of the tax paid. N.J.S.A. 54:39-66.

The New Jersey Airport Act of 1983 imposed a \$.02 per gallon sales tax on the sale of both aviation gasoline and turbine fuel (jet fuel, kerosene, kero-jet). N.J.S.A. 54:6:1-90. The tax revenues are paid into the Airport Safety Fund, which is earmarked for grants and loans to general aviation airports for safety improvements. Id. Fuels sold to non-

general aviation airports (i.e. international airports such as Newark) are not subject to this tax. N.J.S.A. 6:1-91.

In sum, at the time of purchase, a \$.125 per gallon tax is imposed on the sale of aviation gasoline in New Jersey. Of that tax, \$.105 may be refunded to the purchaser/user, and \$.02 is to be segregated into the Airport Safety Fund for the improvement of general aviation airports. The total tax collected on jet fuel is \$.02 per gallon, none of which is refundable.

It should also be noted that New Jersey imposes a \$.04 per gallon gross receipts tax on companies that refine and/or distribute petroleum products in the State. N.J.S.A. 54:15b-3. The tax is imposed on the seller on the first sale, other than for export, of petroleum products in the State. Id. The term petroleum products includes both aviation gasoline and jet fuel. N.J.S.A. 54:15B-2. Exempt from this tax is the sale of aviation fuels to common carriers engaged in interstate or foreign commerce. N.J.S.A. 54:15B-2.1. Such common carriers are only taxed on the "burn off" portion, that is the estimated portion used within the State, of the purchased fuel. Id.

2. Other States' Fuel Taxes

Delaware's Gasoline Tax structure is similar to New Jersey's tax on Motor Fuels. The tax of \$.22 per gallon is imposed on all sales of gasoline, including aviation gasoline, and then if the gasoline is used in an airplane, the taxpayer may file for a refund. Del. Code Ann. tit. 30, § 5120(a)(1).

Pennsylvania's Liquid Fuels Tax imposes a separate tax on aviation gasoline at a special lowered rate. In addition to that tax, Pennsylvania imposes a special tax

on aviation gasoline and jet fuels. The funds from this tax are sent to the Aviation Restricted Account which may be applied for and used by an airport as a grant against real estate taxes paid on aviation related areas. Title 74 Con. Penn. Stat. § 6121 et seq. The combined aviation gasoline tax rate is \$.05 per gallon and the jet fuel tax rate is \$.017 per gallon. There is a refund mechanism if the taxpayer paid a rate higher than that imposed.

New York imposes a tax on motor fuel and diesel motor fuel. Motor fuel is defined as fuel used to power a vehicle on a roadway. Therefore, fuel used in an airplane is not motor fuel and consequently, not taxable. Although New York provides for a refund of the tax paid in a manner similar to the other states surveyed, New York also provides an exemption for certain distributors. If the seller of the aviation gasoline is a fixed base operator registered with the State as a retail seller of aviation gasoline, the seller may exclude the tax from the selling price of the gasoline if the seller sells out of a storage facility used exclusively for fuelling aircraft. Sec. 289-c(1-a)(b).

In New York, jet fuel (kero-jet) is exempt from the Diesel Motor fuel tax, but sellers of kero-jet must register with the State and file reports. Reg. § 430.1.

New York imposes a sales tax of 7% to 8.5% (4% imposed by the State plus local sales tax) on the sale of aviation gasoline and kero-jet fuel. The only purchases that are exempt from this tax are purchases by airlines for use in their aircraft. Reg. § 528.10.

3. Fuels Tax Issues and Recommendations

a. Motor Fuels Tax. Although users of aviation gasoline are entitled to \$.105 per gallon refund of the Motor Fuels Tax, obtaining this refund may not be

practical for the recreational pilot. New Jersey should consider a distributor exemption system similar to New York's system, thereby making the use of New Jersey's general aviation airports more attractive to users. Under these circumstances, general aviation airport distributors that register with the State could sell the fuel without collecting the \$.105 gallon tax, thereby eliminating the end user's need to apply for a refund.

b. The Airport Safety Fund Tax. The Airport Safety Fund was established in 1983 to provide the required matching funds for federal grants. N.J.S.A. 6:1-90. The goal was to help the general aviation airports improve their facilities, by assisting them in obtaining Federal grants. Id. The Fund may also be used to provide direct grants or loans to the airports for safety projects. N.J.S.A. 6:1-93. The Fund is maintained as a separate special account within the State's general fund with the Commissioner of the Department of Transportation regulating the distribution of grants and loans from the Fund. N.J.S.A. 6:1-92, 93.

In 1994, the Senate and the Assembly introduced bills (copies attached) which would lower the tax rate to \$.01 per gallon. As an offset, the bill proposed to expand the tax base by imposing the tax on fuels sold to all public use aeronautical facilities, thereby including Newark International Airport. 1994 New Jersey Senate Bill No. 541; 1994 New Jersey Assembly Bill No. 1153. In addition, these bills provide for the application of the Airport Safety Fund grants and loans to the improvements of the facilities of all public use aeronautical facilities. Id. The Assembly Bill was withdrawn on June 1, 1995. Currently the Senate Bill is in the Senate Budget Appropriations Committee and is in its first reprint.

B. New Jersey Sales and Use Tax

1. In General

New Jersey imposes a tax of 6% on the retail sale or rental of tangible personal property, and retail sale of producing, fabricating, processing, installing, maintaining, repairing, storing and servicing tangible personal property, certain advertising services, sale of restaurant meals, rental of hotel and motel rooms and certain admission charges. N.J.S.A. 54:32B-3. New Jersey's compensating use tax is essentially the mirror image of the sales tax. The 6% use tax is imposed on the use of goods in the State where goods that would be taxable if purchase in the State were purchased at retail outside the State for use in the State. N.J.S.A. 32B:-6. Motor fuels are exempt from this tax. N.J.S.A. 54:32B-8.8.

Sales of and repairs to aircraft that are used as common carriers are exempt from this tax. N.J.S.A. 54:32B-8.35. If no sales tax is imposed upon the purchase of an aircraft, it still can be subjected to the use tax if it is stored or hangared in New Jersey. Aircraft used by a corporation to transport executives is not a common carrier for purposes of the exemption even if the aircraft is certified as a Part 135 air carrier by the Federal Aeronautics Administration and is occasionally used for hire. KSS Transportation Corp. v. Div. of Taxation, 9 N.J. Tax 273 (Tx. Ct. 1987), aff'd., 11 N.J. Tax 89 (App. Div. 1989). The courts define common carrier as a carrier that is "competing commercially in the market for the patronage of the general public." Id. at 93 (citations omitted). Therefore, aircraft purchased by a business for the purpose of transporting executives and clients must pay a 6% sales or use tax on the aircraft if it is "used" in New Jersey.

Delaware does not have a sales tax and therefore there is no sales tax on the purchase of airplanes in Delaware. Pennsylvania imposes a 6% sales tax on the purchase rental, lease, maintenance of aircraft and on the repair parts on all private or commercial aircraft used or housed in the State. Tax Update No. 14, Dept of Revenue, December 1986. An exemption is provided if the purchase of the aircraft is for resale or lease. Reg. § 58.8(f).

New York imposes a sales tax of 7% to 8.5% (4% imposed by the State plus local sales tax) on the purchase or use of aircraft in the State. The use tax will apply if the aircraft is hangared or regularly used in the State. Petition of Knight, Div. Of Tax Appeals, ALJ, August 30, 1990. Exempt from this tax are aircraft purchased and used as commercial aircraft in interstate and intrastate commerce. Law § 1115(a)(21). To be considered commercial aircraft, 75% of the aircraft's income must derive from transporting persons and goods in interstate and intrastate commerce. The transporting of executives is not included. TSB-M-80(4)S, May 15, 1980.

2. Sales and Use Tax Issues and Recommendations

A 6% tax on the purchase of aircraft together with the tax on the cost of repairs and parts to aircraft may be significant enough to affect the location of such purchase. Because of the inherent mobility of aircraft, a business may choose to hangar its aircraft in a lower sales tax state such as Delaware, even if the corporate offices are located in New Jersey. While exempting all aircraft and related parts and repairs from sales and use taxation would be an ideal solution, it may not be practical from a fiscal standpoint. However, consideration should be given to expanding the current exemption to include more business

aircraft, thereby making New Jersey general aviation airports an attractive alternative for New York and Philadelphia metropolitan businesses.

C. New Jersey Corporation Business Tax

1. In General

New Jersey's Corporation Business Tax ("CBT") imposes a franchise tax on domestic and foreign corporations for the privilege of having or exercising their corporate charter in the State, doing business in the State or maintaining an office in New Jersey.

N.J.S.A. 54:10A-2. Specifically, a corporation is taxed in this State if the corporation:

- 1) is a domestic corporation, existing under the laws of the State;
- 2) is a foreign corporation that holds a general certificate of authority to do business in the State or holds a similar authority from a different state authorizing it to do business in this State;
- 3) does business in the State;
- 4) employs or owns capital in the State;
- 5) employs or owns property in this State; or
- 6) maintains an office in this State.

N.J.A.C. 18:7-1.6.

The tax rate is 9% of entire net income or income attributable to New Jersey. N.J.S.A. 54:10A-5. To properly tax only the income that is attributable to New Jersey, a corporation doing business within and without the State must allocate its income according to a business allocation factor consisting of a three-fraction formula similar to that used by many other states. N.J.S.A. 54:10A-6. The business allocation factor is computed by adding together the percentages of the corporation's property within and without New

Jersey, sales within and without New Jersey and payroll within and without New Jersey and then dividing the total percentages by three. The factor is then applied to the corporation's income to determine New Jersey income. Id.

2. Corporation Business Tax Issues and Recommendations

The CBT affects users of general aviation airports in two ways: subjectivity and allocation. Maintaining an aircraft in New Jersey alone can subject a corporation to tax. A multistate corporation which is not otherwise required to pay tax in New Jersey which hangars aircraft in New Jersey becomes taxable because it has property maintained in the State. Once a corporation is taxable by New Jersey, the value of its aircraft located in New Jersey increases the property fraction of the business allocation factor, thereby increasing the amount of tax paid to the State.

New Jersey's general aviation airports may be more attractive to the many corporations in the metropolitan areas if a corporation could hangar an aircraft in the State without triggering CBT subjectivity. In addition, for those corporations already subject to the CBT, an exclusion from the property factor of the three factor formula could be provided for the value of aircraft hangared and maintained in a New Jersey could provide some small tax savings. These changes could be factors which lead corporations located both within and outside the State to favorably view New Jersey's general aviation airports.



AIRPORT DEVELOPMENT RIGHT PURCHASE PROGRAM

THE TIME HAS COME

New Jersey has been losing one public use general aviation airport each year since the 1960s. We need a mechanism to preserve these public use transportation resources and we need it immediately. Privately owned public use airports are under a constant threat from development. Flat, cleared, well drained land with road access and electric power is valuable real estate. Sooner or later, all real estate is developed to its "highest and best use". The Division of Aeronautics does not have the resources to buy all the privately owned airports, but outright purchase is not necessary.

For the past decade New Jersey has successfully maintained rural open space as farmland in a program funded through Green Acres. The program's purpose is to preserve farms, open space, and regional agricultural economies. State funds are used to acquire the agricultural development rights of the most valuable farmland. Volunteers on Agricultural Development Boards evaluate and rank the relative value of farms in their county and make recommendations to the State Ag Development Board about acquiring development rights. State officials then negotiate the purchase of farm development rights with those landowners who are willing to participate in the program. Farm owners receive a sum of money and, in return, must agree to accept deed restrictions on their property. Those restrictions prohibit any construction and development not directly related to agriculture.

A precedent has thus been set which could benefit us greatly by preserving our privately owned public use airport system. We propose to do exactly the same thing for airports with money from the Aviation Safety Fund. Recent legislation has greatly increased the amount of money available to the Division of Aeronautics for qualifying projects. The Division would negotiate the purchase of airport development rights with the advice and recommendations of the Aviation Advisory Council or other group chartered to select and rank privately owned public use airports.

Such a program will accomplish a number of things. First and most importantly, it will preserve public use airports so that future generations of pilots can enjoy the freedom, efficiency and exhilaration of flight. It will also provide an immediate cash reward to airport owners who have chosen to remain in aviation. In many cases it will enable them to continue their businesses and retain title to their property.

Development potential is part of a bundle of rights that go with property ownership. If those rights are sold and the property can no longer be subdivided or developed for a

103x

non-approved use, the resale value of the property will be decreased. Landowners who have sold their rights can make a strong case for a tax appeal to reduce local property taxes based on the decrease in the property's future utility and value.

Further, the sale of airport development rights should make it very clear to the neighbors that an airport will remain as a public use airport. Far too much time and money has been wasted by owners battling their host municipalities over their airport's right to exist. Owners and municipalities can work out their problems with a mutual understanding that the airport will have a permanent future.

Each privately owned airport in the State is different and each owner has different goals, obligations and objectives. The program must be as flexible as its participants require. In the case of larger tracts, the State might agree to purchase rights only on the main runways. This would allow compatible commercial or "airpark" residential development on the rest of the property to make full use of the airport.

The State might agree to pay a relatively high purchase price for development rights and require the landowner to accept a ten or twenty year payout period. This would be similar to a land or purchase contract, a common form of property transaction in agriculture. The airport would be preserved from the start and a continuing stream of income would be provided by the State to the owner. This would also stretch the funds available and permit the State to include more airports in the program.

The State might also purchase options or rights of first refusal from those public use airport owners who did not wish to enter the program or whose airports are not selected for immediate inclusion. The main purpose of the program is to preserve the public use airport system, however that can be fairly accomplished.

The program will allow airport owners to stay in business if they want to. It will also permit them to sell and retire with the knowledge that their property will continue in use as an airport. Because airport owners will have already received a good portion of their property's equity from the sale of development rights, they would have to sell the property at a lower price which reflects its qualified use as an airport only. A new generation of owners will be able to buy airport properties, bringing their enthusiasm and talent to aviation. The program will enable New Jersey to maintain its tradition of family owned and operated public use airports.

If you believe this idea has merit, contact your State Senator and Legislative Members or the NJDOT Division of Aeronautics. If we want to save airports badly enough, it can happen and we can ensure that your grandchildren will have a place to land in New Jersey.

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