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PUBLIC HEARING

before

SENATE ENERGY AND ENVIRONMENT COMMITTEE

on

Senate, No. 1320 and Assembly, No. 2139

(An Act to amend and supplement the "Pinelands Protection Act")

Held:

February 18, 1981

Walter Edge Auditorium

Atlantic Community College

Mays Landing, New Jersey

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JUL 3 1981

MEMBER OF COMMITTEE PRESENT:

Senator Frank J. Dodd (Chairman)

ALSO:

Michael F. Catania, Senior Research Associate
Office of Legislative Services
Aide, Senate Energy and Environment Committee

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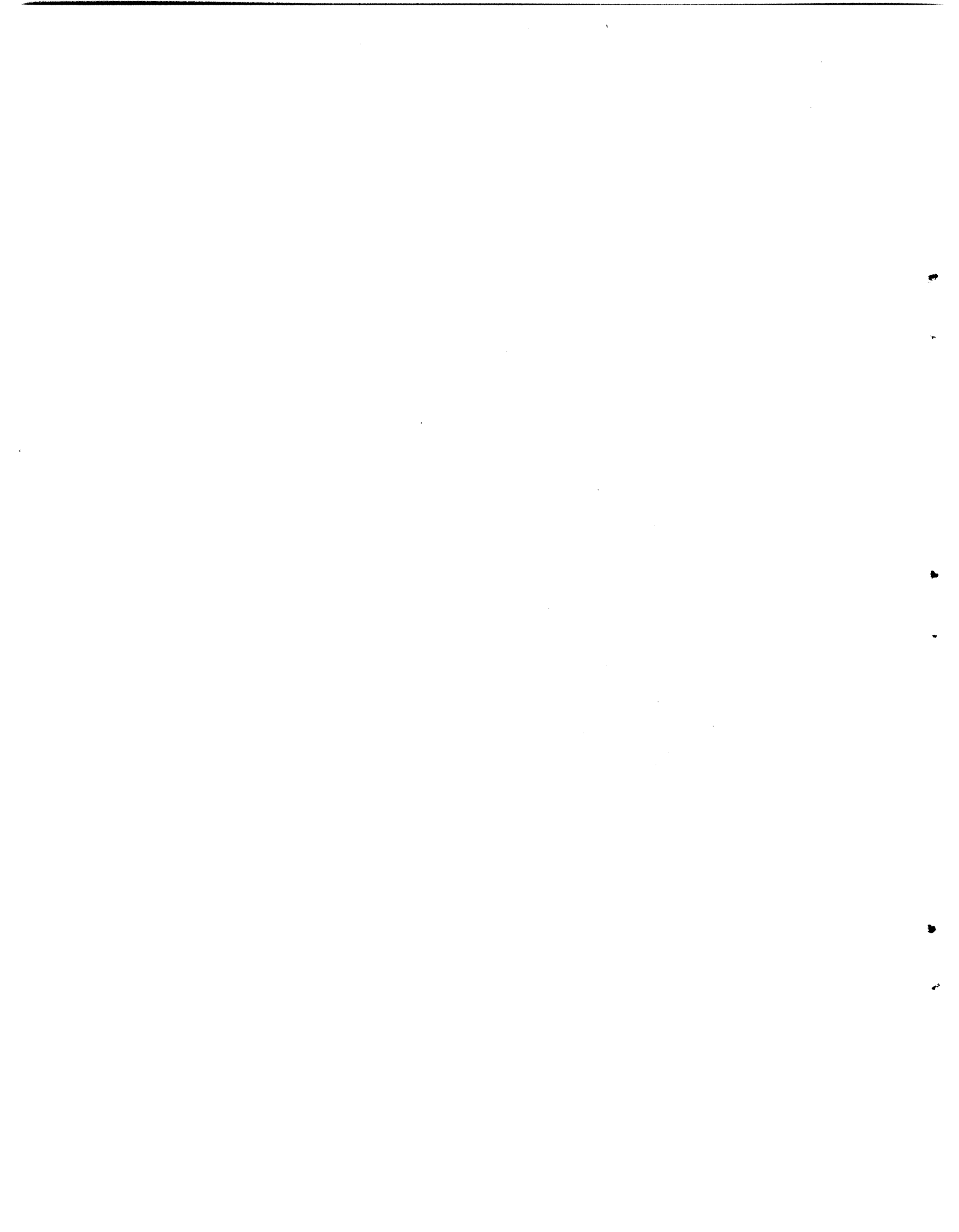
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SENATE, No. 1320

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1980

By Senators PERSKIE, J. RUSSO, PARKER, ZANE, CAFIERO
and MARESSA

Referred to Committee on Energy and Environment

AN ACT to amend and supplement the "Pinelands Protection Act,"
approved June 28, 1979 (P. L. 1979, c. 111).

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

1 1. Section 7 of P. L. 1979, c. 111 (C. 13:18A-8) is amended to
2 read as follows:

3 7. The commission shall, on or before August 8, 1980, and after
4 public hearings held in the pinelands area and in other areas of
5 the State at places of its choosing, prepare and adopt a compre-
6 hensive management plan for the pinelands area. Such plan shall
7 be periodically revised and updated, after public hearings, and
8 shall include, but need not necessarily be limited to:

9 a. A resource assessment which:

10 (1) Determines the amount and type of human development and
11 activity which the ecosystem of the pinelands area can sustain
12 while still maintaining the overall ecological values thereof, with
13 special reference to ground and surface water supply and quality;
14 natural hazards, including fire; endangered, unique, and unusual
15 plants and animals and biotic communities; ecological factors re-
16 lating to the protection and enhancement of blueberry, cranberry
17 and other agricultural production or activity; air quality; and
18 other appropriate considerations affecting the ecological integrity
19 of the pinelands area;

20 (2) Includes an assessment of scenic, aesthetic, cultural, open
21 space, and outdoor recreation resources of the area, together with a
22 determination of overall policies required to maintain and enhance
23 such resources; and

24 (3) Utilizes soil resources information from the National Co-
25 operative Soil Survey and the soil conservation districts in the
26 pinelands area.

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

27 b. A map showing the detailed boundary of the Pinelands Na-
28 tional Reserve, such map to delineate:

29 (1) Major areas within the boundary which are of critical
30 ecological importance;

31 (2) Major areas and resources adjacent to the boundary that
32 have significance to the ecological integrity of the Pinelands
33 National Reserve; and

34 (3) Areas of scenic, open space, cultural, and recreational
35 significance.

36 c. The map prepared pursuant to subsection c. of section 10 of
37 this act.

38 d. A land use capability map and a comprehensive statement
39 of policies for planning and managing the development and use
40 of land in the pinelands area, which policies shall:

41 (1) Consider and detail the application of a variety of land
42 and water protection and management techniques, including but not
43 limited to, zoning and regulation derived from State and local police
44 powers, development and use standards, permit systems, acqui-
45 sition of conservation easements and other interests in land, public
46 access agreements with private landowners, purchase of land for
47 resale or lease-back, fee acquisition of public recreation sites and
48 ecologically sensitive areas, transfer of development rights, dedi-
49 cation of private lands for recreation or conservation purposes
50 and any other appropriate method of land and water protection
51 and management which will help meet the goals and carry out the
52 policies of the management plan;

53 (2) Include a policy for the use of State and local police power
54 responsibilities to the greatest extent practicable to regulate the
55 use of land and water resources in a manner consistent with the
56 purposes and provisions of this act and the Federal Act; and

57 (3) Recognize existing economic activities within the area and
58 provide for the protection and enhancement of such activities as
59 farming, forestry, proprietary recreational facilities, and those
60 indigenous industries and commercial and residential develop-
61 ments which are consistent with such purposes and provisions.

62 e. A coordination and consistency component which details the
63 ways in which local, State, and Federal programs and policies
64 may best be coordinated to promote the goals and policies of the
65 management plan, and which details how land, water, and struc-
66 tures managed by governmental or nongovernmental entities in the
67 public interest within the pinelands area may be integrated into
68 the management plan.

69 f. A public use component including, but not limited to, a detailed
70 program to inform the public of appropriate uses of the pinelands
71 area.

72 g. A financial component, together with a cash flow timetable
73 which:

74 (1) Details the cost of implementing the management plan, in-
75 cluding, but not limited to, payments in lieu-of-taxes, acquisition,
76 within 5 years of the effective date of this act, of fee simple or
77 other interests in lands for preservation or recreation purposes,
78 compensation guarantees, general administrative costs, and any
79 anticipated extraordinary or continuing costs; and

80 (2) Details the sources of revenue for covering such costs, in-
81 cluding, but not limited to, grants, donations, and loans from local,
82 State, and Federal departments and agencies, and from the private
83 sector.

84 h. A program to provide for the maximum feasible local govern-
85 ment and public participation in the management of the pinelands
86 area.

87 i. A program for State and local governmental implementation
88 of the comprehensive management plan and the various elements
89 thereof in a manner that will ensure the continued, uniform, and
90 consistent protection of the pinelands area in accord with the pur-
91 poses and provisions of this act and the Federal Act, including:

92 (1) Minimum standards for the adoption, as required in section
93 11 of this act, of municipal and county plans and ordinances con-
94 cerning the development and use of land in the **[pinelands] preser-**
95 *vation* area, including, but not limited to, standards for minimum
96 lot sizes and stream setbacks, maximum appropriate population
97 densities, and regulated or prohibited uses for specific portions of
98 the pinelands area; **[and]**

99 (2) *Recommended standards for the adoption of municipal and*
100 *county plans and ordinances concerning the development and use*
101 *of land in the protection area; and*

102 **[(2)]** (3) Such guidelines for any State or local agencies as may
103 be prepared by the commission pursuant to section 12 hereof.

104 j. In conjunction with existing State programs and planning
105 processes, a plan to implement the provisions of the "Clean Water
106 Act" (P. L. 95-217) and the "Safe Drinking Water Act" (P. L.
107 93-523) which pertain to the surface and ground water of the
108 Pinelands National Reserve;

109 k. The report transmitted to the commission by the Department
110 of Environmental Protection pursuant to section 22 of this act.

1 2. Section 9 of P. L. 1979, c. 111 (C. 13:18A-10) is amended to
2 to read as follows:

3 9. a. During the development of the comprehensive management
4 plan, the commission shall consult with appropriate officials of local
5 governments, including the council, and State or Federal agencies
6 with jurisdiction over lands, waters and natural resources within
7 the pinelands area, with interested professional, scientific, and
8 citizen organizations, and with any citizens advisory committee
9 which may be established by the Governor. The commission shall
10 review all relevant existing information and studies on the pine-
11 lands area including, but not limited to, the report of the committee
12 created pursuant to Executive Order 56, issued May 28, 1977.

13 b. Upon the adoption thereof, the comprehensive management
14 plan shall be submitted to the Governor and to the Legislature.
15 The commission shall further submit such plan to the Secretary of
16 the United States Department of Interior, as provided in the
17 Federal Act.

18 c. Subsequent to the adoption of the comprehensive management
19 plan, the provisions of any other law, ordinance, rule or regulation
20 to the contrary notwithstanding, no application for development
21 within the [pinelands] *preservation* area shall be approved by any
22 municipality, county or agency thereof, and no State approval,
23 certificate, license, consent, permit, or financial assistance for the
24 construction of any structure or the disturbance of any land within
25 such area shall be granted, unless such approval or grant conforms
26 to the provisions of such comprehensive management plan; pro-
27 vided, however, that the commission is hereby authorized to waive
28 strict compliance with such plan or with any element or standard
29 contained therein, upon finding that such waiver is necessary to
30 alleviate extraordinary hardship or to satisfy a compelling public
31 need, is consistent with the purposes and provisions of this act
32 and the Federal Act, and would not result in substantial impair-
33 ment of the resources of the pinelands area; and provided further,
34 however, that the commission shall, within 90 days of the effective
35 date of this act, and after public hearing thereon, adopt rules and
36 regulations which specify the standards for determining such extra-
37 ordinary hardship, compelling public need, consistency and sub-
38 stantial impairment.

1 3. Section 11 of P. L. 1979, c. 111 (C. 13:18A-12) is amended
2 to read as follows:

3 11. a. The provisions of any other law, ordinance, rule or regu-
4 lation to the contrary notwithstanding, within 1 year of the date
5 of the adoption of the comprehensive management plan, or any

6 revision thereof, each county located in whole or in part in the
7 **pinelands** *preservation* area shall submit to the commission such
8 revisions of the county master plan as may be necessary in order
9 to implement the objectives of the comprehensive management plan
10 and conform with the minimum standards contained therein. After
11 receiving and reviewing such revisions, as applicable to the de-
12 velopment and use of land in the **pinelands** *preservation* area,
13 the commission shall approve, reject, or approve with conditions
14 said revised plans, as it deems appropriate, after public hearing,
15 within 60 days of the submission thereof.

16 Upon rejecting or conditionally approving any such revised
17 plan, the commission shall identify such changes therein that it
18 deems necessary for commission approval thereof, and the relevant
19 county shall adopt and enforce such plan, as so changed.

20 b. Within 1 year of the date of the adoption of the comprehensive
21 management plan, or any revision thereof, each municipality
22 located in whole or in part in the **pinelands** *preservation* area
23 shall submit to the commission such revisions of the municipal
24 master plan and local land use ordinances as may be necessary in
25 order to implement the objectives of the comprehensive manage-
26 ment plan and conform with the minimum standards contained
27 therein. After receiving and reviewing such revisions, as applica-
28 ble to the development and use of land in the **pinelands** *preserva-*
29 *tion* area, the commission shall approve, reject, or approve with
30 conditions said revised plans and ordinances, as it deems appro-
31 priate, after public hearing, within 120 days of the date of the
32 submission thereof.

33 Upon rejecting or conditionally approving any such revised plan
34 or ordinance, the commission shall identify such changes therein
35 that it deems necessary for commission approval thereof, and the
36 relevant municipality shall adopt and enforce such plan or ordi-
37 nance, as so changed.

38 The commission may, as herein provided, delegate the review
39 of any municipal master plan or land use ordinance to the planning
40 board of the county wherein such municipality is located. Any
41 such delegation shall be made only: (1) upon a finding by the
42 commission that such delegation is consistent with the purposes
43 and provisions of this act and the Federal Act; (2) if the commis-
44 sion has approved the master plan for such county; and, (3) at
45 the request of the governing body of such county. The results of
46 any such county planning board review shall be transmitted to
47 the commission prior to the commission's review and approval of
48 any such municipal master plan or ordinance.

49 c. In the event that any county or municipality *in the preserva-*
 50 *tion area* fails to adopt or enforce an approved revised master
 51 plan or implementing land use ordinances, as the case may
 52 be, including any condition thereto imposed by the commission,
 53 the commission shall adopt and enforce such rules and regulations
 54 as may be necessary to implement the minimum standards con-
 55 tained in the comprehensive management plan as applicable to
 56 *the preservation area* in any such county or municipality.

57 d. Any approval of any application for development granted by
 58 any municipality, county, or agency thereof in violation of the
 59 provisions of this section shall be null and void and of no force
 60 and effect at law or equity.

1 4. Section 12 of P. L. 1979, c. 111 (C. 13:18A-13) is amended
 2 to read as follows:

3 12. In order to assure that the actions, decisions, determinations
 4 and rulings of the State, county and municipal governments shall,
 5 to the maximum extent practicable and feasible, conform with the
 6 comprehensive management plan adopted by the commission pur-
 7 suant to section 7 of this act, the commission shall prepare,
 8 periodically revise and transmit to all State, county or municipal
 9 agencies empowered to finance or construct any capital project
 10 within the pinelands area, and to all State agencies empowered to
 11 grant or deny any approval, certificate, license, consent, or permit
 12 for the construction of any structure or the disturbance of land
 13 therein, such guidelines for the location and construction of such
 14 capital projects or for the granting of any such approval, certificate,
 15 license, consent, permit, or financial assistance, as the case may be,
 16 as the commission deems necessary and appropriate. *These guide-*
 17 *lines shall be binding with respect to any construction or distur-*
 18 *bance of land in the preservation area, and advisory with respect*
 19 *to any construction or disturbance of land in the protection area.*

1 5. Section 14 of P. L. 1979, c. 111 (C. 13:18A-15) is amended
 2 to read as follows:

3 14. Subsequent to the adoption of the comprehensive manage-
 4 ment plan, the commission is hereby authorized to commence a
 5 review, within 15 days after any final municipal or county approval
 6 thereof, of any application for development in the **[pinelands]**
 7 *preservation area*. Upon determining to exercise such authority,
 8 the commission shall transmit, by certified mail, written notice
 9 thereof to the person who submitted such application. The com-
 10 mission shall, after public hearing thereon, approve, reject, or
 11 approve with conditions any such application within 45 days of

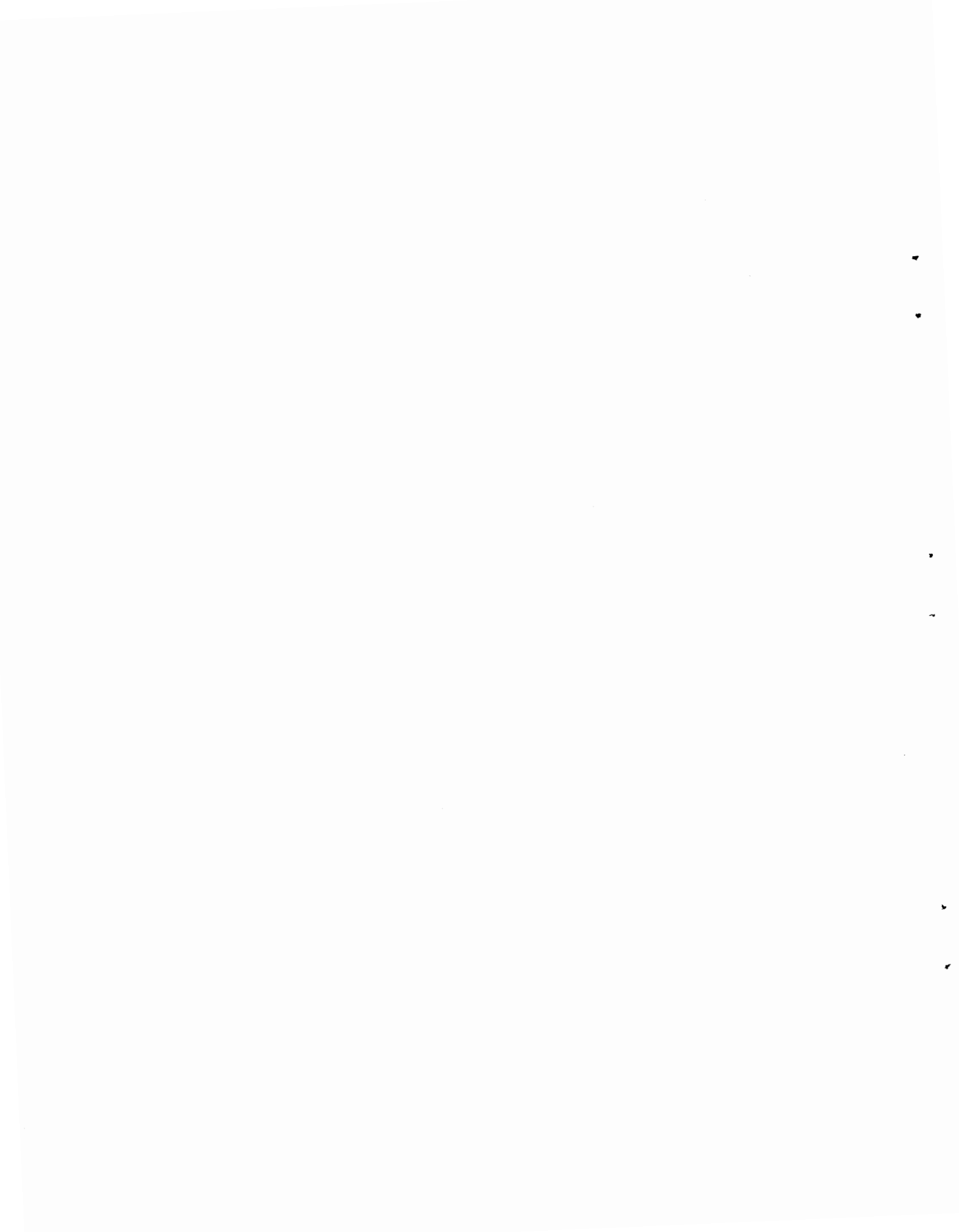
12 transmitting such notice; provided, however, that such application
 13 shall not be rejected or conditionally approved unless the commis-
 14 sion determines that such development does not conform with the
 15 comprehensive management plan or the minimum standards con-
 16 tained therein, as applicable to the county or municipality wherein
 17 such development is located, or that such development could result
 18 in substantial impairment of the resources of the pinelands area.
 19 Such approval, rejection or conditional approval shall be binding
 20 upon the person who submitted such application, shall supersede
 21 any municipal or county approval of any such development, and
 22 shall be subject only to judicial review as provided in section 19
 23 of this act.

1 6. (New section) If a municipality, county, or agency thereof
 2 shall approve an application for development in the protection
 3 area contrary to the recommended standards for approvals estab-
 4 lished by the commission pursuant to section 7 or 12 of P. L. 1979,
 5 c. 111 (C. 13:18A-8 or C. 13:18A-13), the commission may obtain
 6 judicial review thereof by the filing of a petition in any court of
 7 competent jurisdiction within 45 days of the approval. In any such
 8 proceeding, the commission shall have the burden of proof that
 9 the approval is not consistent with the purposes and provisions
 10 of the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A-1
 11 et seq.) and of the Federal Act, and that the approval would
 12 result in substantial impairment of the resources of the pinelands
 13 area.

1 7. This act shall take effect immediately.

STATEMENT

This bill would provide that the comprehensive management plan for the pinelands area be binding with respect to the development and use of land in the preservation area and advisory with respect to such development or use in the protection area. If local approvals in the protection area were granted in disregard of this advice, the commission would be authorized to seek judicial review thereof, and to have such approvals overturned if the commission could demonstrate that these approvals (1) were inconsistent with the purposes and provisions of P. L. 1979, c. 111 and P. L. 95-625, and (2) would result in the substantial impairment of the resources of the pinelands area.



ASSEMBLY, No. 2139

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 29, 1980

By Assemblymen KARCHER, MATTHEWS, GORMLEY, KAVANAUGH, HURLLEY, STEWART, HERMAN, McMANIMON, DOYLE, OTLOWSKI, FLYNN, RILEY, ORECHIO, EDWARDS, CARDINALE, LAOLELLA, KOSCO, IMPERIALE, ROCCO, FRANKS, SHUSTED, Assemblywoman GLUCK, Assemblymen VILLANE, ALPANESE, LITTELL, SNEDEKER, CHINNICI, Assemblywoman BURGIO, Assemblymen MAGUIRE, DOWD, PELLECCCHIA, GIRGENTI, Assemblywoman McCONNELL, Assemblymen DEVERIN, DORIA, PATERNITI, PATERO, Assemblywoman GARVIN, Assemblymen ADUBATO, D. GALLO, SMITH and JACKMAN

Referred to Committee on Agriculture and Environment

AN ACT to amend and supplement the "Pinelands Protection Act," approved June 28, 1979 (P. L. 1979, c. 111).

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

1 1. Section 7 of P. L. 1979, c. 111 (C. 13:18A-8) is amended to
2 read as follows:

3 7. The commission shall, on or before August 8, 1980, and after
4 public hearings held in the pinelands area and in other areas of
5 the State at places of its choosing, prepare and adopt a compre-
6 hensive management plan for the pinelands area. Such plan shall
7 be periodically revised and updated, after public hearings, and
8 shall include, but need not necessarily be limited to:

9 a. A resource assessment which:

10 (1) Determines the amount and type of human development and
11 activity which the ecosystem of the pinelands area can sustain
12 while still maintaining the overall ecological values thereof, with
13 special reference to ground and surface water supply and quality;
14 natural hazards, including fire; endangered, unique, and unusual
15 plants and animals and biotic communities; ecological factors re-
16 lating to the protection and enhancement of blueberry, cranberry

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

17 and other agricultural production or activity; air quality; and
18 other appropriate considerations affecting the ecological integrity
19 of the pinelands area;

20 (2) Includes an assessment of scenic, aesthetic, cultural, open
21 space, and outdoor recreation resources of the area, together with a
22 determination of overall policies required to maintain and enhance
23 such resources; and

24 (3) Utilizes soil resources information from the National Co-
25 operative Soil Survey and the soil conservation districts in the
26 pinelands area.

27 b. A map showing the detailed boundary of the Pinelands Na-
28 tional Reserve, such map to delineate:

29 (1) Major areas within the boundary which are of critical
30 ecological importance;

31 (2) Major areas and resources adjacent to the boundary that
32 have significance to the ecological integrity of the Pinelands
33 National Reserve; and

34 (3) Areas of scenic, open space, cultural, and recreational
35 significance.

36 c. The map prepared pursuant to subsection c. of section 10 of
37 this act.

38 d. A land use capability map and a comprehensive statement
39 of policies for planning and managing the development and use
40 of land in the pinelands area, which policies shall:

41 (1) Consider and detail the application of a variety of land
42 and water protection and management techniques, including but not
43 limited to, zoning and regulation derived from State and local police
44 powers, development and use standards, permit systems, acquisi-
45 tion of conservation easements and other interests in land, public
46 access agreements with private landowners, purchase of land for
47 resale or lease-back, fee acquisition of public recreation sites and
48 ecologically sensitive areas, transfer of development rights, dedi-
49 cation of private lands for recreation or conservation purposes
50 and any other appropriate method of land and water protection
51 and management which will help meet the goals and carry out the
52 policies of the management plan;

53 (2) Include a policy for the use of State and local police power
54 responsibilities to the greatest extent practicable to regulate the
55 use of land and water resources in a manner consistent with the
56 purposes and provisions of this act and the Federal Act; and

57 (3) Recognize existing economic activities within the area and
58 provide for the protection and enhancement of such activities as

59 farming, forestry, proprietary recreational facilities, and those
60 indigenous industries and commercial and residential develop-
61 ments which are consistent with such purposes and provisions.

62 e. A coordination and consistency component which details the
63 ways in which local, State, and Federal programs and policies
64 may best be coordinated to promote the goals and policies of the
65 management plan, and which details how land, water, and struc-
66 tures managed by governmental or nongovernmental entities in the
67 public interest within the pinelands area may be integrated into
68 the management plan.

69 f. A public use component including, but not limited to, a detailed
70 program to inform the public of appropriate uses of the pinelands
71 area.

72 g. A financial component, together with a cash flow timetable
73 which:

74 (1) Details the cost of implementing the management plan, in-
75 cluding, but not limited to, payments in lieu-of-taxes, acquisition,
76 within 5 years of the effective date of this act, of fee simple or
77 other interests in lands for preservation or recreation purposes,
78 compensation guarantees, general administrative costs, and any
79 anticipated extraordinary or continuing costs; and

80 (2) Details the sources of revenue for covering such costs, in-
81 cluding, but not limited to, grants, donations, and loans from local,
82 State, and Federal departments and agencies, and from the private
83 sector.

84 h. A program to provide for the maximum feasible local govern-
85 ment and public participation in the management of the pinelands
86 area.

87 i. A program for State and local governmental implementation
88 of the comprehensive management plan and the various elements
89 thereof in a manner that will ensure the continued, uniform, and
90 consistent protection of the pinelands area in accord with the pur-
91 poses and provisions of this act and the Federal Act, including:

92 (1) Minimum standards for the adoption, as required in section
93 11 of this act, of municipal and county plans and ordinances con-
94 cerning the development and use of land in the [pinelands] *preser-*
95 *vation* area, including, but not limited to, standards for minimum
96 lot sizes and stream setbacks, maximum appropriate population
97 densities, and regulated or prohibited uses for specific portions of
98 the pinelands area; [and]

99 (2) *Recommended standards for the adoption of municipal and*
100 *county plans and ordinances concerning the development and use*
101 *of land in the protection area; and*

102 **[(2)]** (3) Such guidelines for any State or local agencies as may
103 be prepared by the commission pursuant to section 12 hereof.

104 j. In conjunction with existing State programs and planning
105 processes, a plan to implement the provisions of the "Clean Water
106 Act" (P. L. 95-217) and the "Safe Drinking Water Act" (P. L.
107 93-523) which pertain to the surface and ground water of the
108 Pinelands National Reserve;

109 k. The report transmitted to the commission by the Department
110 of Environmental Protection pursuant to section 22 of this act.

1 2. Section 8 of P. L. 1979, c. 111 (C. 13:18A-9) is amended to
2 read as follows:

3 8. a. The goal of the comprehensive management plan with re-
4 spect to the entire pinelands area shall be to protect, preserve and
5 enhance the significant values of the resources thereof in a man-
6 ner which is consistent with the purposes and provisions of this act
7 and the Federal Act.

8 b. The goals of the comprehensive management plan with respect
9 to the protection area shall be to:

10 (1) Preserve and maintain the essential character of the existing
11 pinelands environment, including the plant and animal species indi-
12 genous thereto and the habitat therefor;

13 (2) Protect and maintain the quality of surface and ground
14 waters;

15 (3) Promote the continuation and expansion of agricultural and
16 horticultural uses; *and*

17 **[(4)]** Discourage piecemeal and scattered development; **and]**

18 **[(5)]** (4) Encourage appropriate patterns of compatible resi-
19 dential, commercial and industrial development, in or adjacent to
20 areas already utilized for such purposes, in order to accommodate
21 regional growth influences in an orderly way while protecting the
22 pinelands environment from the individual and cumulative adverse
23 impacts thereof.

24 c. The goals of the comprehensive management plan with respect
25 to the preservation area shall be to:

26 (1) Preserve an extensive and contiguous area of land in its
27 natural state, thereby insuring the continuation of a pinelands
28 environment which contains the unique and significant ecological
29 and other resources representative of the pinelands area;

30 (2) Promote compatible agricultural, horticultural and recrea-
31 tional uses, including hunting, fishing and trapping, within the
32 framework of maintaining a pinelands environment;

33 (3) Prohibit any construction or development which is incom-
34 patible with the preservation of this unique area;

35 (4) Provide a sufficient amount of undeveloped land to accom-
36 modate specific wilderness management practices, such as selective
37 burning, which are necessary to maintain the special ecology of
38 the preservation area; and

39 (5) Protect and preserve the quantity and quality of existing
40 surface and ground waters.

1 3. Section 9 of P. L. 1979, c. 111 (C. 13:18A-10) is amended to
2 to read as follows:

3 9. a. During the development of the comprehensive management
4 plan, the commission shall consult with appropriate officials of local
5 governments, including the council, and State or Federal agencies
6 with jurisdiction over lands, waters and natural resources within
7 the pinelands area, with interested professional, scientific, and
8 citizen organizations, and with any citizens advisory committee
9 which may be established by the Governor. The commission shall
10 review all relevant existing information and studies on the pine-
11 lands area including, but not limited to, the report of the committee
12 created pursuant to Executive Order 56, issued May 28, 1977.

13 b. Upon the adoption thereof, the comprehensive management
14 plan shall be submitted to the Governor and to the Legislature.
15 The commission shall further submit such plan to the Secretary of
16 the United States Department of Interior, as provided in the
17 Federal Act.

18 c. Subsequent to the adoption of the comprehensive management
19 plan, the provisions of any other law, ordinance, rule or regulation
20 to the contrary notwithstanding, no application for development
21 within the [pinelands] *preservation* area shall be approved by any
22 municipality, county or agency thereof, and no State approval,
23 certificate, license, consent, permit, or financial assistance for the
24 construction of any structure or the disturbance of any land within
25 such area shall be granted, unless such approval or grant conforms
26 to the provisions of such comprehensive management plan; pro-
27 vided, however, that the commission is hereby authorized to waive
28 strict compliance with such plan or with any element or standard
29 contained therein, upon finding that such waiver is necessary to
30 alleviate extraordinary hardship or to satisfy a compelling public
31 need, is consistent with the purposes and provisions of this act
32 and the Federal Act, and would not result in substantial impair-
33 ment of the resources of the pinelands area; and provided further,
34 however, that the commission shall, within 90 days of the effective
35 date of this act, and after public hearing thereon, adopt rules and
36 regulations which specify the standards for determining such extra-
37 ordinary hardship, compelling public need, consistency and sub-
38 stantial impairment.

1 4. Section 11 of P. L. 1979, c. 111 (C. 13:18A-12) is amended
2 to read as follows:

3 11. a. The provisions of any other law, ordinance, rule or regu-
4 lation to the contrary notwithstanding, within 1 year of the date
5 of the adoption of the comprehensive management plan, or any
6 revision thereof, each county located in whole or in part in the
7 **[pinelands]** *preservation* area shall submit to the commission such
8 revisions of the county master plan as may be necessary in order
9 to implement the objectives of the comprehensive managemnt plan
10 and conform with the minimum standards contained therein. After
11 receiving and reviewing such revisions, as applicable to the de-
12 velopment and use of land in the **[pinelands]** *preservation* area,
13 the commission shall approve, reject, or approve with conditions
14 said revised plans, as it deems appropriate, after public hearing,
15 within 60 days of the submission thereof.

16 Upon rejecting or conditionally approving any such revised
17 plan, the commission shall identify such changes therein that it
18 deems necessary for commission approval thereof, and the relevant
19 county shall adopt and enforce such plan, as so changed.

20 b. Within 1 year of the date of the adoption of the comprehensive
21 management plan, or any revision thereof, each municipality
22 located in whole or in part in the **[pinelands]** *preservation* area
23 shall submit to the commission such revisions of the municipal
24 master plan and local land use ordinances as may be necessary in
25 order to implement the objectives of the comprehensive manage-
26 ment plan and conform with the minimum standards contained
27 therein. After receiving and reviewing such revisions, as applica-
28 ble to the development and use of land in the **[pinelands]** *preserva-*
29 *tion* area, the commission shall approve, reject, or approve with
30 conditions said revised plans and ordinances, as it deems appro-
31 priate, after public hearing, within 120 days of the date of the
32 submission thereof.

33 Upon rejecting or conditionally approving any such revised plan
34 or ordinance, the commission shall identify such changes therein
35 that it deems necessary for commission approval thereof, and the
36 relevant municipality shall adopt and enforce such plan or ordi-
37 nance, as so changed.

38 The commission may, as herein provided, delegate the review
39 of any municipal master plan or land use ordinance to the planning
40 board of the county wherein such municipality is located. Any
41 such delegation shall be made only: (1) upon a finding by the
42 commission that such delegation is consistent with the purposes

43 and provisions of this act and the Federal Act; (2) if the commis-
 44 sion has approved the master plan for such county; and, (3) at
 45 the request of the governing body of such county. The results of
 46 any such county planning board review shall be transmitted to
 47 the commission prior to the commission's review and approval of
 48 any such municipal master plan or ordinance.

49 c. In the event that any county or municipality *in the preserva-*
 50 *tion area* fails to adopt or enforce an approved revised master
 51 plan or implementing land use ordinances, as the case may be,
 52 including any condition thereto imposed by the commission, the
 53 commission shall adopt and enforce such rules and regulations
 54 as may be necessary to implement the minimum standards con-
 55 tained in the comprehensive management plan as applicable to
 56 *the preservation area* in any such county or municipality.

57 d. Any approval of any application for development granted by
 58 any municipality, county, or agency thereof in violation of the
 59 provisions of this section shall be null and void and of no force
 60 and effect at law or equity.

1 5. Section 12 of P. L. 1979, c. 111 (C. 13:18A-13) is amended
 2 to read as follows:

3 12. In order to assure that the actions, decisions, determinations
 4 and rulings of the State, county and municipal governments shall,
 5 to the maximum extent practicable and feasible, conform with the
 6 comprehensive management plan adopted by the commission pur-
 7 suant to section 7 of this act, the commission shall prepare,
 8 periodically revise and transmit to all State, county or municipal
 9 agencies empowered to finance or construct any capital project
 10 within the pinelands area, and to all State agencies empowered to
 11 grant or deny any approval, certificate, license, consent, or permit
 12 for the construction of any structure or the disturbance of land
 13 therein, such guidelines for the location and construction of such
 14 capital projects or for the granting of any such approval, certificate,
 15 license, consent, permit, or financial assistance, as the case may be,
 16 as the commission deems necessary and appropriate. *These guide-*
 17 *lines shall be binding with respect to any construction or distur-*
 18 *bance of land in the preservation area, and advisory with respect*
 19 *to any construction or disturbance of land in the protection area.*

1 6. Section 14 of P. L. 1979, c. 111 (C. 13:18A-15) is amended
 2 to read as follows:

3 14. Subsequent to the adoption of the comprehensive manage-
 4 ment plan, the commission is hereby authorized to commence a
 5 review, within 15 days after any final municipal or county approval
 6 thereof, of any application for development in the **[pinelands]**
 7 *preservation area*. Upon determining to exercise such authority,

8 the commission shall transmit, by certified mail, written notice
9 thereof to the person who submitted such application. The com-
10 mission shall, after public hearing thereon, approve, reject, or
11 approve with conditions any such application within 45 days of
12 transmitting such notice; provided, however, that such application
13 shall not be rejected or conditionally approved unless the commis-
14 sion determines that such development does not conform with the
15 comprehensive management plan or the minimum standards con-
16 tained therein, as applicable to the county or municipality wherein
17 such development is located, or that such development could result
18 in substantial impairment of the resources of the pinelands area.
19 Such approval, rejection or conditional approval shall be binding
20 upon the person who submitted such application, shall supersede
21 any municipal or county approval of any such development, and
22 shall be subject only to judicial review as provided in section 19
23 of this act.

1 7. (New section) If a municipality, county, or agency thereof
2 shall approve an application for development in the protection
3 area contrary to the recommended standards for approvals estab-
4 lished by the commission pursuant to section 7 or 12 of P. L. 1979,
5 c. 111 (C. 13:18A-8 or C. 13:18A-13), the commission may obtain
6 judicial review thereof by the filing of a petition in any court of
7 competent jurisdiction within 45 days of the approval. In any such
8 proceeding, the commission shall have the burden of proof that
9 the approval is not consistent with the purposes and provisions
10 of the "Pinelands Protection Act," P. L. 1979, c. 111 (C. 13:18A-1
11 et seq.) and of the Federal Act, and that the approval would
12 result in substantial impairment of the resources of the pinelands
13 area.

1 8. This act shall take effect immediately.

STATEMENT

This bill would provide that the comprehensive management plan for the pinelands area be binding with respect to the development and use of land in the preservation area and advisory with respect to such development or use in the protection area. If local approvals in the protection area were granted in disregard of this advice, the commission would be authorized to seek judicial review thereof, and to have such approvals overturned if the commission could demonstrate that these approvals (1) were inconsistent with the purposes and provisions of P. L. 1979, c. 111 and P. L. 95-625, and (2) would result in the substantial impairment of the resources of the pinelands area.

SENATOR FRANK J. DODD (Chairman): Ladies and gentlemen, the Senate Energy and Environment Committee will come to order. I would like to introduce Mike Catania, the senior staff member from Legislative Services; Mark Smith, Legislative Services; Cathleen Crotty, the Deputy Director of the Senate; Franklin Parker, Chairman of the Pinelands Commission; and Terry Moore, Executive Director of the Pinelands Commission.

This legislative body is here today as a follow up to the Pinelands legislation. We have two bills before our Committee, Assembly Bill 2139 by Assemblyman Karcher, and Senate Bill 1320 by Senator Perskie. The basic format of today's hearing and the purpose for our being here is a legislative follow-up. It is our oversight to see if indeed the bill that was passed by the Legislature and signed into law is being implemented as was the legislative intent. I have asked the representatives from the Pinelands Commission to be here to answer questions. We have limited testimony today to public officials and we want to hear their problems. We want details and I will call on the Commission to answer, where possible and where appropriate, the charges, if any.

We have an extensive list of people willing to testify. At three o'clock today, ready or not, we will close the hearing. Now, what will happen in the future will be determined by as much as we can get done today and the interpretation by the Committee.

With that, I would like to call on Franklin Parker, Chairman of the Pinelands Commission, for an opening statement.

FRANKLIN PARKER: Thank you, Senator Dodd. First, I would like to introduce the members of the Pinelands Commission who are present. First of all, I see Mayor John Hendrickson from Eagleswood Township, who is the representative of Ocean County. Doctor Philip Nanzetta will be here. He is the representative from Atlantic County. I know he is somewhere in the building. And, Mayor Floyd West from Bass River Township is another member of the Commission. We have three members. Dr. Nanzetta is coming in right now. We have just introduced you, Phil. He is the representative from Atlantic county.

Senator Dodd, my name is Franklin Parker, as you well know. I am Chairman of the Pinelands Commission. Let me first thank you for the opportunity to come before you in order to speak in opposition to the two bills which are being reviewed by your Committee, Assembly Bill 2139 and Senate Bill 1320.

As you are aware, on November 21, 1980 the Pinelands Commission by a vote of eleven to four adopted the Comprehensive Management Plan for the Pinelands National Reserve. The Plan was subsequently approved by Governor Byrne and on January 16, 1981 - just last month - by the United States Secretary of the Interior.

Under the provisions of the Pinelands Protection Act, the Commission is now working with municipalities to begin bringing local master plans and ordinances into conformance with the comprehensive management plan. Utilizing the \$300,000 appropriated by the Legislature, the Commission will be awarding grants to municipalities to assist in defraying the cost they will incur, associated with the conformance process.

I am pleased to report that forty-three communities in the Pinelands have indicated their interest in receiving financial assistance, despite certain rather well organized efforts to persuade municipalities not to participate in the Comprehensive Management Plan by refusing to bring their local zoning ordinances and master plans into conformity with the plan as mandated by the Pinelands Protection

Act. Proposed grant agreements between the Commission and these municipalities are being sent from the Commission's offices this week to make the funds available immediately. I am hopeful also that the Legislature will approve the Governor's budget request for an additional \$300,000 to further assist the municipalities in the coming year.

I am not here today to defend the provisions of the Comprehensive Management Plan. Eleven members of the Commission and the appropriate reviewing authorities have determined that it meets the intent of the tasks that were assigned to the Pinelands Commission. It is a flexible plan, and I emphasize "flexible", which can be molded to the specific needs of local governments during the year ahead. It is now responsive to the myriad of public comments received during eight full days of hearings held by the Pinelands Commission in 1980, and specifically to the seven points raised by this Committee's Chairman in correspondence to our Commission last fall. All of the latter provisions were incorporated into the finally adopted plan.

The two pieces of legislation being discussed today are not merely threats to the Comprehensive Management Plan for the Pinelands. They represent threats to the protection of the Pinelands itself. They attempt to return the clock to the period prior to June 1979 when every municipality was charged with the task of protecting a sensitive national resource. The primary reason for the Pinelands Protection Act was the accumulated evidence that this was not achievable.

Both bills would make the Comprehensive Management Plan advisory in the protection area, which for reasons not explained is viewed as substantially less sensitive than the preservation area. The massive amount of data accumulated over the past year and one-half by this Commission does not indicate that to be the case. The unique water system underlying the Pinelands does not respect a legislative boundary. To chance pollution in the protection area as the result of excessive or otherwise inappropriate development may have significant adverse effects in the preservation area itself. This is a key thought that I am expressing.

We have had the experience of advisory guidelines and standards in the Pinelands before. The Pinelands Environmental Council, a forerunner of the commission, made a valiant attempt to channel development to more appropriate locations by advising municipalities. The effort was not a major success. The evidence is clear - unfortunately too clear - to repeat that phase of the Pinelands' history. Both bills before your Committee delete the important provision of the Pinelands Protection Act: "To discourage scattered and piecemeal development." The effect of that deletion should be clear to everyone. It will not lead to what every planner and every land use study in this nation now finds desirable: the concentration of development in areas of existing development. It will lead to the fragmentation of the Pinelands with a guaranteed increase in municipal costs to service such development.

The bills also call for judicial review when the Commission finds that a municipality has approved development applications inconsistent with the provisions of the Pinelands Protection Act. This nightmare of litigation - for it surely would be that - would result in costs and delays to municipalities and, equally as important, to the development community.

Picture, if you will, the plight of a developer who has expended thousands of dollars during the local approval process being delayed while the courts determine at some future date whether the Pinelands Commission has proven inconsistency

with the act. Such a vision does not seem to provide a viable climate for investment in the Pinelands.

I hope that the Committee will stand firm with the Pinelands Protection Act as it now stands. It is a body of legislation that is seen as a model in other areas of the country. The ink is barely dry on the plan, which has been produced from this legislation. It deserves a chance to be implemented -- indeed, to be tested.

I believe that in the coming year local officials will find that it provides the flexibility for local decision-making and that the role of the Commission will diminish as experience warrants.

Lastly, let me address these bills in light of the National Parks and recreation Act of 1978, passed by the Congress, which created this country's first national reserve. I cannot conceive, no matter what interpretation may be given to that Act, that an advisory plan fulfills the mandate of the Congress. Surely, throwing the final decisions for the largest amount of this sensitive resource to the courts of the State of New Jersey does not constitute a viable implementation program as called for under the legislation. Indeed, I am convinced that the passage of the legislation now before your Committee would almost certainly result in the termination of any further funding for the Pinelands by the United States Congress. The Plan, as constituted, has been found to be consistent with the Act by the Secretary of the Interior. I believe that you will be able to reach the same conclusion.

In summary, I strongly urge you not to adopt legislation which I am convinced will totally eliminate any possibility of effectively protecting the Pine Barrens. As the result of recent events throughout the whole State, I hardly need emphasize the essential need to take measures right now to protect the water resources which exist in such abundance throughout the Pine Barrens. It is measures of the kind incorporated in the Comprehensive Management Plan that the Commission has already adopted that must be taken to protect these resources.

Senator Dodd, that concludes my remarks. Both Terry Moore and myself, of course, will remain here to answer any questions you may have during this hearing. Thank you very much.

SENATOR DODD: Chairman Parker, what kind of reception have you gotten as far as the 55 municipalities adopting the ordinances to conform is concerned? Do you have a figure on that? I believe it is a year's time that must be done in.

MR. PARKER: Under the Act, as originally passed, there is a year's time. I believe that date started January 14th or 16th. There is a year's time mandated by the existing legislation for towns to bring their zoning ordinances and master plans into conformance. We are carrying on discussions with various municipalities. You perhaps know the printing of the final plan was just recently completed and I am sure now that that plan is in the hands of all of those municipalities many of them will be coming in to discuss how they go about the performance process. Our staff is dedicated totally to that project right now.

SENATOR DODD: Do you have a figure on the number of municipalities that have voted to conform?

MR. PARKER: I don't think it is fair to say that any municipalities have made a final determination - Terry can correct me if I am wrong - that they will conform. They have indicated they are interested in receiving these grants

so that they may proceed with their planning and come back to the commission to discuss methods by which they may conform. So, I don't know that formal action has been taken. Terry can correct me if I am incorrect.

SENATOR DODD: We understand that if they adopt a plan, you can delegate to the counties the responsibility of working with the locals.

MR. PARKER: That is correct. Right. That is provided for in the plan.

SENATOR DODD: Has that been done in any of the cases in the counties affected?

MR. PARKER: I have to see where Terry stands on that with the various counties.

MR. MOORE: I think, as you know, that the Pinelands Protection Act provides that once a county master plan has been certified by the Commission as being in conformance then the Commission can give counties the opportunity for the first review of local master plans prior to their submission to the Commission for certification.

What we have available at this point in time is an offer by the Commission to the municipalities to distribute the \$300,000 legislative appropriation to assist them in conformance activities. To date, we have received, as I believe Chairman Parker has mentioned, letters from 43 municipalities of the 52 within the Pinelands area indicating an interest in eventually receiving those funds to come into conformance. We have, within Atlantic County, one municipality at this point in time that affirmatively, by a vote of the municipal council - that is Hamilton Township, where you are today - voted to conform. We have not been looking for resolutions of local councils to vote to conform because we are dealing with a State law and they are supposed to conform under the State legislation.

We have also had, I should add, the reverse occur in two municipalities that I am aware of, and perhaps three. Resolutions were adopted not to conform. Many of those resolutions, however, say, "not at this time."

SENATOR DODD: Have there been any additional requests for more money? Because certainly the \$300,000 is not going to go too far. Is that, indeed, a realistic figure?

MR. MOORE; The Governor's budget before the Legislature includes an additional \$300,000 request to assist municipalities. That would bring the total to \$600,000 during this coming year to be used for conformance activities.

MR. PARKER: That request originated with the Commission itself. We strongly urge the Legislature to make provision for this additional amount. We hope that it may cover the increased cost that these towns anticipate in bringing their plans into conformance. But, it is a matter of great importance to the Commission and we hope that the Legislature will take appropriate action on that.

SENATOR DODD: All right. Chairman Parker, thank you.

The Senate Energy and Environment Committee had its first meeting on the Pinelands Bill on February 19, 1979, so we are not a Committee that loves you and leaves you. This again is our follow-up. We have been requested, from various officials, to come down today, and the key person to make the request that we come down today is Chuck Worthington, the County Executive for Atlantic County. As a courtesy, we have brought our Committee to him. So, at this time I would like to call on Executive Worthington.

C H A R L E S W O R T H I N G T O N: Thank you, Senator Dodd. I am glad you don't love us and leave us; I hope you love us and listen because we have a lot of problems with the Management Plan as adopted.

I would like maybe to just cover a little of the history, and some of the personal history, in terms of the Pinelands Protection strategies. There are many of us who importuned on our legislative delegation to support the initial bill that was sponsored -- the key sponsor was Senator Merlino -- that brought about the whole Pinelands Protection Commission, and brought it into existence. We supported that. We supported that initial legislation, and we still do because we think it is good legislation. We think it is legislation that can be effective, but we think that the results of that legislation have been perverted. We think it has been turned around by special interest groups. We don't think the end result, or the product of this plan, is really what the legislature had in mind. I think that is one of the reasons for the enthusiasm that the Assembly gave to the Karcher Bill.

If you go back in time-- And we talk and I hear Frank talking about the Pine Barrens; I think that is a misnomer. We are talking about the Pinelands. There is a section of the Pinelands that is commonly referred to as the Pine Barrens but it is not a million one acres of South Jersey. The Pine Barrens is a restricted area, and in terms of the preservation plan, the preservation plan has already put in place the necessary mechanisms to preserve over 400,000 acres of what we in South Jersey refer to as the Pine Barrens. We don't refer to the million one acres as Pine Barrens. We don't refer to the Hamiltons and the Egg Harbor Cities and the Mays Landings. We don't refer to those areas as Pine Barrans. We refer to those as areas where people live, and where there has been a long history of traditional development, and I might say a long history of preservation in this county.

I also testified with some of the other people in the audience here in favor of the Hughes-Forseith Bill at Stockton College. So, I think personally I have a long history of supporting programs to protect the sensitive and the valuable ecological heritage that we have in this county and in this area.

I think the concept that most of us had in mind was that the Federal legislation would outline a broad area for study. That broad area was not really studied. It was nailed down as a specific boundary even though it was an arbitrarily drawn boundary. And, this Commission has assisted and indicated for the most part, with the exception of Brigantine, which proved to be an embarrassment, that this boundary was etched in stone. It was the intention and the thought, we think, of the initial legislation that what we ought to do would be to get 15 reasonable people and sit them down for a period of time and come up with a lot of local input in terms of a comprehensive and unique plan to manage this area and preserve what ought to be preserved and protect what needs protection.

When I say that there has been a perversion of that concept, I think the perversion was brought about by the naming of people with special interests - a majority of people with special interests - to serve on that panel. The Governor didn't just pick people at random - knowledgeable people, or people with standing in the community - he picked people who had specific purposes in mind. I think armed with what they thought was an eight-zip vote, they could do anything that they wanted.

The problem, Senator, with the Pinelands Plan that we are objecting

to is the lack of inclusion of traditional local representative governments in the formulation of the plan. We don't feel that this is a unique plan devised by the Pinelands Commissioner to assess the special needs; we feel that it is an imported plan. It is a plan imported from New York State. It is the same kind of plan, generally, that established the Adirondack Plan in New York State with the same kinds of results. You see, early on in that plan, Senator, there was a policy decision made that I think is at the heart of and is the crux of the matter in terms of the lack of sensitivity of that Commission in drafting the plan.

Now, if you take on a scale of one to ten the concept of public input and local input - one being low and ten being high - there was an overt act, there was an overt decision on the part of the Pinelands Commission to minimize local inputs. What we have here is not a cooperative plan with the people in the area to be regulated and the public officials who represent those people in this area -- we had little of no input since the development of the plan. In fact, we found that many of the county commissioners, the people who were appointed by the counties, turned over, or lost interest, because they felt they weren't being listened to; that there was an elitist click who was making the decisions; and, frankly, it was a "bag job." They came in with a plan. They knew what the plan was going to be, and then they made a sham of trying to say that there was any real true cooperative spirit in the development of the plan. That's the thing that we object to. That is the concept that we object to. The concept of the plan - and I don't think it was the concept of the legislative intent - that a State regulatory agency would devise a zoning ordinance to be forced on the peoples who live in a million acre area of South Jersey, a plan that paid very little attention to the concerns, the needs, and the equities of the people who live in the area to be regulated.

Frankly, Senator, that kind of a plan, that kind of a super-imposition of an elitist commission is not going to work because it is not going to be bought. They are not going to buy the cooperation, the forced cooperation, of the people who live here.

Frank was talking to you, and you were talking to Terry, about the number of municipalities who had endorsed the plan. I think you will find that a number of municipalities who have endorsed that plan and who have voted for compliance are very few. In spite of the reprehensible tactics of the Pinelands Commission, when they sent the letter out they said there was a limited amount of funds available for this compliance to upgrade your planning functions and it was going to be first come-first served. So, it was a threat. It was a kind of a blackmail to make municipalities line up for the very few dollars, as you know, that are available.

I think we have some very, very serious problems with the plan. I know that in this community - and I am speaking and articulating policy that has been stated by county government, that is in a bi-partisan way, by the Board and the County Executive, and has been endorsed by all but one of the municipalities in Atlantic County that are affected by this plan - at this time they are not going to seek complicity. They will not comply. We are going to seek further legislative changes. Although I realize that the Karcher Bill is not the best bill in the world, I think it is a cry of frustration. It has a lot of deficiencies. I frankly feel there ought to be standards of development articulated in the protection

area. So, I am not married to the Karcher Bill, but that is the only legislative vehicle right now that can bring the legislative response back where it ought to be -- to you the legislators. You have been co-opted. You have given your heritage away. You have given to a commission, a biased commission, all of the powers of the State in terms of the regulatory process and you, the legislature, have given those powers away and apparently you don't have any legislative oversight over the kind of plan that is being drafted and has been drafted here.

Now, we heard a lot of nice things and we heard that there really won't be any tax problems or tremendous tax burdens for the people who live in the area. I think that the plan is inequitable. The majority of the development is going to occur here, in the towns and the municipalities who at the present time are really not equipped to handle that kind of development. So, we have a Catch 22 situation. We have on one hand the Commission saying, "Well, there is plenty of development available in our plan. Take a look. Take a look at the growth zone." You take a look at the growth zones and there are areas that have no sewerage whatsoever. And, not only that, but if the municipalities wanted them to be growth zones, the entire burden of providing sewerage would fall on the people who live in that municipality.

SENATOR DODD: They would not qualify for Federal?

MR. WORTHINGTON: They would not qualify for Federal sewerage grants under the 75-25 formula that is in effect now because in effect the Federal government has said in the past that we are only going to build these sewerage facilities in areas that are grown up, that have a lot of growth in them. We are going to first concentrate our sewerage dollars in providing sewerage facilities for those areas where there has been considerable growth in the past. We are not going to put any of the dollars into new regions, and this would be a new region. The State isn't going to provide any of the money. The Federal government isn't going to provide any of the money. And, the local municipalities can't with the cap situation and with the scarcity of resources that those municipalities have that are in the growth zone.

SENATOR DODD: Chuck, let me stop you at that point. You are telling us that the areas that have been designated for growth could not qualify by and large for the 75-25 match from the Federal government?

MR. WORTHINGTON: Absolutely, Senator.

SENATOR DODD: Let me direct that either to Mr. Moore or Mr. Parker.

MR. MOORE: If I can respond in two ways, Senator. First of all, I think assuming there was no Comprehensive Management Plan for the Pinelands - and I might note that in the proposed Atlantic County Master Plan virtually the same growth area is outlined from the county standpoint of where major growth should occur - if those funds were not available under our plan, they would not be available even should development occur without this Plan. The part of the Pinelands Plan that I think is quite good and deals particularly with not only state government but local government and federal government as well is what we call consistent. I think it is a role of the Pinelands Commission, and certainly a role of the State of New Jersey and the Department of Environmental Protection and EPA to attempt to get funds in to sewer growth areas. I think we are very interested in sewerage growth areas. In many areas under the growth zones in this plan there is excess sewerage capacity; for instance, in Ocean County particularly. In Atlantic there are proposals for sewerage now on the

table. I think the issue is that you don't need to have sewers under this plan to build in the growth zone. There are a number of alternatives available to people, both public sewerage and developers bringing their own sewerage treatment plants with them. I think the densities that you are dealing with in Atlantic County, with or without this plan, would make that possible and feasible. You could also use under this plan in the growth areas alternate design septic systems as long as you are meeting the nitrate standard, and that is totally feasible as well.

So, I think the question of whether growth can occur in the growth areas is not one that really needs to be challenged. I can make available to the Committee today, because I have a copy of it with me, a report by the Atlantic County Planning Board which indicates that the growth areas that are delineated within this plan are quite sufficient to meet the growth populations within this particular county. I think you will find the same in other counties as well.

SENATOR DODD: Let me ask Chuck something that is a concern, and has been, of the Legislature since we authorized the casino gambling question be put on the ballot. Its success and its growth has impacted on your county in particular, and I know the impact has a ripple effect on other southern counties. The housing shortage or the advanced planning for housing -- is the plan sufficient to cover that particular area? We are talking about approximately 4,000 direct jobs per casino which could translate roughly into six, eight, or ten thousand people that have to be housed and serviced directly with one casino -- directly or indirectly, with ancillary services and what not.

MR. WORTHINGTON: Senator, I think our studies show the need for housing in Atlantic County approximates about six to eight thousand housing units per year. Currently, we are building less than 1,000. One of the reasons for this is the inability to build because of the Pinelands legislation.

Let me point out, Senator, that we are suffering from a lack of any rational, coordinated state policy. We have the CAFRA policy, which tends to push development away from the coastline. We have the casino state policy and that legislation which indicates that Atlantic County is going to be a major growth area and a tremendous economic growth area. Then we have the Pinelands Plan which wants to stifle development, or push development toward the coastal region.

So, here we are in Atlantic County facing these tremendous pressures. There is an acute housing shortage. A lot of things are occurring. There are a lot of people who are doubling up on apartments. There are people who are renting individual homes.

SENATOR DODD: They were doubling up on apartments long before the casinos were in effect.

MR. WORTHINGTON: Well then, tripling or quadrupling, but at any rate there is a tremendous amount of absorption of population in substandard housing. These are all part of the problems that we are facing.

When Terry talks about sewerage plans on tables -- certainly there are sewerage plans on tables. But that is not going to accommodate any of the new development in the growth area. In fact, it would be strictly forbidden by the "feds" for any of these hookups to occur. So, what we have is, we have the people who live here, the people who develop here, the people who are working here, and they are going to have to be the ones who absorb this tremendous infrastructure cost. And, I remind you, Senator, that not a nickle, not one blessed penny of

acquisition money is to be spend in the protection zone. Seven hundred thousand acres are in the protection zone, and not one penny is to be spent. We were told by the Pinelands Commission that there would not be any significant loss of tax revenues to municipalities and it is a lie; it has already occurred. Hamilton Township has representatives here and they will tell you what is happening with tax appeals. I say that anyone who owns property in the Pinelands and does not file an appeal next year is a fool. And, you will see massive loss of tax revenues in the Pinelands. You will hear farmers talk, if you want to hear farmers talk, about the loss of ratables of their land. We have had farmers testify who have been farming in Atlantic County for 20 years and this is the first year that they can't get a loan on their property because their property, in the eyes of the bank, has been devalued so much. So, there has been a tremendous loss of ratables, a tremendous loss of property tax, and the people who live here, the people who work here, the people who want to come here have to bear the entire burden of this most inequitable program.

Senator, what we are looking for is, we are looking for legislation that presents a true marriage, that gives the people who live here a fair shot at devising the regulations that they are interested in abiding by. We live here. The Pine Barrans belong to us. We want to preserve. We want to protect. We want to do it in a legitimate, rational manner. This plan doesn't address that. And, that is why not only in Atlantic County, Senator, but I again say you are going to see the spread of this non-conformance in Ocean County, in Cape May County, in Cumberland County, and there will be representatives from those counties and those municipalities here today to offer testimony to back up what I am saying. It won't work. It can't work because it was devised not by the people but by some special interest group outside who thinks they know better than everybody else in the world. It is not going to work. It has to be changed.

Senator, I think the Karcher bill is a signal. It is not the best bill in the world but to me it is far more preferable than the monstrous plan that has been inflicted on us to date.

Thank you, Senator. I hope you have some time to go out into our lovely county and enjoy some of what we have asked nature to provide for you today. I want to thank you for bringing your Committee down here and giving us an opportunity to have some input.

SENATOR DODD: We appreciate it. I hope you stay with us. We are going to be calling on a variety of different public officials who represent different angles. This is what we want to hear today.

MR. WORTHINGTON: Thanks, Pat, it is a pleasure.

SENATOR DODD: Thank you.

The Chair would like to call Floyd West, Mayor of Bass River and a member of the Pinelands Commission.

F L O Y D W E S T: Senator Dodd, my name is Floyd West. I am the Mayor of Bass River Township, Burlington County, and I am a member of the Pinelands Commission.

I come before you to speak in opposition to the two bills which are the subject of your hearing today.

While I am a member of the Pinelands Commission, I hope you will regard my remarks as coming from a mayor of a community which feels the full impact of the Comprehensive Management Plan for the Pinelands. Bass River Township is in both the Preservation and Protection area of the Pinelands. I have always welcomed

the inclusion of our community under the Pinelands Protection Act, and I welcome the Comprehensive Management Plan. Bass River will be among the first to conform to its provisions.

The bills before you today represent the latest effort to weaken the Pinelands Protection Act. They will turn the Pinelands Commission and the Comprehensive Management Plan into a rebirth of the Pinelands Environmental Council. I am thoroughly familiar with the advisory nature of that body because I served on that Council for a number of years and let me assure you that it didn't work, nor will an advisory Pinelands Commission work.

I am familiar with the Pinelands. I live there. I see every day the beauty of the area and the destruction that has been done in many municipalities because of unwise development decisions. Some of these are the same municipalities which now say they can preserve the Pine Barrens all by themselves. "Just give us some guidance", they say. We need more than that, I say. We need to continue to view this land in its entirety. We need strong controls that can't be bent because a developer feels he can get a few more units at a little less cost.

My community is close to Atlantic City. We want to make sure that development associated with casino pressures doesn't overwhelm this area. We want to know that development is done the right way, that water is protected. We want to know that towns up the river are making decisions that don't cause problems for towns down the river. That's what regional planning is all about, and it only works when you know it can be implemented. This is the main reason I have supported the Pinelands Protection Act and the Comprehensive Management Plan. I don't want a lot of "ifs". I want to know what the future holds and that future should protect the Pine Barrens for my children and everyone else's.

Let me tell you about scattered and piecemeal development. It costs more money to service, and it destroys a lot of landscape. It has been the plague of the Pinelands for the last decade. You can see it all around -- a little subdivision here, a big one there. Slowly and steadily it carves up the land and affects the resources surrounding it. Let's not do away with the provision of the Act which discourages scattered and piecemeal development. It's one of the most important safeguards for the area.

Senator, I am a mayor and I was re-elected recently. Everyone that voted for me knew exactly where I stood on the Pinelands issue. I believe that the voters understand clearly that the Pinelands Protection Act is our last chance to save the resources we all depend on. Please don't water it down by reporting out these bills. They add nothing to the efforts of many who believe that the State of New Jersey is committed to protecting the only resources that have gained the attention of our whole nation. The time is right to move forward with the implementation of that promise as it was made in June of 1979.

Senator, I would be glad to answer any question you have and I thank you very much for this opportunity to appear before your committee.

SENATOR DODD: Mayor West, we have heard tales of wholesale grantings of tax appeals. Could you tell us your experience in your municipality about the effect on the ratables in your town, and the number of appeals if you indeed know them? Could you give us a general feeling of what your impression is in that regard?

MAYOR WEST: I am alarmed at what I see taking place and what I see for the future concerning the county tax boards. The county tax boards

are made up, I believe we all know, of real estate interest land speculators, people who have a vested interest in seeing that the Pinelands plan is not implemented. The most formidable weapon in the arsenal to destroy the Pinelands Protection Act is your county tax boards at this point.

I have asked the Attorney General to make a thorough investigation into the associations on that board making an effort to reduce the ratables - the assessments - in the townships to the point where it becomes torture. Of course, the climate is then created where an implementation of the plan cannot be effected.

In Bass River Township we had 74 tax appeals, based on the Pinelands Plan. Out of the 74 appeals, there was almost \$400,000 worth of assessment lowered. We have appealed to the State Tax Court. We intend to appeal every decision of the Burlington County Tax Board in Bass River Township. We believe it is our only protection.

The strategy, I believe - and I feel very strongly about this - is to shift the weight of the tax burden so dramatically upon the residential property owner that a climate would be created in which the plan would fail. I can't tell you how strongly I feel about that. That is one of the dangers I see coming along to destroy the plan. I think it is the most formidable weapon that has yet been brought out to face the plan.

Next year we will feel what will represent about a 5¢ increase in tax rate -- that reduction in assessments -- although we have picked up more than enough in new ratables to account for that increase. So, we will not experience, next year, an increase in tax rate in Bass River Township. So, it is true that there is a concerted effort by county tax boards to do just that, to lower the assessments in such a dramatic and drastic way that it will be an instrument of torture, and of course it will cause a hue and cry and perhaps scuttle the plan for the Pine Barrens. And, it is going to be ironic because the Governor appoints the county tax boards.

SENATOR DODD: Bass River, in its entirety, is in the preservation zone?

MAYOR WEST: It has both protection and preservation.

SENATOR DODD: Mr. Mayor, thank you very much.

MAYOR WEST: You're welcome.

SENATOR DODD: I would like to call Mayor Jack Hendrickson of Eagleswood. He is also a member of the Pinelands Commission.

JACK HENDRICKSON: If I may, Senator, may I defer for a little while? I have more people coming down from Ocean County and they are not here yet.

SENATOR DODD: Yes, Mr. Mayor.

MAYOR HENDRICKSON: Thank you. Thank you very much.

SENATOR DODD: Harry Wooden, Councilman, Evesham Township.

HARRY WOODEN: Senator Dodd, I want to, as I had occasion to do several months ago, again express my appreciation for your providing this opportunity to appear before you and your Committee and add, for whatever worth it is, my opinions and impressions of this situation.

I am, as you identified me, a Councilman, a Deputy Mayor, and a former planning board member from Evesham Township, having served approximately four and one-half years, plus having lived in Evesham Township in Burlington County for the past eleven years, since I left the United States Navy.

Evesham Township has been long typified as one of the most intensive growth areas in the entire Delaware Valley. In the time period between 1960 and 1970 it had the highest percentage of real growth in terms of number of housing units and in population of any municipality in the Delaware Valley -- 196% growth. We have had a 70% growth in the last decade, but with about a five year period chunk taken out of that with a major sewer moratorium. We are at the crossroads of the two primary development paths, Route 70 and Route 73, which of course when the Pinelands Protection Act was first being deliberated by your committee and the Legislature was jokingly referred to as the gateway to the Pinelands, beginning at Olga's Diner on Marlton Circle. Facetiously, I bring that out to maybe give a point of reference for some people.

I have some remarks which I intend to present. I am going to shorten them because I have heard some things here this morning which I think must be addressed. I refer to Mr. Worthington's remarks, in particular his comments about the lack of local officials' input. Quite frankly, and I don't mean this to disparage Mr. Worthington, but I do intend to discourage the argument made that there was a lack of local officials having an opportunity to have any input.

I did not, as a local official, meet my full responsibility to have as much input as I would have liked to have had, and which I believe some of the residents of our town would have liked myself and other officials in the town to have done. But, I did make an attempt to do so. I cannot say that for the vast majority of the elected and appointed officials from the 52 municipalities. The vast majority of them, by acts of deliberate commission or irresponsible omission, flatly did not even attempt to attend and participate for practically almost all of it, until the 11th hour when the plan was in the very final stages of facing the deadline for adoption. It is apparent that many of these officials withheld their participation just so they could now make the claim that there was a lack of local officials' input. That is political fraud.

Another remark made - and again I don't mean to disparage Mr. Worthington, I think he makes a lot of sense in what he says and certainly he should be listened to, but I think his remarks provide a point that ought to be addressed. He referred to, stating very vehemently, "We own the Pinelands." I anchor on that remark to simply point out that some of the basic arguments about this whole situation evolve around that type of statement. Those who are large property owners and who make that statement are like many large property owners, they think if they own a portion of the real estate they have a right to demand how the entire real estate is developed or protected, that somehow they, in their minority, have taken over the rights of the majority by the fact that they have the economic power to do so. I think we all know that that is not what is meant by the constitution that is so often cited by many of the opponents to this plan. In fact, these people who vehemently make that statement are the key threat to the preservation of the Pinelands and to the local economy having a sensible development.

On a positive note, those that own it, all of the property owners, all of the municipalities, all of the counties, and to the degree that it is appropriate the State and even the Federal government, have a very key responsibility in seeing that the preservation of this precious area is maintained. This has been illustrated I think more graphically than all the arguments any of the people who look at this similar to the way I do could have even imagined, and certainly we didn't hope for it, and that is by the water crisis. What did we see in the paper last

week? The discussion once again, and the spectre, of people talking about "could we take water out of the Pinelands?" I think one interesting thing that everybody ought to remember is, one of the statistics quoted there - which I am sure you have heard before but I think it bears repeating time and time again - allegedly, and I think it is probably true, states that there is enough water in the aquifers underlying the Pinelands, as yet unspoiled but very much threatened by the activities that have been going on and that have been permitted by the local governments who have said, "let us control development; we will preserve it to provide sufficient water for the entire current population of New Jersey for the next 40 years, plus. That is an extraordinary and valuable resource that I think many people like to just push aside.

Now, I will get on to the main points and comments that I have prepared. As a local official, I am always very concerned about the situation of any type of legislation, be it local, state, or federal that affects our tax base, because without a tax base we cannot serve the needs of the public in our communities. There is a lot of rhetoric about tax bases. People say the only way to build a tax base is to get more development, particularly commercial development. Well, I will draw a contrast. Over the last ten years Cherry Hill Township has developed at a pretty fantastic rate. They had, roughly, twenty-five thousand times the industrial tax ratables that Evesham Township had. They have consistently had a much higher percentage of commercial, industrial, and residential growth in terms of tax dollars during the 1970's than Evesham had. They had, in fact, during that period of commercial and industrial growth overtaken Evesham's previous growth spurt, not in residential however. Yet, only once in the ten years, going from 1970 to 1980, has Cherry Hill Township's local municipal purpose tax rate been down as low as Evesham's or less. In the other nine years, Evesham's has always been lower on a true value basis, not on actual tax but taking into account the different assessment ratios -- the effective true-value tax rate.

Now, I am very disturbed by all the argument I hear and all the claims I hear about tax assessment appeals. That is primarily because, number one, we have the assessors groups taking an advocacy position on this whole issue of the Pinelands Plan, appearing before the State Legislature, appearing before the Governor, and appearing before the Commission. Some of what they had to say was valid, but I think you, Senator, your Committee, and the entire Legislature would be extremely alarmed if a judge of one of our superior courts appeared to testify with regard to a bill that had to do with, say, setting penalties - for instance the hand gun law. If a judge said, "Because I as a judge think that law is so wrong, I am going to tell you that I am going to grant appeals against it. I am going to encourage criminals to argue and their lawyers to argue that it should not be applied to them and I will support them." That's exactly what the tax assessors group did, and they have carried that out by what they have done in terms of putting forth many of these planned reductions in values. The tax board member, Floyd West, adequately covered that. Without any data, or with very little supporting data from sales data and market data to support their conclusions, they granted a number of reductions that were irresponsible. Today, I intend to join with Mayor West in his very commendable effort to ask for an Attorney General's investigation. I will add one thing to it. I ask, Senator, that you convey the message to the Legislature that I am requesting that the Legislature investigate the whole process

of appointing county tax boards with its concentration of putting on those tax boards the very people that have far more to gain from titled, or slanted, tax board policy positions than any of the individuals who in 99% of the cases appear before them.

I would refer you in final point on that aspect. I would refer you to the record taken in the experience of the Adirondack Park Agency. A five year study after that Act was fully implemented showed a balancing of the effects on local assessments to the point that an argument could be equally made that in fact the local assessment tax bases were increased in more situations than they were decreased.

Last night, Evesham Township voted, five to nothing, to do what Mr. Worthington claims almost nobody will do, to state that we will comply with the plan. The southern two-thirds of our township is in the protection area and exposed to some of the most severe restrictions on development. So, we have an impact. Even more important to us, this impact of rezoning more restrictively the southern half of the township has concentrated that development pressure which we have been experiencing for the last 20 years in the northern one-third. I think everybody here has probably at one time or another traveled Route 70 through Evesham Township, and I am sure you are going to try to argue with me that Route 70 could stand some more intensive development along it, more driveways, more developments at this point in time, or any time in the next ten years. But, that is what's going to happen, and I don't like that but I accept that and I feel confident that the taxpayers in our town accept that the price of more intensive development in an area that at least can handle it, from an ecological sense, is a responsible tradeoff against permitting development in areas that flat can't handle it or where only the speculators claims can handle it. There are townships who have shown an absolute need for a Pinelands Planning Commission with authority, not just an advisory capacity.

We talked about the impact of this. We estimated, without taking into account the increased values that would be known to arise in the regional growth districts and the non-Pinelands portion of Evesham, without taking into account the obvious increase in the tax base in those areas, the worst case would be a four to six cent per year increase in our tax rate. That also did not take into account the effect that has been documented by the New Jersey Conservation Foundation; open space enhancing the value of adjoining lands. In their report, "Open Space Pays," this is the most thoroughly documented study in that whole subject area.

I think I will wrap this up most succinctly by addressing a point that I have addressed before, and that is that municipalities are not provided either the financial resources or the staffing resources to deal with many of the issues that developers raise in their attempts to get development approvals. When a municipality takes a responsible stand with regard to the impact of a development, unless that municipality is able to spend, literally, ten, twenty, or thirty thousands of dollars, or more, per individual application to bring in experts on traffic, on environmental impact, on septic tank restrictions, and they try to apply what they know about their area-- Just as Mr. Worthington insisted the people down here know their area, well we in Evesham insist we know our town more than most people from the outside. If we try to apply that knowledge, those developers will have us in court in front of a Federal judge on a U.S. Civil Rights Act case which exposes every individual official to personal liability, not just the

municipality. I have faced two of those suits, once as a private citizen who merely stood up and protested that a development was not addressing traffic responsibly. That was \$1.5 million individual liability. That cannot be handled by the local townships without a state or regional level agency that provides the technical backup, and also provides the consistency and application of standards across the entire region.

SENATOR DODD: Councilman, when we first started the Pinelands hearings, the Kings Grant Project--

COUNCILMAN WOODEN: Yes.

SENATOR DODD: (continuing) --was very concerned. Could you tell us what stage that is at now?

COUNCILMAN WOODEN: Well, basically--

SENATOR DODD: Has there been satisfactory growth?

COUNCILMAN WOODEN: Well, actually no, but I don't think that has really to do with the Pinelands as much as they--

SENATOR DODD: That's half and half?

COUNCILMAN WOODEN: A long time ago, in 1968 when they got their approval, they took on a course of action which if it had worked well would have provided one of the most outstanding examples of planned unit development in the entire country that was also environmentally sound. They got themselves in the bind of only being able to sell, in a ten year period, some 140 housing units in a development that was supposed to have 9500, while expending somewhere in the neighborhood of \$17 to \$20 million in infrastructure. What you find out when you talk to people who bought homes out there is, they love the environment out there. I mean that in just the straight sense of environment -- just the overall living circumstances. They love the privacy but they are scared to hell - excuse my German - about whether they will ever be able to resell their houses because the people who come to look at their houses look and see the incompleted roads, the remoteness, the lack of commercial facilities, even though they are on the plans.

Now, the latest developers took over several years ago and they have made moves in the direction of moving ahead. The moves they have been making, while one could argue may have been impeded by concerns over just how far the Pinelands Plan was going in restricting that development, have still failed to address the basic problems in that development, and that is you need an overall developer handling the entire project and managing it as it was originally started. What you have is three builders, none of whom have ever handled a project of that size, trying to make a go of it, and I think that is fatally defective. I hope they succeed. I think the position taken in front of the Pinelands Commission, that a certain number of units be permitted in there that could be responsibly handled with their sewerage treatment plant, with some adjustments to bring them in line with the standards of the Pinelands, will not adversely affect the economic circumstances anywhere near the degree that some of the private management positions have.

SENATOR DODD: Let me ask Mr. Moore to comment. This is an example we have used, I think, right from day one, of the type of allowances that would be made along with their dollar investments and so on. That was one of the prime examples. Could you give us an update on that project?

MR. MOORE: Yes, Senator. The Kings Grant Subdivision, or PUD, the Commission approved in November under the moratorium an immediate expansion

of 150 units I believe it was. They are currently filed with the Commission under the waiver provisions of the plan, which basically works where their entire investment is taken into consideration. They will be given, basically, the number of units that represent a reasonable rate of return on that investment. That would not be their entire 9,000 original unit request which was denied by the development review board, but it will be what we believe to be a substantial increase in the number of units they currently have. So, I think that issue is going to be resolved rather completely. We had conversations last week regarding that application with officials of Evesham Township. I think we are getting pretty much together on that particular application.

COUNCILMAN WOODEN: Senator, I would indicate that I think the feeling amongst the officials who have been actively involved in the intercourse and liaison between the Pinelands Commission and our town feel that a position which takes into account all the concerns has been adequately, or will be adequately reached, and I think it is a prime example, as I think you were leading to in your comments to Mr. Moore, of how this is in fact a very workable management plan that allows for those considerations when they are reasonably presented and documented. So many times there are claims made that are far less documented than the Kings Grant situation.

I don't want to see 9,500 units down there. I don't argue for it from a tax base basis or any other basis. But, I would like to see the idea of a unified development. That is the responsible way to develop in that particular area.

SENATOR DODD: Councilman, the prior speakers and yourself have alluded to the tax boards. Do you feel there is a conspiracy afoot to do this on purpose?

COUNCILMAN WOODEN: I think it would be a reasonable assumption by outsiders observing what's happened to say there might well be a conspiracy. I don't say there is a conspiracy unless I have a stack of papers in front of me proving specific acts of collusion. But, it has all the appearances of it. Even if it is not intended, the effect is the same as if there were a deliberate conspiracy and that is why I asked for a legislative investigation.

I think that from hearing statements made by assessment officials appearing before the Burlington County Tax Board there very clearly is a prejudice about the whole Pinelands Management situation which affects their professional judgment.

SENATOR DODD: All right, Councilman, I have just been advised that we as a committee can get a copy of all of the latest tax board actions throughout the affected Pinelands, and we will take a very close look at all of the actions on that.

COUNCILMAN WOODEN: I think that is the key to the whole situation.

SENATOR DODD: I would like to thank you very much.

COUNCILMAN WOODEN: Thank you very much, Senator.

SENATOR DODD: The Chair would like to call Mayor John Heinz of Egg Harbor Township. I may point out that Egg Harbor is the largest municipality that is affected in the growth area. So, that should give us a unique perspective.

J O H N H E I N Z: Thank you. I appreciate your giving me the opportunity to accelerate my position on the program because I do have a commitment later today.

I would take issue with your last statement because I don't believe

we are the largest community. We are probably second, I think, to Hamilton Township. It is probably for that very reason that I am here, because I am concerned with the fact that it was determined that Egg Harbor Township should be a major regional growth area for the plan. Contrary to the previous speaker, the Deputy Mayor, in terms of the local input, we are permitted virtually no input. It is highly impractical for anyone, I feel, that is in the business as an elected official, to think that you can put 52 mayors at a Sunday afternoon gathering and discuss in succinct concepts of planning the value of this plan. That is absolutely impossible.

SENATOR DODD: We try and do it in Trenton once in a while, it is called the Legislature.

MAYOR HEINZ: Okay. We all know the results. (laughter) In all seriousness, it has taken approximately three years for our municipality and I think the townships, particularly those of Gallaway, Hamilton, and Egg Harbor Townships which are unique in terms of their sheer size, because of the fact that they are not contiguous lands. As you are well aware, three of the areas that make up Egg Harbor Township are non-contiguous to the municipality. Also coupled with that is the fact that my municipality falls, to a large degree, in a CAFRA zone west of the Parkway, which creates some rather unique situations. I would like to dwell on that for a moment to show the inconsistency in terms of local planning or even general planning concepts.

Were route 559 a county road, the center line to the right hand side of the center line is the Pinelands Plan which calls for a regional or high growth area. Left of the center line is a CAFRA non-growth area. Now, realizing this inconsistency, and perhaps knowing a little bit more about the area than most of the people that are making absentee decisions, I made an application before the DEP on a coastal planning grant. I felt this was somewhat consistent with the draft plan which clearly indicates that the regional growth zones would be given special consideration. The Director told me on numerous occasions, "John, don't worry, we will see that your community is targeted for the grants." Well, obviously that is a classic example of the right hand not knowing what the left hand is doing because the response from the DEP was: "Sorry, Mayor, we cannot consider you a non-growth area." Now, we are talking about the difference between the center line of one road. That is total inconsistency.

I won't be so bold as to editorialize on the information that I feel indicates that this plan is not consistent. Based on the documentation of the most recent volume, which I have before me, using the documentation established by the commission which shows that the beginning of the regional growth zone in Egg Harbor Township is exactly the same point at which the infrastructure stops, there is no city water and there is no city sewer. I am talking about the area, as we know it, at the rear of Shore Mall, which is approximately the starting point of the Pinelands jurisdiction. At the present time, that area has no city water and no city sewer. There is some discussion now for the placement of a 48 inch gravity line to run from Mays Landing. I don't know whose idea this is, because all along DEP has said they would not permit inter-basin transfer. All of a sudden now there is a radical push for a 48 inch line intercept.

The previous speaker talked about the finances of a municipality. You know, it is very rare that a government has an opportunity to act as opposed to react. The previous speaker seemed elated at the fact that he had a low local purpose tax. Gentlemen, I have no local purpose tax. This is the type of information that should have been ascertained by the Commission if in fact we had proper local

input. That is a very important factor.

The gentleman before me talked about a growth rate of approximately 70% in the last decade. Egg Harbor Township has experienced an 85% growth in the last decade. Again, this is extremely important. I am sure, Senator, you can appreciate it as a fellow administrator. You cannot have accelerated rapid growth, back to back, and be able to keep abreast of that in terms of the rendering of services without completely overtaxing your residents. Needless to say, since we have no local purpose tax, increased development of residential properties would ultimately result in the creation of a local purpose tax. That creation of a local purpose tax would then put me under the cap law. My ability to respond for the increase in services, keeping in mind I have just left a decade of 85% growth, would be an absolute impossibility.

Case in question, Egg Harbor Township, as a result of responding to this decade of growth is building a new high school at \$13 million. Now, I don't want to burden you with a lot of figures, but these are the kinds of things on a cold January night when I have to work on a municipal budget that I have to consider. At no time during the development of this plan did any member of the Commission say, "Mayor, let's talk about the economics." I am not talking about assessments particularly; I am talking about the running of that municipality. The increased residents are going to want police protection. I have doubled my police department in the last three years. I think you know that as soon as I exceed 10¢ on the 100, I will then come under the cap law. My ability to respond will be negligible.

As a result of the new high school that we have just broken ground for in the past week - and I don't know if I mentioned that it is a \$13 million bond issue - the borrowing power of my municipality was reduced to \$455. Now, this is important. And, keeping in mind that the municipality has never bonded for any major capital project of its own, simply to support the schools, at no time did the Commission every consider the nature of the growth of the 1970's in my community. It was purely and simply started as a result of the Farmers Home Program, as a result of the 235 Program, and as a result of the 236 Program. This is extremely important if you are going to designate a growth zone in the Pinelands Plan reducing the general inventory for development in other areas within Atlantic County. At no time did we ever have discussions of this nature.

I absolutely resent the previous speaker's indication that there was a failure on the part of elected officials to provide local input. Gentlemen, I can document through letters, supplied by both myself as the Mayor and our planner, very early letters, that were in response to the original draft plan that was submitted to the municipalities, that I did not receive a response to. I sent a telegram to the Governor and requested him to participate at a public hearing and I never received a response. I believe it was one week prior to the adoption of the plan that the Director of the Commission met with my planner, suggesting that on Friday afternoon he submit a new map and it might be considered. Now, I, an elected official, have participated over 11 years in local government and I know what local input and what a public hearing is. Gentlemen, I am here to tell you that we did not have an opportunity for local input. I found, by and large - and I have attended more meetings relative to Pinelands than any other single governmental function since I have been involved in government - that all we had take place were people of the same conviction sitting in a

room telling each other that we haven't had the opportunity for proper input.

I feel if the input was in fact there, there should be proper documentation. I know it is not true in the case of Egg Harbor Township.

SENATOR DODD: Mr. Mayor, on that point, your municipality is the gateway to Atlantic City and it is the logical growth area, or the immediate growth area, from the outpopping of the casino legislation. Now, with or without being designated, wouldn't you be faced with the same problem?

MAYOR HEINZ: Senator, I am glad you raised that point. That is exactly what we know as local zoning - okay? We would address it, sir, and we have addressed it. Egg Harbor is not your classic example, as some people like to offer, of haphazard development. Now, I can't speak for previous administrations, but I can tell you that every member of our planning board has attended Stockton faithfully. They are familiar with the low technology, much of which is in the present Pinelands Plan we are presently employing.

Maybe we should dwell on that just for a moment. I would say other than the usurping of the local zoning, the setting of density, I am probably in agreement with most of this - okay? I think that if given the opportunity to establish those densities, or phasing in of the growth plan-- I am not anti-growth but I can't throw everything out the window that I have learned in terms of good planning and growth. I have applied myself. Just pick up the local newspaper. Not too many days go by that I am not in there for some reason. I do participate. I can't, in all fairness to my residents, throw that learning out the window. I have already had developers who had final approval for projects that they have not developed prior to the Pinelands Plan actually come to me now and ask to resubmit for more density.

SENATOR DODD: Mr. Moore, Mayor Heinz has said that he has tried to get input with telegrams. Believe me, I know the feeling of sending telegrams to the Governor and not getting a response. You are not alone on that.

MAYOR HEINZ: Okay.

SENATOR DODD: Mr. Moore, in response to his position that he was not given an opportunity for input.

MR. MOORE: I think Mayor Heinz himself may not have had as much input as perhaps he would have liked to have had, but there were meetings. If I can turn to Mr. Worthington's statement, I don't think in the history of the State of New Jersey any governmental body had more public meetings, or more meetings with municipalities every night of the week and every weekend. I think the record of that is quite clear in terms of the Pinelands Commission. I think that a number of things happened in a very quick planning period. The Legislature asked the Commission to do this plan in a rather rapid period of time. We had met during the course of that activity, I believe, with every municipality prior to the adoption of this plan and I have met with members of Mayor Heinz's planning board because I can recall those meetings with them, one of which occurred in Galloway Township because it was a joint meeting.

I think the opportunity for public input to this plan was always there and many municipalities took the initiative to request meetings with the Commission itself or the commission staff during the course of that planning exercise to bring that material to us. I also recall Mayor Heinz's planner, and the statement that he delivered to the Commission. I believe he delivered it initially at a public hearing at Stockton State College. It was

reviewed very thoroughly by our staff and there were discussions between Mr. Bowlin of our staff and the planner because they were referred to at our meeting in Mayor Heinz's office.

I think, going beyond that, the Mayor indicated not a great concern regarding the plan other than phasing of growth and density manipulations. I think the one thing that we should do is sit down and find out how that occurs because this plan allows that and there is opportunity for you to phase and there are opportunities for you to work those densities in the most favorable manner that your municipality can put them to. But, I think we have to sit down and talk about how that can be done.

MAYOR HEINZ: Senator, can I possibly respond to that?

SENATOR DODD: Yes.

MAYOR HEINZ: Because I think this is keenly important.

SENATOR DODD: This is one of the things I have called upon the commission to do. We in the legislature, rightly or wrongly, believe that this should be a living, breathing document. The flexibility, especially in your situation, has got to be able to give and take. It cannot be written in granite.

MAYOR HEINZ: Senator, number one, I want to see a living document. Number two, I have publicly stated, and it has been in the newspaper, as an opponent of the program, that there is a desperate need for a marriage. I am going to explain that, and it gets back exactly to what the director just said. We are a rather affluent community, admittedly, because I do have a pretty good balance at the present time. But, even with our degree of affluence I could not afford to go out and bring in the professionals to determine the information that is in this document. This is much needed. I want to be able to use this as an advisory document. I would love nothing better than on the front wall of my City Hall to have every developer see that such and such an area is not developable. It is going to be detrimental to our environment. I want that. Okay? But, I want the opportunity to be able to set those densities.

Now, in the preamble to this plan it says, "If it is going to be successful, the growth zones must respond with growth." If you have removed 80% of the inventory, where is the growth going to go? Now, you don't put in an interceptor line overnight. If there was an area in the Pinelands growth, in my community, that had infrastructure, I would say: "Okay, that is phase one; let's set the densities commensurate with it." There is no infrastructure there. There is no city water. There are very poor arteries at best.

I had the opportunity to meet with 17 of your fellow legislators on a one day excursion up north, to Bergen, Hudson, and Essex Counties. I sat down, as well as the County Executive and the Assemblymen, Assemblyman Matthews and Assemblyman Gormley, and I talked to these Assemblymen and I asked various questions about the plan. One Assemblyman who is a very astute individual and who plays a leadership role said to me that he thought to some degree it was a housing plan. It wasn't a housing plan. When we talked about zoning and densities, they are absolutely overwhelmed because like yourself they wanted that living document; they didn't envision it to be a zoning regulation. In fact, when you come to my community, and if in effect the preamble is correct and the plan is going to work, it must be a zoning document, unless we have the proper marriage -- we have the advisory material that I admittedly cannot

ascertain on my own. But there has to be a good marriage with that Commission.

Again, you cannot do a million plus acres in about eight to ten months time. That's impossible. It is as impossible as putting 52 mayors in a room on a Sunday afternoon, which anybody knows is going to lead to instant divorce. There is no way, in the height of the summer, as an elected official, you can go to meeting after meeting at night and then tell your wife that Sunday afternoon you are going over to Pemberton for a meeting.

SENATOR DODD: You're right.

MAYOR HEINZ: And expect me to discuss the intricacies of planning a municipality with 15,000 acres in the regional growth zone. This is an impossibility.

MR. MOORE: John, I think all I am asking for is a date and then maybe we could have a marriage. I would just like a first date.

MAYOR HEINZ: You're suggesting you are not married.

SENATOR DODD: Mayor, your tax situation, as you have heard from prior speakers--

MAYOR HEINZ: My present tax situation is \$2.16 per hundred. It does not involve any local purpose tax. Approximately 65% goes to the support of the local schools and the balance goes to the county.

SENATOR DODD: Tax appeals.

MAYOR HEINZ: Tax appeals -- I really can't speak to that, sir. As a matter of fact, keeping in mind the position from which I am coming, you would probably have virtually no tax appeals because of the very fact that it is all in the regional growth zone, actually forcing up the land values, probably. We are also seeing now, rather interestingly, on the Long Port Boulevard somebody would like to build almost 300 units of housing in the CAFRA zone. So, I think we are going to start to see, by reducing inventory in other areas, they are now going to go into areas previously, as I indicated, designated as low growth zones.

SENATOR DODD: Mr. Mayor, you have a well run town and you are noted for that.

MAYOR HEINZ: Thank you.

SENATOR DODD: I think you are to be complimented.

MAYOR HEINZ: That's what makes it all worth while.

SENATOR DODD: I would like to thank you.

MAYOR HEINZ: Thank you.

Is Freeholder Ed Salmon here? (no response)

John Lovell, Business Administrator of our host municipality, Hamilton Township.

J O H N L O V E L L: Senator, let me start this off by welcoming you to Hamilton Township. We are the largest township in the State and we are often confused with our sister municipality, Mercer County. But, I would like you to rest assured that we are the real Hamilton Township.

SENATOR DODD: I would like to thank you for the use of the hall.

MR. LOVELL: Hamilton Township is approximately 116 square miles with some 9300 residents at this time. We have really become, I think, a focal point of the Pinelands Plan to a degree, and as you are well aware we have broken away from the other municipalities in the county in that we are endorsing the plan and we are determined to work with the plan.

I think brief historical perspective is important in understanding why we do endorse the plan. Really, you have to look at two activities that occurred in the late 1970's and the early 1980's which are very significant. Of course, the first activity was the adoption of casino gambling in New Jersey. With the growth of Atlantic City and with this tremendous flourishing industry, a significant housing demand has been created. That housing demand has in fact placed a developmental burden on this community with some 30,000 proposed units now on our planning board agenda. I would note for the record that none of these units have yet received any final approval.

At the same time, the State of New Jersey took the necessary action to create the State Pinelands Comprehensive Management Plan which is the topic of discussion today. I think to understand its impact on the township you should realize that some 17 square miles of Hamilton Township is in the regional growth district and will be allowed to grow to some 50,000 residents some years in the future. The remaining portion of the township, roughly 80%, is split between the forest district and lesser density zones.

As mentioned before, the Hamilton Township Committee, on February 7, 1981, voted to take the necessary steps to bring our development ordinance into compliance with the Pinelands document. The committee has further directed the planning board to begin the process necessary for this undertaking. We recognize that we will have to make a monetary commitment in order for this activity to take place and we also are looking forward to a share of the Pinelands money, which I have been told will come to \$10,000 at this time.

However, I don't think these two factors play any significant part in our decision. Our decision can really be based on some five or six major points. I think the first point has been mentioned, not just by myself today but by the other people in attendance who have testified, and that is the pressures brought to bear on our limited municipal government staff by, for all intents and purposes, corporate developers which we have found are certainly more capable of developing their idea of planning for Hamilton Township. We ourselves, in turn, feel that this extra layer of what some people call a bureaucracy will be important in protecting our environment and we feel that the uniform regulations as designed by the Pinelands will benefit our community.

I think the second point is equally important, and that is the realization that the Pinelands Plan, for the most part, comports with our own master plan in Hamilton Township. To a degree, they are almost identical with the exception of planned residential development units in the western sector of our community. With that realization comes an interesting point and something that was brought into the forefront by several committeemen, and that is the recognition that our master plan no longer resembles our zoning ordinance in the township in that it has been amended quite a bit in recent years.

Another point of interest and a point of recognition on the part of the township committee is the realization that the regional planning benefits for Mays Landing as developed in the Pinelands document will protect our infrastructure.

I have brought with me today, just to leave as a sample of some of the problems we face, a study performed by five developers looking to create planned residential developments on the west side of our community. In order to implement this study and implement the housing, the infrastructure of our

historic district, which is rather quaint - you are certainly welcome to visit it while you are here - will be so modified as to have seven lane intersections and overpasses, etc. I think the residents of Hamilton Township do not desire to see that occur.

Another important point is, there is a general feeling that we would like to avoid suburban sprawl through our community. The growth district, as designed, will confine the growth to a certain section, and it looks, realistically, to be the most sensible section of the township.

Another point which I feel is significant is in population growth projections. We feel that the Pinelands Plan, along with some of the limited resources - and very honestly sewerage is a limited resource in Hamilton Township -- we feel that the combination of these factors will allow for a sensible growth pattern with reference to population.

As mentioned before, we are a community of 9,700 residents - or 9,300 residents. We do not look forward to becoming a community of fifty or sixty or eighty thousand residents in the future. We hope that with this added layer of review, possibly that can be avoided or so controlled that we can in fact improve our infrastructure and increase our services ~~that~~ meet that onslaught of growth.

One final point that I would like to make that is often overlooked and that I think is a key issue to this entire Pinelands Plan is the recognition that our environment in southern New Jersey - by the way, I am a transplanted north Jersey boy and I didn't realize there was a north Jersey and a south Jersey until I moved to south Jersey-- But, the fact of the matter is I am cognizant that we have a sensitive, in fact an extremely sensitive, environment in southern New Jersey. We sit upon certainly one of the greatest resources in the metropolitan Philadelphia-New York area right now, which is a water aquifer, which is very important. I think there is a realization that this aquifer must be protected, not just for the generation that is currently utilizing it, but for future generations.

I think in reply to some of the comments made by some of my colleagues - certainly Mr. Worthington and our representatives from other townships around here - I would like to bring up some of the township's perspectives with reference to tax revaluations. Hamilton Township is really not in a position where we can comment on the Pinelands impact on our tax values in this community. We went through a complete revaluation, which was implemented I believe in 1980, which more or less doubled the value of this community. We have a number of appeals this year; however, my assessor assures me that those appeals when compared to other communities throughout the state going through revaluations are not excess, but in fact seem to be average.

SENATOR DODD: Has there been any trend on the results of those appeals?

MR. LOVELL: I don't believe there has been a noticeable trend to date. I, like John Heinz, am not really prepared to comment in detail on the Pinelands effect on appeals.

SENATOR DODD: Do you have a number of appeals that originated?

MR. LOVELL: I discussed this matter briefly with our assessor and it was his opinion that only two major appeals have in fact been successful due to Pinelands, and they were both brought by land speculators and developers.

That more or less summarizes what I have to say, Senator. If there are any questions I can answer for you, I would be more than happy to do so.

I also brought a copy of our local newspaper which I think clearly indicates some of the pro and con arguments that were made by the committeemen in arguing the benefits and cost of implementing the plan. I would note that it was not a unanimous vote, but in fact a three-two split vote to conform.

SENATOR DODD: Thank you very much.

MR. LOVELL: Thank you.

SENATOR DODD: The Chair would like to call Philip Nanzetta, Atlantic County, Pinelands Commission and Galloway Planning Board representative.

P H I L I P N A N Z E T T A: Thank you, Senator, I am glad to be here today.

I want to talk about some of the subtalties involved which make it very difficult to communicate what I think the real issues are behind some of the distinctions that are being made. I think it is important, first of all, to draw a distinction between the objectives of the Pinelands Plan and the Pinelands Protection Act on the one hand, and the specific techniques that are employed to implement the act and the plan on the other hand.

Most of the people that I talked with subscribed to virtually all of the objectives of the Pinelands Protection Act. They would definitely agree that it is critically important for all of us in south Jersey as well as for the balance of the State to preserve the vast underground water supply. We depend on it. It is our sole source of water. There is no question that we subscribe to that objective. There is no question, I think, that we subscribe to the objective of the importance to protect vast, contiguous open space in its natural state for recreational purposes, for preservation of important wildlife and plant species, and I don't think anyone objects to that.

The difficulty comes with the issues about techniques for achieving those and the problems with those techniques are answered using the images that are related to the objectives rather than using the realities of the techniques themselves.

Virtually all of the public communication to come out of the media centers of New York and Philadelphia deals with the images of the pristine preservation area, the cranberry bogs, the streams, the pools, and the undeveloped areas, and people obviously agree with that, even people who object to the specific techniques that are being employed. The answers to questions about techniques usually come in the form of arguing on behalf of the objectives. So, I think it is very important for all of us to concentrate on some of the problems that are involved with the techniques themselves and not become confused between objectives and techniques.

I would say that virtually all of Atlantic County, for example, would agree that they are matters of scale in which they differ. They would agree with the objectives, except probably Galloway Township, Egg Harbor Township, and Hamilton Township, if they understand what the real impact is will probably disagree with the concentration of development that is

being pushed by the Plan into those municipalities.

SENATOR DODD: Galloway is half CAFRA. As a matter of fact, you have a few designations within your boundaries.

MR. NANZETTA: That's right.

SENATOR DODD: So, you have a little of everything.

MR. NANZETTA: Of each combination, including some national reserve overlapped with CAFRA.

SENATOR DODD: And a military base. That covers the whole thing.

MR. NANZETTA: We even have a wonderful State installation there, Stockton State College.

The municipalities likely subscribe to the objectives but have difficulties with the techniques. I could use as an example, if I may, Port Republic, which voted that they were not in favor of conformance at this moment they probably favor what the Pinelands Plan shows as an ultimate picture for Port Republic but don't like the idea of having their will determined by an outside group. They have undergone extensive master planning and have adopted a zoning ordinance which already takes care of those problems for them.

The difficulties involved are the fact that copies of the plan are available only after the introduction date of municipal budgets, so they have difficulty analyzing what is necessary to move towards conformance at a time that they can budget for that conformance during the conformance year. The plan is widely misunderstood. I think the people who are arguing in Hamilton Township, for example, are each arguing on the wrong side of the issue if they really understand what the impact of the plan will in their own municipality -- namely, increasing the concentration of development in a substantial region of a regional growth center.

The techniques in the plan, I argue, are more heavy-handed than are necessary in order to achieve the objectives. It is much, much more severe in its impact and its particular implementation techniques than the Adirondack Park Agency Plan was. We had testimony from people who are on the Adirondack Park Agency as well as testimony from opponents of the Adirondack Park Agency, and for me the most shocking information came from the members of the Adirondack Park Agency who were arguing that their plan was reasonable and workable and who, in the process, showed how much more reasonable and workable it was, in fact, than the Pinelands Plan. The Pinelands Plan reaches much more deeply into local decision-making with respect to their jurisdiction and in the Adirondack Park area there are no local zoning and local municipal-- There is no act comparable to the municipal land use law in New York State. There is no local planning and zoning comparable to what exists in New Jersey to be overcome by a regional agency. In the Adirondack Park area that was the original planning and zoning effort there and not a replacement effort taking something away from the local level. And, there are other elements if you would like for me to enlarge on that. I could do that maybe at some future time. There are other elements that indicate that the Adirondack Park approach is much more gentle even than the Pinelands approach.

I would like to talk for a minute about the Pinelands Development Credits because I think while they are advantageous in some areas of south

Jersey, they are particularly disadvantageous in Atlantic County. The way the system operates is, there are certain sending areas for Pinelands development credits, the preservation area as a whole and special agricultural districts. People who own land in those areas can sell Pinelands development credits, which are an easement or some restriction on the deed so that they will not develop housing units there. Those Pinelands Development Credits will be purchased by a developer who wishes to increase his density of development within a regional growth center.

The plan, as it is written now, requires a municipality to accept that increase in density. There is no option involved. And, the ranges of increases are spelled out within the plan. The municipality has no control over that increase. If a developer walks in with development credits which he has purchased from somewhere, he can put them on the table and get the increase in density.

Let me contrast that with what is happening now within the planning structure of Galloway Township in which developers can get increases in density and changes from single family to PUD type development in return for particular environmental sensitivity contributions to the municipality in the form of, say, sewer service, which also serves a new school or a municipal complex or in return for contributing classrooms for a school which is going to provide service. These are all part of a package by which the developer comes in and brings something to reduce his impact in the area of his development and compensate for the increase in density.

SENATOR DODD: Phil, on this point, let me direct a question to Terry Moore. Could you explain how a transfer of development from one area to the other would work -- from one part to the other? It sounds like it is fairly simple. Is it in fact that simple?

MR. MOORE: I would never argue with a member of the Commission, Senator. I would say, yes, it is simple. It is not quite that simple. But, the transfer works basically as Commissioner Nanzetta has outlined. It is really like selling a piece of property. There is of course a title search survey which would be necessary, and a recording of the deed or a charge on the deed which would restrict the land from where the credit has been sold.

SENATOR DODD: Well, it was intended to have some degree of speed to it.

MR. MOORE: Hopefully, yes, that is correct.

SENATOR DODD: But, can it be forced, as Phil is saying, that quickly on a area where perhaps the township does not want that growth?

MR. MOORE: Well, in the plan - Mr. Nanzetta can perhaps interpret it differently - there is a range of densities within each municipality, and each of those ranges of density does not change the housing type. You have a one to two unit range, which is a single family dwelling. If you, under the base zoning, don't have credit, you get the one unit to the acre. If you bring in a credit, you get the two unit to the acre. So, you are not changing. You are not going high-rise in a single family area. And, the municipality can arrange those densities throughout the municipality into areas where they want higher density or lower density. The thing

that I think is important about the credit program is that you can't anticipate that every one is going to be sold because we don't anticipate that a lot of them are going to be sold in the very near future, mainly because people are going to keep them to see what they are worth at a later date, and also to use them potentially for, depending upon a piece of legislation which is about to come to your committee, I believe, whether they can be used to guarantee loans for farmers and what have you. So, we don't see an instant turnover, let me put it that way.

SENATOR DODD: Our committee requested this degree of flexibility, Phil, and it was agreed to by the commission at that time.

MR. NANZETTA: I don't think it is a matter of speed that I am talking about. It is a matter of the municipality which needs to absorb the increased density not being able to receive a commensurate benefit to help compensate for that, or to help mitigate the impact of it.

What is happening is, the developer who builds with Pinelands Development Credits in Hamilton Township is providing a mitigative effect in Burlington County on a piece of cranberry ground where the Pinelands Development Credits have been sold from to obtain that increase in density. I am a strong supporter of transferable development rights or credits in localities which are natural units, which I think depends on crossing taxing jurisdictions and on using jurisdictions. In the Galloway example that I was speaking of, the beneficiaries of the transfer in terms of the extra open space are close enough at hand to the sufferers of the increased density so that they can share it and it balances out.

SENATOR DODD: Commissioner, let me put on your planning hat for a minute.

MR. NANZETTA: Yes.

SENATOR DODD: In Galloway, what is your knowledge and/or experience of the tax appeals in Galloway itself?

MR. NANZETTA: I don't know anything of the tax appeals in Galloway. The only information, aside from hearsay, that I have seen is information that was incorporated in a resolution of the Pinelands Commission that gave particular dollar figures for tax appeals in Burlington County, I think -- perhaps in Ocean County as well. Those are the only specific numbers that I have seen. Since I don't, in my planning role, have to worry about tax rates, I am less aware of that than I might be.

Let me give you some development credit numbers. Galloway Township's regional growth zone is required to absorb two and one-half units per acre as its base density. The projections in density for Atlantic County as a whole - this is on developable land within a regional growth area as the foundation - is 4.6 units to the acre. So, the factor of elevation there is a little less than two -- a little less than doubling. And, in general, if you look at the plan, the elevations that are provided within the ranges are on the order of two, plus or minus depending on what the range is, from one-half a unit to one unit for example, or from four units to six units. The fact is that that serves to deprive the municipality of obtaining the benefit of that elevated density which helps it to absorb the elevated density. The effect of this plan, I think, at the non-individual level will be worse in the regional growth areas than it will be in the

lower intensity growth areas. The effects on the individuals, on the other hand, will be reversed. It will be bad for people whose property has lost value and it will be bad in municipalities which are submerged in the non-development areas, but will probably more or less compensate for those municipalities that cross the borders.

Again, it is a shade of grey issue which is very difficult to communicate publicly, which is very difficult to communicate through the normal channels of the political process. But, it is the thing that is important here. Anybody would agree, I think, that a proper planning objective would be to concentrate development, to move development so that instead of covering all of the Pinelands at a moderate to low density, part of it is protected fairly strongly and part of it absorbs more growth. My problem is that the scope of that is too great, I think. The density and the low density area is too low outside the preservation zone. The density in the regional growth areas is too high. The principle and the objective is a reasonable one but the approach is too intense.

SENATOR DODD: You are talking about a living, breathing document that we are talking about, that needs adjustment from time to time, and as we experience items that you point out and that Chuck Worthington has pointed out, and many others, it has flexibility and it must have flexibility.

MR. NANZETTA: None of us who work at the local level have seen indications that the commission and the commission staff will act in such a way. None of us believes that we will act in such a way.

Let me give you an example. The initial four or five volume report by Ross, Hardys, O'Keefe, Babcock, and Parsons studied the issue and made recommendations about approaches, ranging from very local oriented to very regional oriented, and in virtually every case the route that was chosen was the extreme regional orientation, the least sensitive and the least involved with the local interests.

Let me return to an example that I mentioned earlier. I think that Port Republic probably would look favorably upon -- and that is just an example that I happen to know; it is standing by itself but it is not a single example -- not having growth. It would probably be happy with more or less what the plan calls for. But, they want to be involved in it. They don't want somebody to come down to their municipal building and tell them how they are going to do their plan. And, they may want some things a little bit different from the way it is in the plan. They should be able to do that as long as it doesn't interfere with the overall objectives of the plan. They don't have any confidence, and I don't think they have any basis for confidence, that the commission and the commission staff is going to be responsive and is going to be sensitive to those things, because they haven't seen it in the past. They have seen every interpretation carried to the rigid end, in their opinion. They have seen the Pinelands Protection Act carried to the extreme limit of its jurisdiction in every case.

Secretary Andress, in a letter that accompanied his approval of the plan, indicated that the commission needs to be more sensitive to the local interests and more responsive and more flexible. That was one of the important recommendations that accompanied Secretary Andress' recommendations.

The Atlantic County Planning Board, which Terry has referred to as developing a plan that in some respects resembles the Atlantic County plan also - I don't know whether it has been responded to or not - in a letter to the commission urged that the commission be more responsive and more flexible in working with the local people for purposes of implementation. Even one of the south Jersey Congressmen who has been strongly supporting the Pinelands Plan, sent a letter to the Pinelands Commission urging the commission to be more responsive to local needs, in fact urging the commission to get a tighter reign on its staff for that sort of flexibility and responsiveness. That's where the problem lies.

SENATOR DODD: Technically, the plan has only been in effect since last month.

MR. NANZETTA: People have been working with the Pinelands Commission for 18 months.

SENATOR DODD: Yes.

MR. NANZETTA: They have developed a pattern of experience.

SENATOR DODD: But, Phil, is this pattern of experience just finding their way until we now can work and adjust, as with Mayor Heinz and Egg Harbor Township? I expect this to interface quite comfortably -- not myself, but the entire legislature.

MR. NANZETTA: Chairman Parker, in his opening statement, said: "The ink is barely dry on this document and we shouldn't go changing it now." That's the attitude that has been reflected at each stage: "We will listen. We will be flexible. We will take care of you at the next stage." And, when the next stage comes, that's locked up. I think there are specific legislative remedies, not the Karcher Bill which I think is too black and white. It doesn't deal in the shades of grey that I argue for. It is too blunt an instrument to accomplish what needs to be accomplished. I think that legislative remedies are possible which would bring this process back to the objectives that the legislature anticipated in the first place, utilizing techniques which are acceptable at the local level.

SENATOR DODD: Can you see the problems that have been addressed and will be addressed being done within the framework of the commission itself, with input from people like yourself, certainly? You are very well spoken and extremely knowledgeable of the problems, not only from your particular area but from the entire region.

MR. NANZETTA: Senator, I feel excluded. I feel that the commission itself has not delineated problems as they have come up. It has tended to try and sweep them under the rug and deny that they exist. It has tended to isolate individuals. Specifically, Chairman Parker established a conformance review subcommittee which I assume will be working with municipalities as they bring their plans in for approval. I asked to be on the conformance review subcommittee and so did my colleagues from Ocean and Cape May Counties and we were told no, we won't be on it. The Atlantic Board of Freeholders then passed a resolution condemning the commission for doing that. Each of us wrote letters to Chairman Parker and we are going to raise it as an issue at the commission meeting itself.

As a result of that, Chairman Parker put my colleague from Ocean County on the conformance review subcommittee, but that would--

SENATOR DODD: Isn't that an inter-commission working? You know, I like to be on this committee and sometimes I would like to be off of this particular committee but--

MR. NANZETTA: I am speaking initially to your point of "can't we work this all out"? The answer revolves around the inner workings of the commission. The approach, for example, with the conformance money -- an outsider who had never been at a commission meeting before and who was at the last commission meeting read the letter, and I have spoken to him subsequent to that, and he said, "That was really a very heavy-handed letter. That was really using a club and a carrot instead of a stick and a carrot with the municipalities saying, 'You had better sign up fast for that money or you are going to be cut out. And, as a matter of fact, you better sign that before you get a copy of the plan'."

SENATOR DODD: Let me ask Chairman Parker to respond to that, on the appointments to the committees. I certainly can appreciate and I am sure Phil realizes that this is a sensitive committee and certainly everyone would want to be on it.

MR. PARKER: I haven't got the list here, but one thing we have tried to avoid on this commission from day one is a cleavage between the appointees from the southern counties and appointees by the Governor. We have tried to work together. I believe on the committee that now exists of six people, three or four are in fact - I guess four people - are people appointed by their respective counties to the commission. So, I do not buy for a minute what Dr. Nanzetta is saying, that the counties, if they feel they must be represented separately, are not represented on that subcommittee. And, he and I have had exchanges of letters and conversations and I did indeed put the representative from Ocean County on that committee. I think the counties will be fully represented. A notice of every single meeting of any one of our subcommittees is given to every member of the commission and they are all free to attend and to participate in all the deliberations.

So, again, it is the Chairman's prerogative to appoint these committees. I must use my best judgement. I think I have used my best judgment and I intend to stick with the committee as appointed.

SENATOR DODD: Doctor, thank you for your testimony today.

MR. NANZETTA: If you are interested in moving forward with legislation to deal with the shades of grey that you hear about today, as well as the shades of black and white, I would like to offer whatever assistance I can to the committee and to the committee staff to work with you on that.

SENATOR DODD: For the morning session this has been a good, open exchange and I am delighted we are down here.

Folks, we will take a break for lunch. I understand the cafeteria is down the hall. God knows where the next point of land is on the road, so the cafeteria sounds good. I would say to give ourselves about one-half hour or forty-five minutes and we will then start right up again.

(lunch break)

AFTER LUNCH

SENATOR DODD: Ladies and gentlemen, before I call Richard Squires to testify, we have three people who want to go first, or that need to go first. Is Mr. Squires here? (affirmative) All right, will you please come up here? Before Mr. Squires speaks, let me make a statement. This committee and myself -- I am sponsoring a package of five water bills that deal with long term water problems in northern New Jersey. We are having a series of hearings throughout the State dealing with the water crisis, the present crisis and the long term, which my bills address. There is concern. People have sent me headlines from different news articles that have appeared about the use of Pinelands water for northern New Jersey, for the drought conditions. Let me make it clear at this point that that cannot and will not be done. It cannot be done because of the very fact of why we are here today. The moment we move the delicate balance of the aquifer in the Pinelands we then ruin the exact thing that we are trying to preserve, and without going into all the details, I think simple logic says that without the aquifer the vegetation would dry up and die, the wild life, the fish, your outflowing streams that keep salt water from encroaching would be harmed. The salt water would then intrude on the inland portions and contaminate the entire aquifer, which in itself would kill the vegetation and the wild life.

Next week in Vineland we have I think our fourth public hearing on the water bills, and that will be mainly to deal with the agricultural problems. But, I will make my position, the committee's position, and the state position very clear at that time as well. But, for those of you that have spoken to me today, I wanted you to know that. Let's put that to rest.

Proceed, Mr. Squires.

R I C H A R D S Q U I R E S: Good afternoon. I am Richard Squires, Chairman of the Atlantic County Board of Freeholders, and also a certified tax assessor from New Jersey, serving presently in Egg Harbor Township. Basically, I would like to more or less discuss the tax angle as I see it, which I think is a little bit more authentic than some of the hearsay evidence we have had before.

I am concerned with your Pineland Development Credits for one thing, in that it is my understanding - and I talked to Mr. Moore about this a long time ago - that they are going to be going from one municipality to another, and under the present laws of New Jersey all deeds that are recorded must be recorded in the county clerk's office and a copy, or what is known as an abstract, is then forwarded to the local assessor's office in the affected municipality. As I understand it, these recorded instruments will be selling -- or, in this case financial monies will be transferring hands for rights that will be coming from one municipality to another, and under the Division of Taxation's existing sales ratio program that we now have in existence, that is already the criteria that has been effectively damaged by all kinds of other problems within taxation. What I am trying to say is, with the sales going from one municipality to another, the sales market of trying to maintain 100% ratio as an assessor, as prescribed by law to do, is going to be totally ineffective.

We in the counties in the southern part of New Jersey - Atlantic,

Cumberland, Ocean, and Cape May already have problems with the casino boom and what that has done with the sales ratio program, and I really feel that these credits are going to become a black market of sorts and that they are going to become lost in the shuffle and become a very unfortunate bookkeeping problem for those who will have the job to record them and keep them in tact.

For example, if a man sells the rights to his farm to another municipality for the purpose of using it in another area, that farm is going to be maintained as a farm possibly as far as being vacant, but the valuation that the assessor, by law, is going to be able to prescribe to is, because the rights have been taken from it - we will just say it is away from the immediate area here and brought into another township - going to be so affected that it is going to become a bookkeeping mess.

I really think that we should stay completely away from the Pineland Development Credits, as they are now called. I would go back to the transfer of development rights as they once were talked about. I just think that is something that has to be altogether eliminated from the program because of the fact that it is a bookkeeping nightmare.

There is no question in my mind that the ratable base from the municipalities that has the acres of land that are affected by the Pinelands Plan will be affected in the 1981 and 1982 tax appeals, not the ones that have already occurred. The ones that have already occurred have occurred because in one municipality in Atlantic County, Hamilton Township, they had a revaluation that went on the books in 1980 and what did come out earlier is that the assessor agreed to a reduction in advance of a public hearing, which is what is known as an assessor's appeal. My information is derived from the secretary of the Board of Taxation in Atlantic County who indicated to me that they took and cut the assessments in half at what is known as an assessor's appeal right.

Keep in mind that October 1st of the previous year is the deadline date for valuations. And, October 1st of 1980 was not going to change the ratables, in my opinion, because, as you know, the act wasn't signed until approximately the first week in December. However, in 1981 and in 1982 you are going to start seeing what the assessor has no choice but to do, and that is abide by the market and what the Pinelands legislation has done to it. And, I go back to the Wetlands legislation when we all understood the preservation aspect and where that was coming from. The next thing we had in New Jersey was, we had orders that all assessors were to use \$50 an acre. Right now, prior to this most recent act, we had many acres in Egg Harbor Township and in the mainland areas selling from \$10 to \$15 to \$20 thousand an acre, in their raw form, just the way they were. And, to go and pass this new bill, which is definitely going to have its effect, you are going to maintain a lower assessment in what was known as a rural area and you are going to put higher values on existing properties, whether they be in Atlantic City or any place where they already have the improvements. By that I mean, those of us who own homes will have no choice but to increase but to increase the burden of what we already have to pay because of the lesser ratables from some of the rural municipalities that are going to

be affected. I just would like to say that the tax impact will not be felt until 1982 to '83 with what has just presently now become law a month ago.

SENATOR DODD: Mr. Squires, weren't many of these appeals made before the Pinelands Plan was even adopted?

MR. SQUIRES: The appeals that have been discussed already are appeals that maybe should never have been reduced in advance of the Pinelands Act being created as law.

SENATOR DODD: Why were they granted?

MR. SQUIRES: That is an internal thing between the municipality and its own governing body as to the, shall we say, research that should have been done for follow-through purposes. In my opinion, it was a case where big land owners probably argued the fact that they should have had a reduction because the plan had been announced - we have already talked about the 18 month period - and they knew it was coming down the line. So, possibly it was a strong argument up front but it never got to the Atlantic County Board of Taxation for the purposes of reduction, as I understand it. It was done as an assessors appeal, which is an area where it can be a corrective measure in a revaluation year. In the future, each and every case will be individually heard, and my argument is that any appeals that have been reduced in Atlantic County, because we have both the protection and the preservation area, should not, in my opinion, have been effected in 1980 until at least '81, '82, or '83 because of the October 1st pre-tax year deadline that you must recognize value from.

SENATOR DODD: Mr. Chairman, that fact has been surfacing more and more today and that bothers me a great deal also.

I would like to call on Mr. Moore on the T.D.R.'s, the transfer of development rights.

MR. MOORE: I wonder if I could address something that the Freeholder said also. I agree totally with him on the tax issue in Atlantic County. The tax reductions by the county board, I agree, probably did not occur in Ocean. There were 30% reductions granted and in Burlington. In some cases there were 50% reductions granted using the same timetable that you have set out. I think we totally agree that to grant a tax reduction prior to the plan even being adopted and then using on the deduction form Pinelands forest area as the reason is not the best way to proceed from a county tax board issue, but that is what has occurred.

On the credits, I think there are some things that are different here than in just a traditional transfer program. First of all, the only thing that is being tied up in the land after the credits have been sold is a restriction on the residential use of that land. The land can be used for any other purpose provided under the plan. In many cases, particularly in the agricultural areas, it can be a commercial establishment related to agricultural types of activities. So, I think the residual value in many cases is more than you would get out of a traditional T.D.R., where you totally conserve the land under an easement.

The transfer question - and I think your bookkeeping issue is a good one - is going to be an interesting kind of a procedure. The commission has to certify every transfer credit that is used in the Pinelands. I think you will see an added bookkeeping done by the Pinelands Commission, keeping track of those credits as they are sold and received within municipalities.

The one issue that I think is the most difficult one and the one that you very correctly point is, "assume there is a credit speculator who is just carrying them around." I think that is an issue that we have to address within the context of this plan as it evolves. I don't have an answer for that one at this point in time, but I think it is one that we have to continue to look at. I am not as concerned as you are, Mr. Freeholder, because assuming that the same people who are selling those credits had conveyed an easement to the State of New Jersey, that entire tax issue would have been lost anyway. So, it is not much different than the straight easement picture going to a non-profit corporation or the State of New Jersey, it still would not be taxable.

MR. SQUIRES: I think my argument is really not in the preservation area. I accept the preservation area. It is the protection area. And, the protection area goes into such towns that already have, for example, a subdivision on the books where eight out of the twelve houses have already been built and now because of the stroke of a pen we now have a big question on the valuation of the remaining ones and what they can do with them. They have to go and get the approvals, and under taxation laws you can say, "Well, you haven't lost your use until you apply for it and get turned down." Well, you know that is easy to say but it is hard to defend as a taxing official and there are so many ways that the taxing official has been defeated by other conflicting laws in New Jersey. I just say that this is one that really has to be fine-tuned before it goes fully to where we are now going to be. The Farmland Assessment Rollback Tax was a problem and that has been abused by a lot of speculators. I am not out here defending speculators. I am out here defending the rights of those who own going into this new law and what they can do with or without the ability to defend their own rights on the ownership and uses of their land. I really think there has to be some happy medium between the commission and the municipalities so that we don't have the problem with the people who have innocently lost their rights to their own land.

You don't know how much I am hearing every day about people just now finding out what is going on. And, as you know, in Atlantic County we spent a lot of time trying to get the word out so that those homeowners and property owners would not be accusing us of not letting them know what was about to happen to their rights of their acreage and things of that nature.

I am not here to defend anybody on a large scale. I have come here to defend each and every little man that has a parcel of land of two or three acres. You don't know how many young couples have bought lots and really wanted to do something with them in two or three years and have gotten caught in this thing. And, when I say caught in it, I mean even in the family tree where the mother and father has agreed to give son number one three acres to build his house and the added bureaucracy and the paperwork required has delayed construction so bad that it is almost a year later - and there is cost involved. I think you need some sort of "speedy trial" type situation that you are going to have to use on the commission level. I am not too sure that the commission, now that you have the other thing through, can start changing its whole image and start recognizing

things that you and I can talk about right today, Terry, that we couldn't talk about a couple of months ago.

MR. MOORE: I agree.

MR. SQUIRES: All I want to say is, that is a direction I think it has to go in.

SENATOR DODD: Mr. Chairman, we did reduce the original draft from two-thirds to a simple majority to grant a variance, and the variance procedure within the Pinelands Act is not unlike that before local zoning boards. So, we have tried to expedite the process, not complicate it.

MR. SQUIRES: I recognize that but I also think that maybe collectively you could go around this State and look at those municipalities that have done a terrific job of updating their master plans and zoning, and allow them to add it to their criteria with some kind of a routine passing by of the commission as opposed to a full fledged -- we will call it an investigation. Terry?

MR. MOORE: The plan provides for that. Let me deal with a couple of issues that you raised. First of all, the people that built the eight houses out of the ten lots -- and we do have a final subdivision provision that people can come into under this plan. The person that bought the property and wants to subdivide for their kids -- there is a provision that allows that under this plan. The single family what we call "grandfather provision" is not totally a grandfather, but if you bought your lot prior to February 1978 and you want to build your house on that acre lot, that is provided for here in any area of the Pinelands except the preservation area. Everywhere else in the protection area you can do that.

One thing that I think everyone ultimately has to understand is that now, unlike the moratorium, the commission is not acting on every application. All we are getting is a pre-filed application. It goes directly to the municipality after we certify it is complete. No decision just completes. The municipality makes that determination and the only thing that the commission has now is the right to call up an application that it knows darn well is in violation of these standards. I think that is the return of what used to be called the moratorium to a lot of local decision-making being done in the future. And, I agree. I think we have to sit down and we have to go through this little document, which isn't so little, as we know, and figure out where everybody's interest really lies here. I am not sure everybody is going to find it as complex and as dangerous as it appears to be when you look at it two inches thick.

MR. SQUIRES: I think one key that I have picked up in the last couple of hours here has been, as the Senator has brought out, "Can you live within it with some breathing space back and forth?" And, I think if the attitude is such and it is legitimately and honestly done, that possibly that can help many of the cases that have been the hangups before. But, that requires an open mind and really an open line of communication from this day forward or else it will never work. And, I must admit that is a beautiful book. I received mine two days ago, and I would only say that this is what I guess has been needed for a lot of people to understand where everything ended up in late November. But, from this point on, Senator, I would only say that I really have to emphasize that something that might

have been lost in the many weeks and months prior to November is a tax issue and this State has enough problems with taxation. They haven't had a tax convention for several years and everytime they attempt to have one everything goes wrong. So, I would only say that we can't afford piecemeal opinions that are going to undo what is left of the sales ratio program that we are mandated to perform and, shall we say, carry out.

SENATOR DODD: We may be having a mini-tax convention this June 3rd and then again in November. Those are election days, folks.

MR. SQUIRES: Thank you very much.

SENATOR DODD: Thank you, Mr. Chairman.

I would like to call Alan Avery, Director of the Freeholders of Ocean County and Jack Hendrickson, if you would both come up together, please.

Jack Hendrickson, of course, is the Mayor of Eagleswood and a member of the Pinelands Commission.

MR. AVERY: Senator, I am not the Director of the Freeholders.

MEMBER OF AUDIENCE: Alan is our planner, representing our Ocean County Freeholder Board, Senator.

SENATOR DODD: That's what I wanted. Fine. Again, we are look for a bit of expediting of our time so that we can get the most out of this next hour or so as possible for meaningful dialogue.

A L A N A V E R Y: Senator, my name is Alan Avery and as Jack said, I am the principal planner with the Ocean County Planning Board. I have been authorized to read a brief statement on behalf of the Ocean County Board of Chosen Freeholders and to state the County of Ocean's strong opposition to the implementation of the New Jersey Pinelands Conference of Management Plan. At this juncture it appears that the only way to accomplish this is for the legislature to manage the New Jersey Pinelands Protection Act.

I think I should state at the outset that the issue of the Pinelands protection continues to be of vital concern to Ocean County. I think many of the elected officials have touched on that today. In the past, counties supported a variety of planning programs at both the county and regional level to help insure the protection of this important natural resource. The county has been actively involved with the Pinelands Commission over the past 18 months in an attempt to provide input into the planning process so that the legitimate concerns of our residents and our local governments could be addressed without sacrificing the sensitive Pinelands resources.

For example, the Board of Chosen Freeholders established the Ocean County Pinelands Task Force, composed of interested citizens representing a broad range of environmental and economic interests to advise them during the preparation of the Plan, and on Pinelands related issues. This task force worked very closely with the County Planning Board staff and the county's 15 Pinelands municipalities to review the plan and suggest revisions that would make the plan work in Ocean County. These suggested revisions were incorporated into a report by the Planning Board staff that was endorsed by both the Board of Chosen Freeholders and the Planning Board. On September 28, 1980, the county's position was presented to the Pinelands Commission and was generally well received by the Commissioners. I have a copy of that report that I will leave with you so you can see it is a very substantial document.

Unfortunately, that was the last positive response the County has heard from the Commission. The County is still awaiting a complete response to its comments on the plan and the adopted version of the Comprehensive Management Plan failed to incorporate any of the significant concerns expressed in the report. Despite its best efforts to cooperate with the Pinelands Commission to develop a workable plan, the County has been largely ignored. This is in direct contradiction to the requirement in both the Federal and State legislation for maximum intergovernmental coordination. The end result is that the County and its municipalities are forced to implement a plan to which they had no meaningful input and which they do not support. The County is obviously less than satisfied with this role.

I do not want to relate in detail the many comments the County made regarding the Plan, but I would like to highlight several of our most significant concerns.

1. The Plan fails to allocate sufficient land area to accommodate projected development in Ocean County and gives no explanation for this failure. Furthermore, the land areas designated for future growth are in the wrong location. Most regional growth districts are in the County's southern Pinelands municipalities that lack the infrastructure and services to accommodate substantial growth. While there is no question that this area will develop in the long term, short term increases should be focused in the northern municipalities where facilities already exist.

2. The standards and regulations contained in the Plan are simply not workable. For example, the Plan requires that municipalities with regional growth districts must provide for an increase in density in those areas through the use of Pinelands Development Credits. In Ocean County, however, areas that are eligible for these increases, such as the northwestern section of Berkeley Township, are already experiencing environmental problems. Density increases are clearly inappropriate for those areas. And, without a viable market area, the use of Pinelands Development Credits as a means of compensation is unworkable.

3. The Plan requires Pinelands municipalities and counties to complete revisions to their master plans and land development ordinances within one year of plan adoption. Yet, the Commission and the Legislature has failed to provide adequate funding to complete these revisions. Ocean County and the 15 Pinelands municipalities were allocated \$58,000 by the Commission for conformance. The Ocean County Planning Board alone estimates its costs for compliance to be \$65,000.

4. The Pinelands Commission is seeking to implement the Plan with no consideration to either the short term or long term economic impacts on residents and local governments. The Ocean County Board of Taxation has already granted 861 tax appeals, totaling a reduction in assessed value of \$5,112,000 as a direct result of this Plan.

SENATOR DODD: Would you go over that again?

MR. AVERY: The Ocean County Board of Taxation has granted 861 tax appeals. I think that is out of a total of some 2,600 some odd applications. And, they have reduced the assessed value for a total of \$5,112,000 as a direct result of the Pinelands Plan. I am not sure, and I don't want to speak for the tax board, but I think Freeholder Squire mentioned that

there was an October 1st deadline for assessed valuation. This may be that the preservation area plan was adopted and approved September 23rd, I believe, so that would fall under that deadline, and these may be appeals in the preservation area. I am not certain about that.

Other elements of the plan intended to provide either revenue or compensation, such as the proposed payment in lieu of tax program, requires action by the Legislature. While local governments are being required to spend substantial funds to conform to the requirements of the plan, their ability to raise those funds is being severely eroded. It is unfair to place the burden of preservation of what has been found to be a national and state resource on the shoulders of Pinelands residents alone.

In conclusion, the county continues to support the protection of the Pinelands, but this protection must consider the needs of the residents and local governments of Ocean County as well as the environmental considerations embodied in the comprehensive plan. An issue of such importance requires the cooperation of all levels of government in the development and implementation of a workable, realistic plan. To date, we have failed to achieve this in any meaningful way. Legislation such as the two bills that you are considering today would go a long way towards achieving this goal by providing for strict regional controls over the core area of the Pinelands, while providing the municipalities with the necessary flexibility to accommodate local needs in the protection area without endangering the overall natural integrity of the Pinelands region. Thank you.

SENATOR DODD: Thank you. Jack?

JACK HENDRICKSON: Thank you very much, Senator. I want to hit on some things that have been testified to prior. The cost of implementation to the municipalities of the plan has not been adequately addressed. The ordinances that are going to have to be passed - and I have to say that the staff is assembling ordinances now as samples to send out to municipalities - are still going to have to be printed. The municipality itself cannot, at this particular time, address that cost in their local '81 budget. Therefore, some time down the road, not knowing how much money is available, it will have to, somehow, have an emergency appropriation built into the budget to pay for the implementation and the certification of the master plan within the year. I hope I am making myself clear.

I feel now that the uncalled-for attacks on the County Tax Board are unjust. We have professional tax assessors, C.T.A.'s. These people are knowledgeable. As our Planning Director pointed out to you, there was an 18 month moratorium. The plan itself was adopted by the Commission, I believe, August 8th and signed by the Governor in September. The appraisals that came in will be defended, I believe, by the Ocean County Tax Board. To have them maligned - and they are professionals - I don't believe is fair to them, particularly when they aren't here.

There is a tax problem. My testimony in Pemberton Township was submitted to you in writing. Again, it addressed the Wetlands problem that we have had and the devaluing of the Wetlands, again as attested to by the official of Atlantic County. We have lived with it and we have lost that from our tax base consistently since the implementation of that severe environmental legislation. We now have to deal with the Pinelands in my town of

Eagleswood Township that has just undergone a revaluation. With that revaluation, the values were taken directly - or the majority of the values were taken directly from the estimates in the Comprehensive Management Plan itself.

I would like to point out that in about four municipalities in two counties, Ocean and Burlington - namely, the townships of Eagleswood, Little Egg Harbor, Woodland and Bass River - there have been no adequate, large vacant acreage transactions since 1974 to really put a market value on. You must go further away from the affected municipalities to pick up that market, and you are not comparing apples to apples.

The shift of heavy development, particularly in my municipality, to the regional growth area will take away the aesthetics of the township as it stands now completely. It will negate them completely.

We have from the last information I have from the staff-- I believe, Terry, it is around 2750 acres available for the regional five growth with three to an acre? I have mathematically put in somewhere around 7,000 units in a very small area of Eagleswood Township with our infrastructure very limited. We have a small school, no police department, health and so forth -- road department; we are a complete rural community. That was one of our main objections when we met with the Ocean County Planning Board to have half of that regional area. We cannot, as a small municipality, absorb in any too distant future, as our economy is today, that amount of growth, using the Pinelands Development credits.

Again, Eagleswood Township is under CAFRA, Coastal Area Management, Wetlands, and now Pinelands. I think that diversification of the plan-- When we listen to the elected officials of the western fringes, it makes the diversification necessary because we are impacting there with commercial and heavy industrial areas, such as the testimony of Evesham Township not being able to themselves take care of their future development and needing "the state authority," where we, on the eastern regions, have very ably - and it shows with our municipalities - been able to take care of that growth and not have those problems. We have looked forward to the inundating, if that is the proper word, of growth because of the Atlantic City gambling problem. A lot of us sitting in southern Ocean County do not believe we will be that inundated. We have our local ordinance.

Ocean County, again to be redundant, with our planner now has one municipality, the municipality of Stafford, that is very upset, particularly with our county people and perhaps myself as the Commissioner, only because of the heavy-handed method of distribution of money for planning. Stafford saw an opportunity to perhaps go and get it all when we could have perhaps, as the plan states, had the cooperation of the municipalities and the county with staff and commission and brought Ocean County back to the most cooperative county that the commission had since the implementation of the commission.

Thank you very much for this opportunity. We do have the Mayor and the Administrator of Lacy Township who would like to testify.

SENATOR DODD: Thank you.

MR. HENDRICKSON: If you have any questions, we would be happy to answer them.

SENATOR DODD: Not at this time. Ladies and gentlemen, with time constraints, if you have a schedule of witnesses and you think we are going

out of order you are right. We are trying not just to hear people who would like to testify, but for our purposes we are trying to hit different geographic areas and get different points of views. So, that is why we are moving about.

I would like to call Edward Sammin, Freeholder from Cumberland County and John Reinard, also a Freeholder from Cumberland County.

E D W A R D S A M M I N: Thank you very much, Senator. First of all, I am traveling alone. Freeholder Reinard could not be here. I would like to commend you for holding these hearings so that you can get some public input. I am not here representing Cumberland County. As you know, we are not as greatly affected as other counties by the Pinelands, although we do have two areas that are in the Pinelands, that is the eastern part of the City of Vineland and also Morris River Township.

With me is one of the planning officials of Morris River Township, Bill Trout, and I would like to ask him to come up right now.

SENATOR DODD: Yes, Mr. Trout, would you join us?

MR. SAMMIN: He, of course, has most of his township, Morris River Township, within the Pinelands.

I thought I might well give you the feelings of the Cumberland County Board of Chosen Freeholders, Senator. There are three general feelings we have in relationship to the whole Pinelands. We are very supportive of the core area of the Pinelands. We feel that the State has taken the proper direction in making sure the core area is protected. Our greatest concern happens to be with the peripheral area and the fact that we feel that people in the townships located in the peripheral area are losing their local control and should definitely have some say on the directions and destiny of their land in their townships in the peripheral area.

There has been some concern on the part of our Commissioner, Bryan McFadden, who has served admirably on the commission, about the lack of communication in reference to applicants for projects in the Pinelands with the Pinelands staff itself. We feel there has to be a better line of communication. We have people that feel they just can't get answers. They can't get in touch with people. And, they can't get the responses that are necessary.

The third area of concern would be state mandated programs -- the fact that we are having a state mandated program like the Pinelands without providing the adequate funding. I am sure these points have been mentioned by other speakers in the past, but they are the three main points that we have.

You know, it sort of reminds me of a story. I like to end up any time I testify with a story. I am an educator by trade. I am in my 17th year of teaching. It reminds me of a Monday morning when it was really raining and the mother goes into her son's room and starts shaking him and saying, "Jimmy, Jimmy, get up, it is time to go to school," and Jimmy looks up at her and says, "Mom, I just don't want to get up today." The boy rolls over and about ten minutes later his mother comes back and says, "Jimmy, Jimmy, get up, you have to go to school," and the son looks right at his mother and says, "Well, Mom, there are two reasons I don't want to go to school, one the kids don't like me and, two, the teachers don't like me." The mother looks at her son and says, "Well, Jimmy, there are two reasons you have

to get up, one you are forty-three years old and, two, you are the principal of the school." I say that to you with some thought in mind that the fact is that each day you and I and everyone here has to get up and face the responsibilities we have here.

SENATOR DODD: That is not unlike the story - for those of you that have seen the movie, Animal House, - that I just saw Sunday night, where John Beluisci was thrown out of college with the rest of the fraternity and he says, "Seven years of college down the drain."

MR. SAMMIN: Just as you tell your story and I give you reference to mine, I really say it for a reason: That you and I and everyone here has to get up and face the responsibilities we have each and every day. I think there is one responsibility I see happening since I had opportunity to serve for six years as Mayor of Millville and in my six years as a Freeholder, and that is the real loss of local control.

I commend you because you are taking the committee hearings around the state and getting input from people. That's how you get some feeling of what is going on and how when you are really trying to give good government to people, you give government that is going to help people. I think it is important that we start taking a step in this State of New Jersey to go back to local control.

You know, President Regan said something I agreed with before he took office. He said that he wants to take some of the federal programs and he wants to give them back to the state governments and let them operate them. I say he should have gone one step further, and I wish he would have, and said: "I hope the Governors in the states want to take those federal programs and go one step further and give them back to local municipalities", because we have some good talent at the local level that can really help in giving the right direction of our own destiny.

SENATOR DODD: That is the best access people have to their government, the local level.

MR. SAMMIN: There is no question about that. I thank you for the time.

SENATOR DODD: Mr. Trout.

W I L L I A M T R O U T: Senator, I want to thank you for letting us speak today on this situation in the Pinelands. Ninety-seven percent of our municipality, Morris River Township, is in the Pinelands. We feel the same way. We just finished our planning last year. We had some recommendations that came down from the State that we followed. We reduced some of our lot sizes because the State asked us to. Now, all of a sudden, they come along with Pinelands and they are telling us to increase them up to 15, 20, and as high as 39 acres. I think some of that now has been resolved and we are back down to 15.2.

Bit, I want to reiterate what Freeholder Sammin said, maybe there is a possibility there has been a lack of communication through the whole thing. We are concerned not with the big land developer, but with the individual who owns the five, the ten, the three, the two, the one acre.

I can understand. I am also the construction official for the township. Our building has practically been called to a halt. We are not too greatly concerned that we will get a great big housing development, which

we don't because of our school situation and other multiple things it would bring on. But, what we are about are the local people, the people who have been there. I heard one other gentleman say Johnny can't build a house because of these controls.

We are also looking at the possibility of an eroding tax base. I think that is a concern of every municipality. We also have a unique problem right now. As you know, Atlantic City Electric is building a plant on our northern border, or starting to, and we had the possibility of maybe seeing some light by getting some tax base from a small industrial park that we had included in our planning. Now the Pinelands say we can't have this because 90% of what they gave us is forest area. As I understand it - at our last meeting we had two representatives from Pinelands - they have come down now with a 15.2 acre plot in the forest area, for the simple reason that the State owns 31% of this.

Of course, we do have CAFRA; we do have Wetlands, and these types of agencies. Right now, our Township Committee is very much concerned about the tax base, and our planners are very much concerned with where they are going now. Of course, we are getting some input. Maybe this will help. We also figured last year that we spent \$20 thousand to do this planning and now we have to turn right around and spend it all over again. There again, the State has very graciously allocated us \$9,000, which is not bad, but how much more is it going to cost us?

SENATOR DODD: We do realize that there are not enough monies allocated to the commission and certainly to the municipalities that have to implement these plans. We do hope to work on that.

Let me ask you this: Without using a sledge-hammer approach, namely these pieces of legislation before us, do you feel that with open dialogue, if we come down here and committees like mine come down here and keep the dialogue open, can you work within the commission to resolve your problems?

MR. TROUT: Hopefully, I could.

SENATOR DODD: I am not saying going by past experience. With the newness, if the Act wasn't drafted, giving them full authority, whether real or imagined, can we start from today with an open mind on both ends, and can this be negotiated within the framework of the Pinelands Commission?

MR. TROUT: Well, hopefully, Senator. I think we do have an open mind because we have already taken our planning consultant and set him in motion to see what we can do to work with the commission and see what we can come up with and what they come up with on it and see what leeway we can get. Yes, I think our Township Committee has an open mind. There are certain aspects of Pinelands that I myself see as beneficial. There are other little aspects of it that maybe can be worked out with the committee, such as you are doing today in looking into the situation. Because I think each municipality has a different situation.

SENATOR DODD: Yes.

MR. SAMMIN: Certainly, Senator, it is a much better direction than what has happened in the past - a hearing like this, for example, on the bills that you had mentioned. I think one thing you have to realize is, there is a tremendous amount of frustration in South Jersey over the Pinelands. I think you have heard some of it this morning from some of

the other elected officials.

SENATOR DODD: Also over CAFRA and the Wetlands and the so-called Dunes and Shorefront Protection, and all the other "good" things that South Jersey has.

MR. SAMMIN: We have the State Guide Plan -- I mean, I could list you about 20 things if you wanted to go the whole ramification of it. I think people have just felt that we have lost sight of local control and gone to local municipalities to get the input. I think our hearing is an example of the way it should be done. I think there should be a very close - and I mean this - streamlined, working relationship with the commission and the local entities of government. We don't have that as of now.

SENATOR DODD: The vote that was taken last November on the session of South Jersey from North Jersey was a serious vote. A lot of people would make light of that. But, that was a very clear message to a great many people in the State Legislature, not so much that it is going to succeed or whatever, but it displayed an enormous dissatisfaction that South Jersey has with their treatment from Trenton. That is not lost. Ed, you have brought that to my attention in the past. In fact, you are one of the reasons we are down here also.

MR. SAMMIN: Thank you very much, Senator.

SENATOR DODD: Thank you, Mr. Freeholder and Mayor.

I would like to call the Cape May delegation. We have Frank Murphy, Mayor of Dennis Township; Roger Stobbard, Cape May County Pinelands Commission and also a pretty good quarterback. I am just seeing if you are awake out there, folks.

I am not sure whether I am mixing and matching apples and oranges here, but I am just trying to get the most out of the time we have left. Again, we are trying to hit the different geographic areas. I have to apologize to the folks that we will not be able to hear today, obviously, with the time constraints that we have left.

Would you please identify yourselves for our stenographers?

ROGER STOBARD: My name is Roger Stobbard.

PAT LA ROSA: I am Pat LaRosa, Township of Dennis.

WOODY JARMER: I am Woody Jarmer.

JAMES WALDRON: I am James Waldron, appearing on behalf of the Township of Upper.

MR. STOBARD: Would you like me to begin, Senator?

SENATOR DODD: Yes, please.

MR. STOBARD: First of all, thank you very much for giving us an opportunity to appear before you. As you probably know, Cape May County is one of the counties that has the strongest problem with the Plan, and our communities, contrary to some information that has emanated from the Commission, have unanimously agreed that they cannot comply with the Plan.

I am not sure that my position is totally in accord with that of the communities, but my position and my instinct is that the time for digging in our heels and saying, "No, we can't, and we won't comply" may be past. Nevertheless, I don't control the actions of these communities, and that is their position.

It is my thinking that it is time to try to strike some middle

ground. There should be an approach with some dialogue, where specific problems are addressed.

I would like to mention some of the specific problems that in my view contributed to the decision on the part of our municipalities that the Plan is impossible to comply with. One of the difficulties that we have is that the Plan is at the same time simplistic and overly complex. It is simplistic in that it attempts within 450 pages to provide for all the land use questions in an area the size of Rhode Island, and unbelievably complex in that there are issues even to this day that are provided for within the Plan that even the Commissioners themselves and the staff and the executive director can't agree to interpretations on, specific every day questions that still lack answers in spite of the fact that we have the printed volume. This makes it difficult for everybody, difficult for an applicant, difficult for a community who, given acceptable rules, might try to comply.

It seems to me that the acceptability of the Plan would be improved and the ultimate planning product would be more desirable if changes could be made that would result in greater discretion on the part of the county and local government with oversight by the commission, or guidance by the commission.

I am of the conviction that our communities really care about their planning. I think we have good planning. I think our planning as to specific areas possibly could be improved and that we are susceptible to suggestion and to addressing those improvements.

There is a real resentment to the heavy-handed approach, and there is the conviction on the part of the overwhelming majority of the people who have dealt with the commission from Cape May County that there is no dialogue, that there have been words spoken and the words have been heard on both sides but that there has been no meaningful change resulting from hearings, the written testimony, my efforts, or the efforts of my predecessor.

The planning funds that are offered, it has been estimated, are less than one-fifth of what we would need to change our plans to come into compliance, even if the communities chose to comply. That issue should be addressed.

Finally, there is the development credit issue. We have heard a lot about it. It is a very critical one, and in my judgment that could be a very beneficial aspect to a plan, but I think the way we have them set up, they are incredibly crude and I think they are destined for failure. The Plan - in the test of the plan - indicates that there may be as many as 8300 PDC's, and we have heard estimates of values that range anywhere from zero to \$30,000. These may be worth as much as \$249 million, but we don't know what they are worth.

We agonize over how many \$2 Black Jack tables there should be and yet we roll the dice against the wall with a quarter of a billion dollars. But, the ironic part is that the individuals who are asked to accept this concept, whose future depends on its success, aren't the good gamblers. They are the most conservative people in our population -- our farmers. We are asking individuals who have spent their entire lives working with the ground and building their equity on it to give up their right to that ground, or a meaningful portion of it, and what the government

is going to give them in exchange for that is effectively a betting slip. I think there may be other ways to provide for that. I think a thinking person has to agree that we have to provide for the on-going production of the food, and that that's important, but I think at the same time we can't do that just by nationalization of our farms. I think there are better ways. Studies should be made and presented to the Legislature so that the Legislature can look at the alternative ways of handling this and make recommendations on the decision.

Briefly, those areas that have big territories in the forest district are badly hurt. The communities that have the vast preponderance of their ground in the forest district today frankly don't know how to plan for Cape May County because if you seek to plan today in Cape May County you can't find the rules. The reason is, the rules haven't yet been adopted.

In my opinion, the Legislature should take steps to define more clearly the extent to which it intended to delegate its authority to the Pinelands Commission, and I think it should clarify the extent to which the Pinelands Commission is entitled and empowered to delegate its authority to the staff and to the executive director. The sentiment that is prevalent amongst the public is that we are dealing with a runaway freight train. That may or may not be an accurate perception, but there is the perception and, frankly, I am inclined to agree with it, that the commission is not truly in control, that what goes on paper emanates from the staff and that the commission appears on alternate Fridays, when invited, and votes yes.

SENATOR DODD: Roger, you as a member certainly have a right to dissent, and I am sure you are not bashful. Do you make your views public? For instance, I have served on many committees where I disagreed with their findings on major pieces of legislation that we promulgated and I have issued a dissenting report, which in some cases was larger than the original report. Has this been tried within the Commission?

MR. STOBARD: I don't know that there have been written reports.

SENATOR DODD: Not necessarily written, but positions where your coalitions would change from time to time on issue to issue. Now, could this be formalized where you could present a dissenting opinion on what the majority of the commission has done?

MR. STOBARD: It certainly could be done.

SENATOR DODD: Is it worth a try? It could then come to the Legislature through your representatives, or directly to this committee, and we could see clearly your reasons for dissent, or vice versa.

MR. STOBARD: I think if it could be delivered to the Legislature and reviewed there it might be a very productive step.

SENATOR DODD: This committee has been dealing with nothing but the Pinelands legislation for the last two and one-half years, so it not like we-- As I said originally, we don't love you and leave you. We are down here trying to make this work without introducing, or changing, major portions of it. We are trying to have a living, breathing document again. If we can give you additional tools on the dissenting side-- And we need that. God forbid we should have everyone of the same mind serving on that, and obviously that is not the case. But, I hear a dissent here and a dissent there, and it doesn't seem to be a cohesive voice saying we agree to disagree.

MR. STOBARD: As Phil Nanzetta pointed out earlier, the issues are not black and white; they are very, very grey, and I think of the four counties whose commissioners voted no for the Plan, they didn't vote no for the same reasons. There are overlapping reasons. In some cases they are dissimilar. But, there is the cohesiveness that could be put in a position paper and, as I said, I would be delighted to work on that.

The consensus, I think, among the group of dissenters is that there is no relief at the commission level. The difficulty is that the voting power is so weighted that there is simply no place for the counties to be fully represented. Had the counties been fully represented-- Had this Plan been voted up or down, based on county representation, there would not be a Plan, or it would be much different.

In summary, and I have taken more time than is my share already, I simply urge you to consider the possibility of amendments to the Pinelands Protection Act that would serve to clarify, that would serve to redirect, that would serve to cause some of these additional studies to happen - for example, an economic study - so that the true impact could be seen in the Senate. It appears that down the hall the feeling is that maybe this commission has gone too far already. If this could be reviewed on that basis, I think a productive plan could be the result. Thank you.

SENATOR DODD: Woody Jarmer.

W O O D Y J A R M E R: For the record, my name is Woody Jarmer. I am the Planning Director for the Cape May County Planning Board. I will try to be brief as you may have some questions. I understand you said 3:00, so the two gentlemen may want some time also.

For the last two years I had the role of President of the County Planners Association and in that role I attempted at that time to get the other six county planning directors together to get some sort of agreement to disagree or agreement to agree, at least amongst the total seven county planners. We did agree in a number of areas and we tried to make those feelings known to the commission staff. We don't feel that the commission or the commission staff regarded those concerns. Let me explain that very briefly.

In our view, the commission had one or two ways to go, either the commission could take the, to use a term Roger used, heavy-handed zoning approach to the Pinelands, or it could use a general regional planning approach, with goals and standards, and retain some of the clout later on. What we maybe hoped would happen was they may have used the stronger approach in the core area which certainly was needed and we all agree to that.

The other approach was the more gentle approach in the protection area. But, that wasn't the case, they used the heavy-handed approach through the whole million acres, and that created problems for the planners.

Let me briefly comment on why I don't think the Plan works for Cape May County specifically. There are two reasons. One was already mentioned and that is the transfer of development credit system. It doesn't really work in Cape May County because none are created in Cape May County. That needs to be looked at.

The meeting I was at this morning was the American Planning Association Legislation Committee, and we are trying to grapple with something to come to the Legislature with on this Transfer of Development Credit System to

make it one that will work. We need it.

The other reason why we have a problem in Cape May County with the plan is that supposedly to make the plan work there are growth areas where we can cluster or channel growth. This just won't work in Cape May County. The areas proposed for growth in Cape May County would have densities of 3.2 acre lots. If that is a growth area I will eat my Plan Use Law. Obviously, towns have been stricken down in the courts that have zoning ordinances for more than two acre lots. Here we are asking to have growth areas in Cape May County in the Pinelands Plan--

SENATOR DODD: That ties in with the Mount Laurel Decision.

MR. JARMER: Exactly, sir. Now, I am in a dilemma as a professional planner because there has been a lot of heat created by the Plan, and I don't really have the opportunity now to discuss or negotiate with the commission because the people that hired me and pay me and to whom I report are too upset to even say we should sit down and talk. That's unfortunate and we should try to address that.

SENATOR DODD: Woody, I am finding that after an election, or over a bitter debate in the Senate, where you and I go at it and you win and I lose I am mad at you for a while, but after that - and I realize you have won and we go on to different battles - we become allies and I realize I am going to work with what you have won. So, there is a period where we all-- And, I see some of that today and that is understandable. But, you also have to realize that has an ending.

MR. JARMER: I'm hoping it does too but let me just comment that if I came into your town as a planning consultant, or let's say an elected official, and adopted a zoning ordinance that made your house a non-conforming use, and I say, "Well, don't worry about it, after we adopt the ordinance you can come in and we will talk about it" that kind of an approach also leaves a bad taste.

What can be done? I think, hopefully, after a month or two the dust settles so there will be some discussion. But, I don't see a lot of flexibility in that Plan, when we talk about some of the basic standards that were adopted. An example is the standard for minimum lot size -- 3.2 acres. That is based on a two part per million water quality standard, which several years ago was adopted by DEP as a central Pinelands area water quality standard, not as a water quality standard to be used for half of the mainland and Cape May County. Now, that is the standard we have to accept. I don't see that leaves us any flexibility to sit down and talk about.

SENATOR DODD: Let me ask Mr. Moore about that point. I can't underline enough what I am going through and what we are going through in the north with water, which is again complicated by the fact of the toxic waste dumping. Atlantic City's water supply is being threatened right now with toxic waste.

Terry, would you comment on the part per million?

MR. MOORE: Yes. That is based on every analysis we did in the Pinelands on water quality as it exists within the streams and whatever grund water quality we had. Under the Pinelands Protection Act this commission is charged with preserving and protecting the water quality of the Pinelands,

to find the existing character and preserving and protecting that. And, the two parts per million is what is the equivalent of the nitrate contamination that we feel can be put into those streams so that the water quality is not degraded there. That is a recommendation of the DEP in terms of amendments to the existing water quality standards within the State. They will be preparing hearings on that very shortly.

MR. JARMER: I don't have any problems with even .17 parts per million in the pristine areas, but if we are being asked to have a growth area, I ask you, should you have the same water quality standard in a growth area that you have in a pristine area that has no growth and is not expected to ever have any growth? I am not so sure should and I think that--

SENATOR DODD: Should the same standards apply?

MR. JARMER: That's right. Should that same standard apply?

SENATOR DODD: Which is a valid point.

MR. JARMER: I have a problem with that. Don't ask me to plan in a growth area the same kind of conformance standards that we plan in the natural or pristine area.

I would add something by suggesting that a little different approach should be taken to planning in the protection area than in the core area. Perhaps that needs to be addressed legislatively. I am not so sure the commission is about to do that. I would be happy to work with any committee, Assembly or Senate Committee, on anything like that.

SENATOR DODD: Thank you.

P A T L A R O S A: Senator Dodd, Mayor Murphy was unavoidably called away on business and he has asked me to read some prepared comments into the minutes. I represent the people of the Township of Dennis. Our area has been described as quaint, remote, small, historic, and for sure it is all of these. The people of Dennis Township like it that way. Most important, they are proud people, proud of the fact that no change has taken place and the rural atmosphere has been preserved.

As for historic culture, Dennis was at one time the industrial hubbub of our county. Ship building was extensive, as was an industry called shingle mining. In fact, the shingles used on Philadelphia's Independence Hall were manufactured in Dennisville. The pride of our people is also reflected in our zoning and master plan. The people of Dennis had the far-sight to realize that the relatively small lots upon which building was taking place would lead to chaos in future times. They set about improving their standards for development. They utilized experts in the field of development. This task took close to four years -- an area, by the way, of about 45 square miles -- yet, the Pinelands Commission has zoned in excess of one million acres in nine months time. Amazing.

Again, I am not commenting on behalf of any developers. They, I feel, can take care of themselves. Our zoning and master plans do not reflect a pro-developer atmosphere, but more of a compatible one.

It has been stated by members of the Pinelands staff and commission that our plan is the best they have seen. If I may drop just one name, Mayor-Commissioner Floyd West, self proclaimed environmentalist, has stated that if there were more areas zoned in the mode of Dennis Township, the Pinelands Plan may not be needed.

To be truthful, our zoning plan is not too far removed from the Plan the commission has presented. Our R-3 zones pretty much line up with the more restricted areas. Our R-1 zones are in the areas designated regional growth. We do not care to have required growth. We do not agree with the cluster concept. If you want to cluster animals, fine. There is no way that this concept will work in our area. It is our desire to maintain our rural atmosphere. It is proposed that our township be allotted approximately 599 additional units. Our estimates, though higher, could be adjusted. With existing units and land area considered, we are at this time about one unit for every twenty-three acres. Again our question, what are they doing this far south with regards to the Pinelands Commission? As the water travels, we are at the bottom of the totem pole. We are bordered by the ocean, bay, and meadows. We have no doubt that the ground waters are coming our way. The natural flow would indicate that. Please make your corrections that are needed on our north and west boundaries.

We will concede that there are some areas which have had indiscriminate planning and zoning practices take place. Hit these areas, but leave us alone. Atlantic City casinos definitely will have an affect on the south Jersey area. Some growth must come, and most certainly there are areas where a plan, perhaps the one we are discussing today, would have to be implemented. Some municipalities have indicated they accept the plan. I have, in fact, discussed this very problem with other officials. Because of their present zoning, they fear too much development can take place. My reply to that is, "change it yourselves. Make the necessary changes to bring about a more favorable plan. We must live in a compatible fashion with our environment, not bow to it."

I disagree with the scenic corridor definition, as I also disagree with the definition of building as being too broad. We have at least one case in Dennis Township where a person purchased two and one-half acres of land only to be told he could not build upon it because he did not qualify under the standards of the plan. He must have two generations of cultural and ethnic ties, or work in a Pinelands related industry.

I would also like to comment on the use of waterless toilets. In order to utilize such a system, the building characteristics as we know them would have to be modified. Kitchens and bathrooms would have to be back-to-back. Two story homes would be preferable because on one story structures a deep crawl space will be required. The clean-out section to these toilets is four to five feet below the flooring. In an area where a high water table presents a problem, the waterless toilets would be no more effective than a septic system.

We then have the humus self-contained biological toilet system which is similar. They both work on a concept of temperature and dehumidification. They will rapidly process human waste into a rich soil. They are supposedly easy to clean. These things also use one other system. They use electricity and they plug in. Now the average American family has one more thing to consider as they leave the home, "Did we have any cigarettes lit, did we turn off the lights and t.v., and did we disconnect the toilet?"

We have all had situations where the family pet wanders, inevitably to return in most cases. Still, we search. Now, we have one more place

to look. You see, these systems have rather large openings. Some models are as wide as twelve inches.

I am trying to bring out the fact that in every area of the plan we will be faced with many problems. He underlines this next line, Senator. Not enough time has been given to undertake such a plan. The commission and staff have been under fire since this thing was started. However, they are doing what our state representatives mandated them to do. When asked by my people who they should contact, I refer them to the Assemblyman and Senators. How about the suggestion that all members of the State Assembly and Senate install the alternate toilet systems in their respective homes? That way they could observe the systems on a first-hand basis and at the end of one year they could report back to the people they represent and file a report on the operation and maintenance of these systems.

Respectfully submitted, Frank L. Murphy, Sr., Mayor of Dennis.

SENATOR DODD: That was a very colorful presentation. Thank you.

All right, Jim, if I could ask you to sum up.

J A M E S W A L D R O N: I am James Waldron from Upper Township. Senator, I appreciate the time constraints that you are under and I recognize that I am already five minutes beyond the adjournment time, but I think there are certain things that have to be brought to the attention of the committee and I will do so very briefly.

The Legislature in its wisdom has given all of us, as municipal officials the sunshine law to live with. The purpose of that is to see that the public is informed and that the public participates in their government to the fullest extent possible. I think that this Legislature must know that this creation of the Legislature, the Pinelands Commission, feels that it operates under different principles and I feel there are certain salient facts that have to be brought home to the Legislature.

This Plan, which we are discussing today, was adopted in November. Copies were not made available to the affected municipalities until December, in very limited numbers, some of which were completely illegible. When we attempted to get additional copies we were told they were not available and would not be available until mid to late January. The Plan was submitted to the Secretary of the Interior. Our information was that it was approved on January 16th and within the last couple of days the printed form has now become available to us.

Against that background, Senator, it is very difficult to ask any municipal official in this room or any member of the public in the affected area to have any confidence because it simply is not the way that things should be done. This Plan should have been prepared; it should have been circulated; it should have been studied by municipal official in conjunction with their planning consultants, their planning boards, and so forth. They should have had an opportunity to digest it, and then public hearings should have been held and public input should have been gotten at all levels -- not the piecemeal, haphazard fashion that this was accomplished in. I don't think that anybody today who is rational and thinking is opposed to conservation. We are all acutely aware of what the problems are that we face in our society. We know that conservation is necessary. But, I submit to you, sir, that there should be a vast difference between conservation and confiscation,

and I think it has been long recognized that over-regulation, and over-burdening laws constitute confiscation. Hopefully, this is not what the Legislature seeks to do in establishing this plan. If it is directed at protecting a public good, if it is designed to serve the public interest - which I presume it must be designed to do - then it should be supported, but it should be reasonable and it should not be super-imposed on people against their wishes. It should not be regulated by a super agency. There is no need for an additional level of state bureaucracy. I think every one of us who deals on a daily basis with the bureaucracy of state government is utterly frustrated and utterly fed up, and we see in this just another level of that bureaucracy that we have to deal with. Unfortunately, the history that has been developed so far is such that it gives us no comfort whatever.

I would hope, and sincerely hope, that the Legislature would be cognizant of this fact when it considers the bills that have passed the Assembly. We support those bills, and we would hope that they would find a favorable reception in your committee and in the Legislature. We don't think that this Plan, as it is presently adopted, should apply to the broad areas it does. The scope should be severely limited. The areas should be redrawn. And, I think in those areas where there is a very, very strict regulation of land, such as in the forest area where there is a severe limitation placed on what can be done with that land, it is not fair for the State to say to those landowners, "You are going to be regulated." If that land has to be regulated to that extent, then the State should acquire it and it should pay the fair market value for it.

I think we all recognize, as responsible individuals, that we are a nation of laws, and laws have to be obeyed. But, the fact of the matter is, when you have oppressive laws and burdensome laws, all you have is tyranny masquerading as law and it is the result of that, I think, that brings us to a very, very acute situation in what has happened in our county. The county board of freeholders has adopted a resolution indicating that they will not comply and will not adhere to the Pinelands Plan as it is presently drafted. There are four other communities in Cape May County that are affected by the Pinelands, Middletown Township, Dennis Township, and Upper Township. There is one other municipality, which I also represent, and that is Woodbine.

Upper Township and Woodbine have either adopted or will adopt within the next couple of days formal resolutions indicating that they will not in any manner, shape, or form comply with this act as it is presently drafted. It is my understanding that Middle is adopting a similar position and it has also been represented to me that Dennis Township is adopting an identical position.

Senator, there is a confrontation coming here that I don't think any of us should have the stomach for, and I would hope that the Legislature will take immediate action to head it off. Thank you.

SENATOR DODD: Jim, thank you, and I would like to thank the gentlemen from Cape May.

Ladies and gentlemen, you have been a good audience. What I consider a good audience is people who don't throw things at me. As we travel around

the State on different issues, I think today was one of the most useful days in the two and one-half years we have been involved in the Pinelands issue. I think we have identified some specific problems that the municipalities and the counties do legitimately have. We have been in contact with the commission from time to time and we have problems with the 39 acre provision. We have had problems with this and we as a committee had the commission people in and asked them to explain it to us. So, there is a definite followup, and we do follow up. This is legislative oversight.

Two weeks ago we overrode the Governor. It was the first time in modern history that the legislature overrode the Governor on a veto, which indeed does give the legislature legislative oversight. That means that we can act within 30 to 40 days to overrule any agency's rules and regulations in State government. It is an enormous burden that the legislature has taken on.

What we are doing today is, in effect, legislative oversight. It is following up laws that we pass to make sure that they work. I think that I would like to give this a chance to work more. You have the final document. The commission knows what the problems are. The Cape May group made it very clear. That is probably the most dramatic of the testimony. And, there has been everything in between. The Cumberland County group is willing to work. They are willing to try. We do recognize that all of these things cannot be addressed today, next week, or within the year. But, the principal has been established. There will be a Pinelands Preservation in one form or another. This has been established. How we can make it work is not to overrule or try to do something like that. That won't work; that's history.

How do we make it work? How do you make it work? You have representatives in Trenton -- good representatives, by and large - honest and sincere men and women, and we would like to think we come down and try to follow up on what our legislative beliefs are.

I think Mr. Moore and the chairman that was here today, and you members, the men and women of the commission itself, have an enormous responsibility. It is certainly not taken lightly by anyone in this room, nor is it by anyone that we have dealt with on this.

I have to apologize to the people that we were just not physically able to get to. I am going to ask, amongst others, Mr. Robert Campbell of Hamilton Township, and the Deputy Mayor of Hamilton Township in Atlantic County and anyone else who has testimony to come up and stenographers will stay and we will read these into the record. These will be reviewed and followed up by my committee and by the legislature at large.

With that, I thank you for your kind attendance and for not throwing anything at me -- so far.

(hearing concluded)

STATEMENT
OF
ATLANTIC CITY ELECTRIC COMPANY
ON THE
PINELANDS LEGISLATION
AT
PUBLIC HEARING
FEBRUARY 18, 1981
AT
ATLANTIC COUNTY COMMUNITY COLLEGE

Senator Dodd and members of the Committee, my name is Deborah Bozarth and I am a representative of the Atlantic City Electric Company. Thank you for providing us with the opportunity to share some of our concerns about the Pinelands legislation with you.

Title 48:2-13 of the New Jersey Statutes provides that a public utility, (specifically the Atlantic City Electric Company) is subject to the general supervision, regulation and jurisdiction of the Board of Public Utilities. Under this same statute, Atlantic Electric is mandated to furnish safe, adequate and proper service to the citizens within our service territory. In order to provide this mandated service, the utility is required to install facilities in various sections of the State, including the Pinelands Area. When conflicts arise with local municipal laws, the Board of Public Utilities has the jurisdiction to resolve any conflicts by utilizing the procedure for review by the Board itself.

The "Pinelands Protection Act" fails to provide a procedure for the BPU to exercise its jurisdiction over proposed utility facilities anywhere within the Pinelands Area. This may cause serious problems as the utility

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strives to meet the service requirements of the area.

It is the position of the Atlantic City Electric Company that such matters should be referred to the BPU for hearings in the event that the Pinelands Commission or any affected municipality has delivered a decision that would adversely affect the ability of Atlantic Electric to provide safe, adequate and proper service.

I also call to your attention that NJSA 48:2-23, presently requires the BPU to consider the environmental impact of utility installations when any application for exemption is made.

I would like to suggest for your review, a proposal to amend the "Pinelands Protection Act" that would designate the BPU as the State agency with final jurisdiction over proposed utility installations.

Thank you for your time and interest.

