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**P U B L I C   H E A R I N G**

before

**SENATE SPECIAL COMMITTEE TO STUDY COASTAL AND OCEAN POLLUTION**

Testimony concerning the land use and master planning aspects  
of the Governor's proposed New Jersey Coastal Commission

July 30, 1987  
City Hall  
Long Branch, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

Senator Frank Pallone, Jr., Chairman  
Senator Richard Van Wagner  
Senator S. Thomas Gagliano

**ALSO PRESENT:**

Patricia Cane  
Office of Legislative Services  
Aide, Senate Special Committee to Study  
Coastal and Ocean Pollution

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Hearing Recorded and Transcribed by  
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**New Jersey State Legislature**

**SENATE SPECIAL COMMITTEE  
TO STUDY COASTAL AND OCEAN POLLUTION**  
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July 16, 1987

**NOTICE OF A PUBLIC HEARING**

The Senate Special Committee to Study Coastal and Ocean Pollution will hold a public hearing at 10:00 A.M. on Thursday, July 30, 1987, at City Hall in Long Branch, New Jersey.

The Committee will be taking testimony concerning the land use and master planning aspects of the Governor's proposed New Jersey Coastal Commission.

Anyone wishing to testify should contact Patricia Cane, the Committee Aide, at (609) 292-7676.

**Directions:** from Trenton: I-95 east to the Garden State Parkway north. Exit 105 to Route 36 east. At the 7th traffic light (after K-Mart) turn right onto Broadway. City Hall is between 1 and 1 1/2 miles on the right, just past the railroad tracks. (201) 222-7000.



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SENATOR FRANK PALLONE, JR. (Chairman): First of all, I want to welcome everyone here to this public hearing on the New Jersey Coastal Commission. As you know, this is the Senate Special Committee to Study Coastal and Ocean Pollution. Today we will be focusing on the proposed New Jersey Coastal Commission, with particular reference to the land use and master planning aspects of the proposal.

Just a little background: As you may know, in his State of the State Address earlier this year, Governor Kean proposed a New Jersey Clean Ocean Authority. Since that time, through various meetings with local officials -- mayors, environmental groups, etc. -- that proposal has evolved now into the New Jersey Coastal Commission. Although the idea is basically the same, there have been some changes in the fleshing out of the details.

This Committee did hold a public hearing on the New Jersey Coastal Commission back in March. Basically, this is a follow-up on that hearing, in light of the details that have been provided by the Governor, as well as Brenda Davis, Chief of his Office of Policy and Planning, who is here today to address us.

I just want to inform those of you who are wondering about where we are going with the legislation, that the legislation will be introduced in both houses of the Legislature, as I understand it, next week. I will be sponsoring the Senate version of the bill, and Assemblyman Villane will be sponsoring the Assembly version of the bill.

Today's hearing is important for two reasons, one of which I am especially proud of. On July 30, 1986, this Committee held its first public hearing -- exactly one year ago. Today we are meeting again to discuss what could well be the culmination of a lot of hard work during the past year. I would like to thank all of you, and all those who couldn't be here today, for your continuing interest in the protection of the Jersey shore.



Just so you know who is here -- the members of the Committee who will be present today-- To my right is Senator Thomas Gagliano, who all of you know from Monmouth County, and to my left is Pat Cane, the Legislative Aide from the Office of Legislative Services. To my extreme left is Erica Dankoff, who is the Legislative Aide to Senator Weiss, who is also a member of this Committee. We are expecting Senator Van Wagner, also from Monmouth County, to join us sometime this morning, and that will complete the Senate membership of the Committee.

We have had a series of public hearings by this Special Committee. The first, second, and third public hearings focused on issues related to ocean pollution. During those hearings, we discussed beach closings, storm sewer discharges to coastal waters, the floatables problem, the Fresh Kills Landfill, wood burning, ocean dumping of sewage sludge and dredge spoils, pre-treatment, and the use of burrow pits for disposal of wastes. We certainly covered a lot of ground. Most importantly, several pieces of key legislation were a direct result of those public hearings.

By the time this Committee held its fourth public hearing in February of this year, the idea for the creation of the Coastal Commission had been born in the form of the Clean Ocean Authority. That hearing provided a forum in which to begin to flesh out the role of the proposed Commission. I would like to state that a lot of the information gathered that day was carefully reviewed in designing the Commission.

The urgency of adequately addressing the needs of the Jersey shore was underscored in late May, when Ocean County beaches were closed as a result of unsanitary conditions. The fifth public hearing of this Committee focused on another set of concerns, those of vessel pollution, sludge barge monitoring, water quality, and enforcement. That was less than two months ago in Trenton, and already we are seeing some action being taken on those issues.

Not only has additional legislation been introduced in response to those pollution problems, but the proposal for the coast was released by the Governor's office, and bills are being drafted for introduction, as I mentioned previously. We have come a long way in just one year of hard work and commitment to the cause, and I just want to thank Senator Gagliano, Senator Van Wagner, when he comes, and the other members of the Committee. Senator Gagliano, Senator Van Wagner, and Senator Weiss have all participated in the Committee in a major way, having either sponsored or co-sponsored legislation that has come out of the Committee.

Now, just to focus in on what we are going to be doing today-- We are going to focus on the New Jersey Coastal Commission, particularly on how planning will be coordinated between municipalities and the Commission, and how various land uses will be accounted for. We will also discuss the CAFRA threshold and CAFRA jurisdictional issues, as well as guidelines for balancing economic development with shore protection.

The only other thing I want to add today is, I was particularly pleased to note that when the Governor released more details about his proposal in Asbury Park within the last month, he specifically mentioned the lowering of the CAFRA threshold. That is one of the things I have been touting for the last year or so -- the need to lower the CAFRA threshold from 25 units where it is now, down to three units within a thousand feet of the ocean, or the next parallel road, and down to one unit directly on the coast. So, one of the things I would like to focus in on today, is how that reduction in the CAFRA threshold will become part of the Coastal Commission, and how the Regional Shore Master Plan will be connected with the whole question of local land use control and management.

With that, I am going to ask Senator Gagliano to speak at this time. Thanks again for all of your cooperation, Tom,

because you have been to every one of these hearings. I know you haven't missed any, and you certainly have been here the whole time.

SENATOR GAGLIANO: Thank you very much, Senator Pallone. We are very anxious to hear from the witnesses this morning, but I think that before we start, though, I would like to set the tone, at least as far as the way I feel. I feel that Governor Tom Kean should be congratulated for his efforts toward a clean ocean and toward a better shoreline. A prior Governor -- and I won't mention the name, because it doesn't make any difference -- several years ago, announced at the time of the State of the State Address that this was the "Year of the Ocean." That Governor, I guess, meant what he said but, unfortunately, that was about the last we heard about it for a period of time. I think it is because of Tom Kean's leadership that we now have legislation which Senator Pallone and Assemblyman Villane will be introducing, and which I will, of course, be pleased to co-sponsor -- legislation which will bring about a very, very important event for New Jersey, especially for those counties and municipalities that border the shoreline all the way from the Raritan Bay, along the Atlantic Ocean, and around to the Delaware Bay; that is, that there will be a Commission which will have representation of those counties and those communities as direct members, who will, in turn, have direct contact with the people who make decisions in Trenton, not just the legislators, but those in the various Departments, including the Department of Transportation, Environmental Protection, Community Affairs, even the Attorney General and, of course, the Governor's office itself.

This is extremely important, because, really, if you think about it, never before have we had, coming from the shore area -- and I was born in Long Branch, as Frank was -- the direct access that we will have as a result of this

Commission. So, some people may not like parts of the legislation that comes along. Some people may have some ideas on what we can do to make it better, and we hope you do. But I think that that should set the tone of what this Special Committee has been trying to do; that is, to vastly improve the situation along the shore. I believe this legislation, where we come up with a Commission made up of 11 members, will really give us a strong voice in Trenton, which we have never had before.

I am anxious to listen to the testimony, and as I said, I am very much interested in being a co-sponsor of the legislation. I think it will be great for the State. Thank you, Frank.

SENATOR PALLONE: Thank you, Senator Gagliano. I just want to tell everyone the format this morning. We are going to start out with Brenda Davis from the Governor's office, to basically outline the Commission idea and the concept of it. Then we are going to hear from Mr. Donald Graham, from the Department of Environmental Protection. After that, we are going to try to alternate between environmental groups, members of the public, and also representatives of the building industry, to basically try to change the format -- to go back and forth and to get different ideas.

So, without further ado, I want to introduce Brenda Davis, who is Chief of the Governor's Office of Policy and Planning. She may not like me to say it, but I think that basically the Coastal Commission is her brainchild.

B R E N D A D A V I S: I think one correction is important; that is, this was the Governor's idea.

SENATOR PALLONE: I know; I apologize.

MS. DAVIS: No apologies are necessary, but Governor Kean has, for some time now, been talking to me -- I guess since I came to the Governor's office -- about his very strong interest in taking some decisive action on behalf of the

coastal region of the State. The proposal that has resulted is a direct result of his very sincere interest, and an attempt to try to leave, as a part of his legacy, a protected and enhanced New Jersey shore.

I want to thank the Committee members -- Senator Gagliano and Senator Pallone -- for allowing me to appear before your Committee again. I feel like it is an important opportunity to continue the public outreach effort we have tried to undertake in promoting and developing our idea for a New Jersey Coastal Commission.

It is obvious, I think, to you and to other people in this room, that protection and enhancement of the shore region of our State is not a simple matter. It is a very complicated matter and, indeed, the proposal for a New Jersey Coastal Commission is a complicated proposal. It embodies a comprehensive coastal policy for this State that addresses all the interrelated aspects of the puzzle that makes up the future of this particular region of one-fifth of the land mass of our State. Governor Kean's proposal addresses several aspects of the New Jersey shore, and provides for planning, regulatory, financing, and advocacy roles on behalf of the coastal region of the State.

One of the major parts of this puzzle is land use, and the issues concerning land use in our State. In keeping with the theme of your hearing today, I thought I would concentrate my comments on those aspects of the proposal for the Coastal Commission. What we have developed here -- and it is explained in some detail in the book that I brought along, or can provide to people who were not able to get a copy -- is a comprehensive approach to regional planning, and then the creation of a regulatory and implementation process that we believe is responsive to local government, that will foster communication between all levels of government concerned with the shore, and allow us to have a very comprehensive regional approach to the protection of the State's coastal resources.

Time and again, when we met with mayors in the development of this proposal, and other local county officials and legislators, we left these meetings with people saying, "Thank you for coming to us. We are confronted with problems that we can't solve by ourselves." The best-intentioned mayors in this State along the shore cannot solve the problems that are confronting the coast on their own. They feel very strongly, and have communicated to us, that they need a mechanism that will provide for regional planning and comprehensive approaches to these problems.

Just a little background on land use problems, as a reminder to all of us: In the 10 years-- In the decade from 1970 to 1980, the population of the coastal region of this State increased by 33%, and the pressures on this area of our State to develop -- for development and redevelopment are intensifying all the time. Our coast -- our 128 miles of shoreline -- is used by people from New York and Philadelphia. New Jersey is the most densely populated State in the country. People come to the New Jersey shore from Washington, D.C., because it has gotten so difficult to get over to the Delaware and Maryland shores. It isn't any longer to come here. People come from Delaware.

Indeed, we find, in our many conversations-- We have met with well over 70 mayors now in the coastal region. They report that local planning boards often lack the clout or the regulatory tools or the framework in which to effectively deal with individual development applications; that, indeed, the jurisdiction over many of these is lost, because the current CAFRA law only allows jurisdiction for 25 units or more of residential development. Many of these projects have impacts on regional infrastructure needs that can't possibly be addressed on a local level. We see that land values are escalating rapidly throughout our region, which often frustrates local efforts to acquire open space. Preserving

water supplies -- potable water supplies -- is critical. We have haphazard development that is causing aquifer recharge areas to be impaired and overpumping to occur. Indeed, for builders and developers who are trying to do business along our coast, there is a confusing regulatory picture facing these people. These people are subjected to a double veto. They can receive an okay from the local government, and be vetoed by CAFRA in the DEP, or the opposite can occur. This brings about a lot of confusion, both at the State and at the local level and, indeed, from time to time, the CAFRA Program has been criticized as being slow or insensitive to local needs and problems. It is probably not for a lack of trying, but certainly a more distinct focus on the coastal region of the State from a regulatory perspective is called for.

In the New Jersey Coastal Commission proposal, we have laid out the aspects of a comprehensive master plan that, as you mentioned, Senator Pallone, will be developed in close concert with the public and regional representatives of the shore. This master plan will have components covering shore protection, water quality, land-use management, financial management, transportation, areas of critical water supply, conservation of natural resources, such as wetlands or other critical habitats -- areas of unique historic, cultural, or recreational value -- as well as economic development aspects. It will be the Commission's charge to develop this master plan, to review it and update it and implement it over the years.

Of these different aspects, the water quality plan will include regional approaches to storm water management and other non-point source pollution. This is one of the most important problems facing the coastal region of this State, especially the northern counties -- the more urbanized parts of our coast. Again, this is typical of a problem that crosses municipal boundaries. An individual mayor or municipality can choose to do all the right things to control storm water



runoff, but has no control over neighboring municipalities -- upland municipalities -- and thus the problem of polluted water entering the ocean or the bay is virtually uncontrolled.

We suspect that to control storm water runoff and non-point source pollution in the coastal region of our State is going to cost somewhere around a billion dollars. Surely we need a strong focus, an advocate for that funding, and a regional approach to that problem. The land-use plan, which we can talk about a little more as we go along, is going to include guidelines for a variety of things: residential purposes; campgrounds, which are very important in the southern part of the State; commercial development; the distribution of marina space along the shore. Some mayors tell us they don't want any more marinas; other mayors say they can't get any marinas. Nobody is allowing these people to communicate with one another. Other recreational access points would be accommodated. We think there is a very definite need for the coordination of open space acquisition and the protection of open space along the shore.

The financial component of the plan, we think, is critical. Among other things, we would like to see the Commission provide for an equitable distribution of funding -- State and Federal funding -- along the shore, in accordance with regional priorities that are established by the Commission. It is also very likely that the Commission would help to look at municipal budgets and the way they use funding from the shore.

A transportation plan would be developed as part of this master plan, that would recommend to our Department of Transportation the need for parking facilities -- satellite parking -- shuttles to the beaches, and road widening. It would point out places where intersection improvements are needed to ease congestion in crowded areas. Other planned components will address other relationships between development

and water supply; review economic development activities; and address the need to conserve precious natural resources in habitats which are of critical commercial value, especially to our fishing industry and our tourism industry.

As you mentioned a little earlier, Senator Pallone, the legislation will close existing gaps in the CAFRA jurisdiction. The way we view this is a modernizing of the CAFRA legislation. We have had this law on the books for some time now. We have had experience with it. We realize now that probably half of the development along the New Jersey coast is completely unregulated; that it is not susceptible to permitting. I know that Assemblyman Villane -- as well as you, Senator Pallone -- has worked closely with the Department of Environmental Protection in developing some amendments to CAFRA. What we are proposing is that at the ocean's edge, developments of one unit would have to receive a permit. As you move in from the coast -- 1000 feet from the coast -- developments of three units would be--

SENATOR GAGLIANO: How far again, I'm sorry?

MS. DAVIS: One thousand feet in from the coast -- in a band of 1000 feet -- three units would have to be permitted. And then, as you move back from that band, the permitting requirements would remain as they are now, 25 units or more, with the exception of areas that are designated as urban areas, or growth areas in these particular amendments. In those places, developments of 75 units or more would receive a permit -- would have to be permitted.

We believe that State and local actions will be much better coordinated through this approach. We would like to see the Commission develop -- and the Commission will be required to develop -- a single set of performance standards to guide land-use practices within the region. The standards, of course, would be developed with a great deal of input from county and municipal planners, the regional advisory councils

to the Commission, and substantial public participation requirements. Local governments will be expected to revise their existing municipal plans and ordinances to come into conformance with the master plan, and then to implement their own local plans. Development of the master plan would be closely coordinated with the activities of the State Planning Commission and the Pinelands Commission, but right now, this coastal region of our State is not included in any other regional planning mechanism in the State.

Questions arise as to how the master plan will be implemented, or how regulation will occur as a result of the New Jersey Coastal Commission. As I just mentioned, the Commission will require local governments to adopt plans consistent with the master plan. But I cannot emphasize enough that the master plan will be developed with a great degree of local input. We are trying to provide a vehicle for communication by local governments with one another, with the Coastal Commission, to put together a plan that works for them, that they then come into conformance with. The Commission would provide technical planning and financial assistance to local governments for implementation of the plan. The Commission would adopt regional guidelines, based on the strengthened CAFRA Program, which would form the basis of local land-use control ordinances. The Commission will not be involved in local zoning, or recommending local zoning procedures.

The Commission will also provide for an appeals process, in the event that a local government, or an applicant, takes exception with a decision on an individual permit application. We believe that this approach will greatly simplify the regulatory climate. The reason for that is, once a municipality comes into conformance with the master plan, the authority for actually issuing the permits -- the land-use permits -- will be delegated back to the municipal level, as

opposed to being done by a State agency now in Trenton. This is a significant change from the way business is done at present.

As a protection measure, to be sure that municipalities are behaving in conformance with the master plan, the Commission can call up and review individual permit decisions, as they should be. All applications for permits will be filed with the Commission, and the Commission can call up and review and, indeed, there are other options that could be explored for enforcement of master plan provisions, if it were believed that that was necessary.

An applicant, or a local government, who has a problem with an individual permit application has a couple of avenues through the New Jersey Coastal Commission for appeal. First, the regional advisory councils -- these four bodies made up of local officials representing four regions of the coast -- will act as dispute resolution boards. They can consider appeals in a non-adjudicatory fashion; try to negotiate a resolution of a problem or a conflict over an individual decision. If the regional advisory council is unsuccessful in resolving an individual problem, the Commission then acts as the court of appeals, and can actually render a decision about an individual permitting decision.

We believe this is a very attractive alternative to the existing situation, where someone who wants to appeal a decision goes to the Coastal Division, which refers that case to the Office of Administrative Law. It can take anywhere up to six months or more to get on the docket of the OAL. Indeed, the Coastal Commission will be prepared to act quickly, and will consider only this sort of issue. We believe it will be in a much better position to render decisions.

Again, we would like to see a single regulatory path developed, and that is part of our proposal for the Coastal Commission. Municipal governments will be much more in control

of their own destinies. We believe they will make the permitting decisions. Only the appeals process will move on to the Commission.

Let me just add -- as I think is common knowledge by now -- the intention here is to transfer staff from the Coastal Division out of the Department of Environmental Protection to the Coastal Commission, for those people responsible for implementation within the coastal zone of the Waterfront Development Act and the Wetlands Act, and for combining these activities in the Commission to help to streamline regulatory activity. DEP, of course, will continue in many important functions through its Division of Water Resources; through the Division of Fish, Game and Wildlife; and through the Division of Parks and Forestry. The major change, then, will be that the Commission will monitor the status of all the Federal, State, and local permits and approvals.

We really believe that regulatory responsiveness and clarity are going to be enhanced through the Coastal Commission. To put a final touch on that, what we believe must be done is that the Commission have its offices at the shore -- the main office and also field offices -- so it is readily accessible to the people living and trying to do business along our coast.

I think instead of going on about other aspects of the Commission, I will just stop and allow you to ask questions. I hope these comments demonstrate to you that the Governor takes very seriously the land-use aspects of the Coastal Commission proposal. We have thought about them in great detail; they are laid out in great detail in the legislation. Certainly, looking at the coast, where we see that the economy and the environment are inextricably linked, the land-use aspects of our shore just become a very critical part of this overall puzzle.

With that, I will stop.

SENATOR PALLONE: Thank you. First of all, I want to commend you for what is being proposed. The most important thing-- I should say, the reason, I think, why we are having this hearing focusing on the land-use aspects today, is because I began to realize, after I heard Governor Kean's speech in Asbury Park a few weeks ago, that if anything, the part of the Coastal Commission that seems to be significantly more detailed, or perhaps even more important now, as opposed to the Clean Ocean Authority proposal we heard back in January, is the land-use aspect. That is something you seem to have delved into in perhaps more detail than what was initially proposed in January. I don't think we focused on that sufficiently at our last hearing, and I want to focus on it today.

I am sure you found it to be true, as you went around and spoke to the various mayors, municipal officials, whoever, that this is a major concern; that although we are concerned about ocean pollution and shore protection, the land-use aspects are also very important. I think the proposal now really does incorporate some very good answers and solutions to the whole land-use or overdevelopment problem, as I see it.

I just want to focus in a little bit on how the new system is going to be different from the old. Right now, if a developer has a proposal, for example, for a subdivision that is more than 25 units -- you know, a condominium complex that is 50 units -- he has to go both before his local planning board for site plan approval, as well as go to CAFRA for a CAFRA permit through the State. As you mentioned, there is concern about that being a kind of a double veto, or double shot, and not one streamlined process.

Now, if we lower the CAFRA threshold, which is being proposed-- Let's say, for example, that I am within a thousand feet of the ocean, and I want to put up, say, a 23-unit complex at this point. Now I would, under this legislation, come under CAFRA, but at the same time, I am still subject to local

land-use controls, and theoretically have to go before my local planning board for site plan approval. Is that going to change? When you say there is going to be one process, are we still going to have site plan approval through the local planning board, and the CAFRA approval through the Coastal Commission, or is it envisioned that the local planning board will now grant the CAFRA permit? It is a little confusing, I think, to the public as to how the new system is going to be different from the old. Maybe you could just elaborate on that for a second.

MS. DAVIS: Sure. Let me just try to take it from the top. We have a Coastal Commission that develops the master plan. A major component of that master plan is the specific guidelines for land use that are developed from the CAFRA amendments, which will be included in the legislation. A local government, then, is required to bring its local plan -- plans and ordinances -- into conformance with the master plan, and that, of course, concentrates on these land-use aspects.

SENATOR PALLONE: Not to stop you, but in other words, then, when they are adopting or revising their master plan, they will be required to incorporate those guidelines from the State or shore master plan.

MS. DAVIS: That is correct. Now, once they have done that, the municipality receives delegation of permitting authority from the Commission. We believe this provides a much clearer situation for the municipality, for developers, for anybody. The guidelines are uniform. Everybody knows what they are going in. The planning board knows what they are. The planning board has a context and a framework within which to make individual decisions. So, once delegation is received, you have a much simplified process before you.

SENATOR PALLONE: So then, in a sense, Brenda, at that point, once the town has agreed to adopt--

Let me just interrupt. Senator Van Wagner has arrived. I am pleased to see you, Rich.



SENATOR VAN WAGNER: Thank you.

SENATOR PALLONE: Again, Senator Van Wagner is someone who has been to every one of these hearings, and has been very cooperative and very helpful in the whole process.

Brenda, I just wanted to say, in other words, once the town has adopted the master plan guidelines that the State -- or that the Commission has set, I should say -- they then would, in a sense, take over the CAFRA permitting process. There would only be the one permit.

MS. DAVIS: Exactly.

SENATOR PALLONE: So the planning board, in issuing its site plan approval, would also, in effect, be issuing its CAFRA approval?

MS. DAVIS: That's right.

SENATOR PALLONE: Okay. But then there is an appeal to the Commission. Explain that. In other words, if, for example--

MS. DAVIS: Well, right now there is an appeal. Under CAFRA now, an upset applicant can appeal his application.

SENATOR PALLONE: Right.

MS. DAVIS: What they do is appeal to the Division of Coastal Resources, which refers it to the Office of Administrative Law. You get an Administrative Law Judge, sometime in the future, who will look at that and recommend to the Division of Coastal Resources what he believes should be the resolution of that particular conflict. Instead--

SENATOR GAGLIANO: But that is a non-binding opinion, isn't it, Brenda?

MS. DAVIS: Yes, that's right. The Commissioner just makes the final decision.

SENATOR PALLONE: But, Brenda, in other words-- I am only interrupting you because I am trying to get a handle on it. Let's assume that the developer comes before the planning board, and there may be some objectors -- as there often are

with these things. At that point, an appeal can be taken to the Coastal Commission. If the permit is denied by the developer, he can take the appeal, or, alternatively, those who are opposed can also take an appeal to the Coastal Commission, if the permit is granted?

MS. DAVIS: Right. Let me just interject one thing: What we have tried to do is bring this whole problem of disagreement over individual decisions as close to home as we possibly can. So, we recommend that the first appeals process is to the regional advisory council, which is a group of 15 people who are nominated -- appointed -- to regional advisory councils by the county governments. These are people very familiar with the local problems; people who have had a tremendous amount of input into the master plan, and are real familiar with it. They are the first court of appeal. They act as a dispute resolution board to try to reach some accommodation between the differing parties.

If they are unsuccessful in that effort, an appeal can move on up to the Commission. But again, the difference here is that you are dealing with people who are involved all day, every day, with coastal issues, with the master plan; people who are intimately familiar with the problems and the geography and so on. That is not necessarily the case now.

SENATOR VAN WAGNER: But you're really establishing a regional planning council, aren't you? That is what your goal is. Your goal is to establish regional planning.

MS. DAVIS: Regional planning, certainly.

SENATOR VAN WAGNER: Right. And that regional planning is, in fact, intended, in the last analysis, in essence -- and I don't ask this in a contentious manner -- okay? -- but that regional planning council is, in fact, intended to make a decision which, in fact, overrides local planning prerogatives and goals. Am I correct?

MS. DAVIS: A person could not take issue with those words. On the other hand, I go back to the same point that I keep making.

SENATOR VAN WAGNER: Well, I won't use override, okay? I will use the words "to replace."

MS. DAVIS: The point is, that plan is one that local people develop, so it is not a plan being made by the Division of Coastal Resources sitting up in Trenton.

SENATOR VAN WAGNER: No, no. The input, obviously, from your-- You know, I read the bill that has been submitted. It has surprising similarities to the Raritan Bay Regional Planning Act, in its concept anyway, and I congratulate you for it, really.

The bill is really designed, however, to regionalize, with the input of local officials as part of the regional councils. The bill really, as I see it, is designed to regionalize planning targets, planning goals, and, ultimately, I would expect, the outcome would be regional land-use patterns.

MS. DAVIS: Yeah, just before you walked in, I think I described exactly that.

SENATOR VAN WAGNER: Right.

SENATOR GAGLIANO: Brenda, how many municipalities are there -- if you know the number -- say, from up where Senator Van Wagner's district starts, all the way around Cape May to the Delaware River?

MS. DAVIS: There are 126 municipalities.

SENATOR GAGLIANO: One hundred and twenty-six, so about 25% of the municipalities in the State--

MS. DAVIS: That is correct.

SENATOR GAGLIANO: --border the bays, border the ocean.

MS. DAVIS: That is correct.

SENATOR GAGLIANO: My concern is that if this isn't handled just right, we are going to have contentiousness, and it is going to be between the mayor and the elected members of

the governing bodies, and the Legislature, and the State government, because I think-- From what I am hearing, I am concerned that what will happen is, the local officials-- For example, during this process where you are creating the master plan, the local officials-- Let's take, for example, Long Branch. We're here; we've all read about it. Long Branch wants to have the Hilton Hotel approved. Let's say they zone for it, that they can have a hotel with whatever it is, 200 or 250 rooms, and conference rooms. They feel that this is the beginning of the revival of Long Branch. And the group, for whatever reason, which is, shall we say, on the other side of the table in this so-called mediation, but representing State interests, says, "We don't think a hotel is good for Long Branch."

So, you start at two different ends of the spectrum. I don't know how you are going to get them together on this issue, because, let's face it, you have an elected mayor, an elected council, or board of commissioners, or whatever it is, and they have their own ideas for a town, the the townspeople have their own ideas for a town. I am concerned that if we don't make a partnership out of it -- a true partnership out of it -- there will be a certain amount of distrust on the part of the local municipalities and local governing bodies, and the thing could fail. I really believe that.

One of the problems I have is that your concept of the master plan comes from upper parts down. In other words, it starts at the State level and comes down to the municipalities, with input. Many of us have been too aware of the input over the years, where the regulators have stepped in and, shall we say, gone somewhat afield from what the original legislation called for. For example -- and I think Frank put a bill in to stop it -- DEP's rule that for every so many units of condominiums, there would be a requirement -- by DEP -- if you wanted CAFRA approval, to include 25% low- and moderate-income

housing within the complex. I don't think that was ever anticipated by the Legislature to be a part of the original CAFRA laws or rules.

SENATOR VAN WAGNER: I think the court interpreted it to be that.

SENATOR GAGLIANO: The court interpreted it that way, and DEP wanted it that way.

SENATOR VAN WAGNER: Yeah.

SENATOR GAGLIANO: Right? So--

SENATOR VAN WAGNER: I have no problem with what they're doing.

SENATOR GAGLIANO: What?

SENATOR VAN WAGNER: I think the time has been long past, unfortunately, for many of our communities where we have established statewide planning targets under the auspices of regional planning councils. I agree with you. I think the court overstepped in that implication. But, I really don't think there is going to be as much contention as one might think. I think maybe if we can get into the components of what would happen--

I understand what you're saying, but I think there is more of a chance for a partnership under this approach than we have had in a long time.

SENATOR PALLONE: See, Brenda, one of the things--

MS. DAVIS: I'm losing track of the question here.

SENATOR PALLONE: Yeah, I know. Let me just make a comment, and then we can go on. The beauty--

SENATOR GAGLIANO: We're commentators, not questioners.

SENATOR PALLONE: We're commenting. The beauty, I think, of what you are proposing -- or what the Governor is proposing -- is, on the one hand, from an environmental -- or from the perspective of someone who is concerned about overdevelopment -- by lowering the CAFRA threshold and taking, you know, everything in, pretty much, along the coast, or

almost everything, that now we are able to deal with the development along the coast with an overall plan, without exempting projects that are under 25. As you know, the 25 has become a magic number. I mean, if you look out in my own town -- the City of Long Branch -- you will find that maybe 90%, 95% of the developments that are being proposed, are under 25, because of the 25-unit threshold.

So, you know, from an environmental perspective, you want to take in residential development under 25 units, particularly as it gets close to the coast. So, in doing that, you are meeting the environmentalists' concern. At the same time, you are trying to meet the developers' concern of this two-step process, or this overview from the State with CAFRA, and the local officials with the local planning boards, by saying, "Let's combine them and put them together." To me, it seems like an ideal situation, and I think that is the whole point. On the one hand, the developer who wants to put up something nice, and who is going to contribute in a positive way, doesn't have to wait two or three years and go through this whole process in one fashion -- a one-stop fashion, as you say. On the other hand, we have control over everything now. We don't have to worry that some things are being exempted and, therefore, we have this kind of haphazard development.

I like the idea, but I think we do have to get into more detail about exactly how it is going to work. One of the questions I had, and I'm asking it because I know some of the environmental groups are concerned about it, is-- The Commission structure doesn't seem to have much input from those who are concerned about the environment. If I look at it -- on page 15 of the brochure -- and this differs a little bit from what the Clean Ocean Authority bill that myself and Assemblyman Villane originally had in it-- You say there is one representative from developers' interests and one representative of environmental organizations. There doesn't

seem to be much input from environmental groups overall. I am just wondering how the membership of the Commission was structured. If you could just go through that a little bit.

MS. DAVIS: Sure, I can answer that, but let me just answer Senator Gagliano's question, because I think he raises a really critical point here about the need for partnership, the maximum amount of effort we can put in up-front in the legislation, or any ideas anybody's got to minimize the contentiousness.

SENATOR GAGLIANO: I think that is the key.

MS. DAVIS: Yeah, it truly is.

SENATOR GAGLIANO: That is what will allow this to pass.

MS. DAVIS: But, indeed, I think that is where the Governor's approach is so special here. I spent six months on the road meeting with mayors and other local officials. I think that is a very unusual approach to a problem like this, in the history of our State anyway, and is one we hope is paying off. What we have tried to do, and this is part of the membership structure you see on page 15-- What we have tried to do is set up a Commission that is responsive to local needs; set up a permanent mechanism for local grass-roots input that has several safeguards built into it; set up a public participation process. We are mandating, in the legislation, that the Commission hold an annual meeting where it will review activities that have happened that year, and lay out its plans for the next year; significant public notice requirements.

The regional advisory councils, for example, are members appointed by the counties, not by the Governor, or somebody, which would have been an alternative. They elect a chairman who for three years serves as a voting member of the Commission, and he cannot succeed himself. So, you have a constant turnover. We have looked for ways that this thing can become institutionalized and drift away from the people, become



politicized, and have tried to cut them off. Where we can do more of that, we would be delighted to do it. We are still continuing to receive comments from everybody. We are putting a bill in next week, but that doesn't mean, by any means, that this is the end of it, as you know.

SENATOR GAGLIANO: I understand.

MS. DAVIS: Now, on the membership--

SENATOR PALLONE: About the Commission structure, yeah, because I know this is a concern of the environmental groups. Right now, CAFRA is administered by DEP, and the people involved, both in charge of CAFRA, as well as those who work on the individual projects, are coming, basically, from an environmental perspective. Whereas, if you have a Commission that only has one environmental representative, isn't it going to be weighed more toward the developers or toward the local officials, or whatever? Just a response to that.

MS. DAVIS: In the structure you see on page 15, we tried to give the major interest groups and the major groups of people doing business on our shore equal representation on the Commission. But, in addition to one representative of environmental organizations, we have the Commissioner of DEP as an ex officio member. But more important, I think, even than that, I think if you were to add more environmentalists, you would get the same reaction from other interest groups; that they have been unfairly under-represented on the Commission. But I think there are a couple of other real important things we have to remember here. One is, if you look at the goals of this -- and you see these also in your legislation -- the primary goal is the protection and enhancement of the environment, followed by sustaining the viability of the economy along the shore. We have to be very careful in the legislation to make it clear that without a quality environment along the coast, there will not be a strong economy, and that these things cannot be separated here.

Secondly, the New Jersey Coastal Commission will allow for, for the first time, comprehensive resource management along the shore. It allows for a comprehensive approach to the protection of the environment. We are nickeling and diming our environment to death along the shore, and without something like the Coastal Commission -- and I make this appeal to the environmental groups -- without this, we don't stand a chance of protecting, for the long term, this resource.

The last thing I would add is, the CAFRA amendments are very strong environmental protections. They were when they were first enacted, and we believe these improvements and modernizations to them act in accordance with that theme.

SENATOR PALLONE: I have some specific questions I want to ask you. On page 20, we talk about: "Impact fees or developer contributions could be used to lower the public share of capital costs related to development," then, "Developers will be assessed a small percentage of the infrastructure costs affected by their projects." We, for example in Long Branch, have been trying to do that, I think, along the lines of what you're saying. When a developer comes in, he is asked to make a contribution for the road improvements, for the public streets, whatever. How does this kick into the Coastal Commission? Is it just going to be on a local level through the planning board process, or is it going to be on a larger scope in terms of a source of funding for the Commission's activities?

MS. DAVIS: What we suspect is that this can be a significant source of funding to be used by local governments. There are a lot of legal questions now before the courts of this land concerning how you can assess developer's fees and what the linkage has to be to individual project purposes. My office, as a matter of fact, is undertaking, right now, the most comprehensive look at this, I believe, that anybody has ever undertaken in this country, for the State's consideration,

along the Hudson River waterfront. I believe the results of this study will give us very clear indications about the legal situation in New Jersey and the approaches that are appropriate to having developers contribute to infrastructure needs, and so on, that are a direct result of a particular development.

I don't think the Coastal Commission will find that the legal environment is such that you can extract money from developers to put in a big pool and use somehow along the New Jersey shore. But what we would like to do, is provide the technical know-how and the background to local officials who want to interact in a stronger fashion with developers for improvements to their communities.

SENATOR PALLONE: So, it is primarily envisioned as for the local projects, the local streets, whatever?

MS. DAVIS: I think that is a matter of law in this land, more than what we might or might not like to do.

SENATOR GAGLIANO: There would have to be a direct correlation between the contribution and the impact of that particular development?

MS. DAVIS: Exactly.

SENATOR GAGLIANO: For example, for the benefit of those here who might not have heard of these things yet-- For example, if you were going to build a 300-room hotel, and that hotel had, I don't know, 250,000 square feet of space, there might be a contribution of so much a square foot, or so much a room, which would assist the municipality in widening the roads, taking care of culverts that might be needed, other infrastructure matters -- extensions of sewers, and that sort of thing -- storm water runoff -- to take care of those items which are directly attributable to the construction that the developer wishes to undertake. Correct?

MS. DAVIS: That is exactly right and, indeed, we are seeing a lot of this, as I said, in the nine municipalities that comprise the Hudson River waterfront. The State is hoping

to use this approach, to some extent, in funding the light rail transit system along the waterfront there.

SENATOR PALLONE: Go ahead, Senator Van Wagner.

SENATOR VAN WAGNER: Are you familiar with S-699?

MS. DAVIS: Not unnamed, no -- S-699.

SENATOR VAN WAGNER: It is called the Raritan Bay Regional Planning and Development Act.

MS. DAVIS: Not in great detail, no.

SENATOR VAN WAGNER: Introduced on January 14, 1986. Previously to that, it was S-11, introduced in 1984; previously introduced in 1983, '80, '79, etc. I think DEP is familiar with it, at least former Commissioner Hughey was.

MS. DAVIS: Introduced by you?

SENATOR VAN WAGNER: Yeah. I find striking similarities in the Coastal Commission proposal. I am sure they are just similarities, and I like that, frankly. It is a form of flattery, I suppose, even though you are not aware of it.

I had in mind, perhaps, the same basic goals. The commission I had in mind in the Raritan Bay region-- It established a 23-member commission made up of representatives of those communities along that bay front. It was my feeling that there would be no opportunity to preserve, as you say -- in fact, the bill says this -- "to preserve and enhance the historical, cultural, and recreational aspects" -- I didn't have coastal region; I had Raritan Bay region -- etc. I think that is a goal that we should reach for, certainly.

I would like to move away from development a little bit, if I might, Mr. Chairman, and CAFRA, and things of that nature, and deal with the operation of the regional councils -- okay? -- because I think that is the important focus, really. And then maybe later on, when others speak, we can get into land use. I would expect you are going to hang around.

MS. DAVIS: Actually, I have to get back.

SENATOR VAN WAGNER: You have to get back. Well, there will be DEP officials here, I am sure, who we can address in terms of land use.

I would like to follow-up a little bit on Senator Gagliano's example, if I might, only from a different perspective. Let us say that Community A, which is anybody, part of a regional sub-council, decides they would like to enter into a development in and close to their shore front, and Community B, which is within that same regional sub-council, feels there is going to be a substantial infrastructure impact on their community as a result of the development pattern that is going to happen in Community A -- okay? -- erosion, overburden of wastewater treatment facilities, road impact, whatever. Who will guide the crisis resolution involved in what will obviously be a debate between Communities A and B, which takes place right now? Who will be the determining ultimate arbiter in that dispute in a regional sub-council?

MS. DAVIS: Well, I think first we are leaping to the crisis. We think that through this approach, in many instances, a crisis might be averted because you will have a regional approach to planning, a regional framework that these advisory councils have worked on from the beginning.

SENATOR VAN WAGNER: But you have a place right now--

MS. DAVIS: Then, if you get into a situation where there is a perfectly permissible kind of development that has impacts on a neighboring community, which we hear about all the time-- We are all familiar with shopping malls that are on the border of another town, and all the traffic comes through that town.

SENATOR VAN WAGNER: Well, that is the way you do it.

MS. DAVIS: Yeah. At a minimum--

SENATOR VAN WAGNER: That is a politically better way to do things -- for Town A to put it on Town B's border.

MS. DAVIS: At a minimum, what we have created through these regional advisory councils is a forum for discussion and airing and consideration of those problems, which does not exist right now.

SENATOR VAN WAGNER: Okay, fine.

MS. DAVIS: I am open to ideas about how this crisis--

SENATOR GAGLIANO: We are looking for the answers.

SENATOR VAN WAGNER: Fine. Now we have--

MS. DAVIS: I can't say that a New Jersey Coastal Commission is going to avoid any difference of opinion on the coast for the future.

SENATOR VAN WAGNER: No, no, please let me go on. Okay? We have this dialogue, you know, or we have this mechanism now for everybody coming together and threshing out their problems together. Ultimately, I would assume that the Coastal Commission -- the overview of it -- is that there will be, in fact, a plan.

MS. DAVIS: Right.

SENATOR VAN WAGNER: Okay. Now, ultimately, who decides what that plan will be?

SENATOR GAGLIANO: The master plan? Excuse me.

MS. DAVIS: Well, the Commission develops and adopts a plan.

SENATOR VAN WAGNER: But, who arbitrates, for example, if we are not able to work out our problems, and Community A says, "We are moving ahead with the Hilton"?

SENATOR GAGLIANO: Or a high-rise on the water?

SENATOR VAN WAGNER: Or a high-rise on the water.

SENATOR GAGLIANO: On the border?

MS. DAVIS: The Commission is the appeals body, but if the particular project receives a permit and it meets the guidelines in the master plan, then the Commission would not be in a position to stop that. The appeal could be made to the Commission, which could consider whether or not it were consistent with the master plan.

SENATOR VAN WAGNER: That's it?

MS. DAVIS: Right. That is the way-- I don't think I follow exactly.

SENATOR GAGLIANO: Excuse me, Mr. Chairman, if I may interrupt. I think what Senator Van Wagner is alluding to is what I started to allude to. Suppose that Town A had decided, for example, on the southern border of their municipality, which is right on the beach, that they wanted a series of high-rise condos, whatever -- 300 or 400 or 500 or 1000 units of condos, right on the southern end of their border, and right next-door is Town B. The master plan was developed with that in mind by Town A, and Town B never wanted it. How do we get to a master plan in the first place? That is what I am concerned about, because with 25% of the municipalities in the State bordering the ocean, and each of these towns having amazingly, shall we say, centralized views of their world, how are we going to reconcile it so that we get to a regional master plan, which is what I think we all want?

SENATOR VAN WAGNER: Yeah.

SENATOR GAGLIANO: I throw that out not because--

MS. DAVIS: Right.

SENATOR GAGLIANO: I just don't know the answer myself. I am looking for answers, because--

MS. DAVIS: What we have tried to do -- and I have laid this out -- is create a vehicle that allows for a maximum amount of public participation and regional participation in the development of the plan. It is in that development process where all the decisions made by the Commission are made in a public setting where the regional advisory councils vote on the plan. That is the primary vehicle at the outset for the structure of the plan and the initial resolution of some of these problems.

The CAFRA guidelines themselves will be significantly different, and that will address some of these problems. The



Commission, we believe, will adopt regional land-use guidance, as the CAFRA Program does now. Again, that might address some questions of use -- appropriateness or inappropriateness of use -- of different kinds of habitats, and so on.

There are a number of different ways, but it is going to be incumbent upon the Commission to resolve some of these issues, as it stands now. The one thing I ask you to consider is whether or not that is an improvement from what we have now, where none of those possibilities exist.

SENATOR GAGLIANO: It's an improvement.

SENATOR VAN WAGNER: I think it's an improvement.

SENATOR GAGLIANO: Absolutely.

SENATOR VAN WAGNER: It's not as new and creative as you think it is, but it is a start. It is the first time a Governor, perhaps, has stepped into the very sensitive issue of home rule, to the extent that this Governor has, and has, in fact, proposed something that goes somewhat beyond the issue of, "Come let us reason together" kind of an approach.

What I am trying to get at, very frankly, is, if, in fact, this bill is going to have what I assume you want it to have, which is the authority to establish regional land-use patterns and ultimately to conserve, as much as possible, the areas that are left, so that we don't continue to impact sensitive environmental regions, who is going to make the final decision if, in fact, the resolution cannot be, in fact, brought to conclusion within that sub-council? Is the State--

MS. DAVIS: The Commission.

SENATOR VAN WAGNER: The Commission?

MS. DAVIS: Yes.

SENATOR VAN WAGNER: Okay, that is what I was trying to get at. The Commission will decide.

SENATOR PALLONE: They will ultimately decide, if there is an appeal.

SENATOR VAN WAGNER: They will be the ultimate arbiter, and they will say, "You have shattered the regional land-use pattern that we have established. You haven't been able to work it out within your sub-council. Communities A, B, and C have not been able to come to an agreement. Therefore, based on the criteria we have established under the amended CAFRA, etc., this is what will happen."

MS. DAVIS: Correct.

SENATOR VAN WAGNER: Okay. Thank you.

SENATOR GAGLIANO: For the purposes of the record, though, Brenda, the ultimate arbiter could be the Appellate Division or the Supreme Court?

SENATOR PALLONE: Oh, sure. It could go from the Commission--

MS. DAVIS: Yeah, you could still go to court.

SENATOR GAGLIANO: They make a final decision subject to that.

SENATOR VAN WAGNER: No, I think that is important.

SENATOR PALLONE: They would be the final administrative body.

Let me just ask you a couple of quick questions.

MS. DAVIS: Right now, there is no administrative body, so at least we have something closer.

SENATOR VAN WAGNER: So we are, in fact, beyond home rule?

SENATOR PALLONE: Oh, sure.

SENATOR GAGLIANO: Well, shall we say its--

SENATOR PALLONE: We may not like to say it that way, but that is the reality.

MS. DAVIS: I think what we are talking about is a trade-off; that there is some give and take.

SENATOR PALLONE: Sure.

MS. DAVIS: And, we hope, a net gain for all involved.

SENATOR PALLONE: There is a recognition of the fact that there must be something beyond just what the towns themselves rule on.

SENATOR VAN WAGNER: But you see, there has been that recognition for a very long period of time. The issue is, however, upon reaching that recognition, is there, in fact, going to be, within the legislation that may or may not be adopted by this Legislature, a final component that will say, in fact, legislatively, by statute, that this Commission shall have the final judgment and decision on the pattern of land use in that region?

MS. DAVIS: The appeals process is laid out very specifically in the legislation.

SENATOR VAN WAGNER: And it will have?

MS. DAVIS: Yes.

SENATOR VAN WAGNER: Thank you.

SENATOR PALLONE: Let me just ask you some specific questions about the geographical components. First of all, are we talking strictly about the CAFRA region that now exists pursuant to the CAFRA legislation? Is that geographic area being changed in any way?

MS. DAVIS: No.

SENATOR PALLONE: Therefore, everything we are discussing -- even though it goes into a number of different counties -- only applies to the CAFRA areas within those counties?

MS. DAVIS: That is correct.

SENATOR PALLONE: Okay. What type of guidelines will the master plan be setting forth for local planning boards, or local master plans?

MS. DAVIS: The guidelines, under the CAFRA amendments in particular I think you are talking about--

SENATOR PALLONE: Right.

MS. DAVIS: --would be similar to the guidelines now, I think, developed to meet the new amendments to CAFRA.

SENATOR PALLONE: Well, Brenda, are we talking about the Commission's master plan being, like, how would I put it, site- or activity-specific? Will they actually be reviewing local master plans and making decisions about geographic boundaries of certain zoning districts?

MS. DAVIS: No. What we want to do is provide a regional framework, with performance standards and guidelines within that. If you look at the guidelines under CAFRA now, they are fairly specific about appropriate land uses, and so on. Those would be updated and brought into conformance with the new amendments.

SENATOR PALLONE: Are you envisioning that the master plan is going to actually be involved in this; for example, siting new roads or transportation facilities?

MS. DAVIS: What we envision is that the master plan would recommend, and would do so on a continuing basis, necessary transportation improvements peculiar, or particular to this part of our State -- a concentration on coastal transportation needs. It would not be the implementing agency for transportation improvements, but could recommend, from a position of strength, to the Department of Transportation. I have discussed that with our Commissioner of Transportation -- Commissioner Gluck. She thinks it is a terrific idea. Right now, you don't know exactly. It is hard to focus on the coastal region from a transportation perspective.

SENATOR VAN WAGNER: How will you juxtapose the Coastal Commission, the State Planning Commission, and the State Transportation Master Plan with each other? Right now, you have somewhat of a conflict because there are some growth corridors in areas that I think you are going to want to protect somewhat in the coastal region. In the State Master Plan and the Transportation Development Plan, there are some growth corridors that maybe have to be looked at. Do you intend to develop a committee of perhaps Cabinet level

officials in the various departments to kind of coordinate the various plans that have been put forth so far? For example, you have this coastal plan now; you have the Transportation Plan moving through Senator Rand's Committee; you have the State Planning Commission now developing various growth patterns.

SENATOR GAGLIANO: They are developing ulcers.

SENATOR VAN WAGNER: That's fine, okay, but the point is, are they going to be coordinated somehow? It seems to me there are going to be some conflicting situations that are going to arise here, because obviously each of the agencies that are involved in these various commissions have different planning goals. You know, like, Transportation, they want to build bigger and better roads, and widen the roads, and break the gridlock. DEP is primarily concerned with the environment, and is regulatory in nature. And the State Planning Commission is trying to develop regional planning and growth patterns. Somewhere along the line, you are going to have a clash. Is there any Cabinet level group going to be brought together to try to juxtapose the various planning targets that are encompassed in each of these separate measures, to try to coordinate it? I think that is very important, particularly to the coastal region and the 126 communities that are identified in that region. I think somewhere around 47 of those communities are in high-growth corridors.

MS. DAVIS: Coordination is the essence of this whole proposal. If we cannot coordinate the activities of 126 municipalities, four State agencies, the State Planning Commission, the Pinelands Commission, a whole slew of Federal agencies, other states, like New York, Delaware, and Pennsylvania, then we are nowhere. Then we will see the continued decline of this resource. So, coordination is the name of the game. That is what we are trying to facilitate through the creation of the New Jersey Coastal Commission.

The CAFRA zone of this State is not covered by the State Planning Commission jurisdiction. They have alluded to it and addressed some of the growth corridor components that are included in the existing CAFRA guidelines. Coordination with the State Planning Commission, in planning for the coastal region, is absolutely critical, and is laid out very specifically in our written proposal here, as it is in the legislation. Similarly, coordination with the Pinelands Commission. The CAFRA zone actually overlaps with the Pinelands Commission now, as it probably should not. But in some instances that will be critically important. So, I think that--

SENATOR VAN WAGNER: You will have to point out to me specifically where that is.

MS. DAVIS: I can't, just off the top of my head.

SENATOR VAN WAGNER: I'll find it. That's all right, Brenda, I'll find it. I would also recommend that we insert the Transportation Plan that is being--

SENATOR GAGLIANO: It is called Transplan.

SENATOR VAN WAGNER: Transplan.

MS. DAVIS: Well, Transplan we don't have yet. Transplan is legislation. It is a mechanism for counties to plan more effectively for their individual transportation needs. But again, that would be a very critical part.

SENATOR VAN WAGNER: Well, there are three levels of the Transplan.

MS. DAVIS: In coordinating any of this, if you don't create a strong advocate for the coast of New Jersey, you are not in a good position to coordinate with anybody. You can't coordinate with the State Planning Commission, with other agencies of State government. So again, I think it is critical, but people need to come together to coordinate from a position of strength on behalf of the coast.

SENATOR PALLONE: Brenda, each of us has a couple more questions, and then we will let you go because we want to move on.

SENATOR GAGLIANO: I think, unfortunately, to a certain extent, we have dwelled too long on land use. As you know, this thing is designed to do a comprehensive shore master plan covering shore protection, water quality, land use, financial management, critical water supply, economic development, transportation, conservation, historic, cultural, and recreational valued items. So, although land use is crucial because, let's face it, people have certain rights with respect to the use of their properties, I think maybe we should just use land use as one of the components, and remember all of the other things we set out to do that dealt with the environment directly also, and we certainly want to do them.

I have one last question: Does the proposed legislation have a clause, or a section in it, which deals with regulation -- and I'm back to land use -- on when we can start counting the number of units under which you may proceed, if you follow me? The present law is 24, so what some municipalities have done is take, maybe, a 10- or 12-acre site, and allow subdivisions. They subdivide, slice off a piece, build 24 units. Six months later, another subdivision, and lo and behold, the same parcel that started out as 12 acres. Another subdivision, another 24 units right next-door. A little different name, maybe; a little different characterization; maybe a little different facade, but a continuation of what started out as a subdivision.

I wonder if there is anything in this legislation which would regulate that, because it could be that we would be continuing something that we had in the past. I think we ought to address that, or try to.

MS. DAVIS: Yeah, I think you are absolutely right. I am going to defer that question to the DEP representative here,

who is more intimately familiar with that problem and the solution to it. But indeed, I think part of your question has to do with the transition period once you get this legislation. When is it that more careful, or better regulation begins to occur? We would say, immediately, by the CAFRA staff, until the Coastal Commission is established. We would like to begin more thoughtful, more appropriate regulation of development along the coast as quickly as possible, not wait for the full development of the master plan.

SENATOR PALLONE: I want to ask two things: One is, you did mention -- and this is the first time I heard this -- that urban areas would be exempt from under 75 units.

MS. DAVIS: Right. That is part of these amendments -- urban areas and growth areas. I've got a little map here that shows where those are -- what parts of the coast. But, basically, the north shore and parts of Atlantic County, as you move into Atlantic City. In those instances, the regulatory limit would be raised to 75 units or more. That is the proposal in the legislation.

SENATOR PALLONE: From what I understand then, that would be the more outlying areas of CAFRA?

MS. DAVIS: Right. Once you get back beyond the 1000-foot corridor under which three units or less will be regulated.

SENATOR PALLONE: Oh, okay. Once you are beyond the 1000 feet of the next parallel road, you are going to be raising it to 75?

MS. DAVIS: In growth areas and urban areas--

SENATOR PALLONE: Okay.

MS. DAVIS: --that are designated as those in the legislation. But it is something you should look carefully at.

SENATOR PALLONE: The only reason I mention that, Brenda, is because I wonder under this one-stop procedure you have now, where ultimately decisions are being made by the



local planning board and then appealed, why is it necessary to up the threshold in those growth areas? In other words, the way I understand it now, the local municipality -- the local planning board -- is going to be reviewing all these things anyway, so why should we make that distinction? Why should we up the threshold at all, if that same planning board is going to be reviewing the proposal?

MS. DAVIS: Because we are talking about the whole oversight and regulation by the Commission, and the call of authority, and so on, by the Commission, and what kinds of growth. I think this is, again, sort of a modernization of what kinds of growth are appropriate in different parts of the shore.

SENATOR PALLONE: But you understand my point, which is, if your local planning board is going to review things closer to the coast pursuant to these guidelines, why it is necessary to, in effect, have different guidelines in other areas that are now under CAFRA jurisdiction? What is the rationale, really?

MS. DAVIS: Well again, I think the rationale is that we have some very urbanized parts of our coast that have been urbanized for hundreds of years, and a different kind of regulation is appropriate there, than if you are talking about a rural region in Cape May County.

SENATOR PALLONE: Okay. Well, we can certainly look into that, because I have some questions about that. You also mentioned-- Just so everyone knows, how do we plan to compel the municipalities to conform to the master plan? I know that is a big question. How is that going to be done? Let's say a municipality says, "I don't like it; I don't care; I am not going to go along with it." How is the Commission going to compel them to go along with the guidelines?

MS. DAVIS: First of all, they will not be eligible for funding from the Commission. We intend to channel all

shore -- coastal resources through the Commission. The Governor has committed to \$20 million in appropriations for the Commission in its first year. The Natural Trust legislation would provide for \$15 million annually for the coast, and that would be channeled through the Commission. Other sources of funding, which we believe will contribute-- All will be funneled through the Commission. A municipality that has not come into conformance with the plan would not be eligible for funding sources.

Secondly, a community not in conformance doesn't receive this delegation. You are still in a position of double veto. You become a less attractive place to do business. The Commission is looking over your shoulder all the time. We suspect that most municipalities would like to take over their own destiny to a greater extent than that would provide. So, if those things fail, if a municipality simply doesn't want to be involved, then the Commission continues to regulate development and so on, to implement the master plan in that particular municipality.

SENATOR PALLONE: And then that would also include, for example, a CAFRA permit down to the lower threshold?

MS. DAVIS: That's right.

SENATOR PALLONE: Okay. Do you want to give us some details about exactly what areas we are talking about there, where the 75 units would apply?

MS. DAVIS: Sure. Urban areas, the north shore, in particular Middlesex and Monmouth Counties--

SENATOR PALLONE: That's the Raritan Bay area?

MS. DAVIS: That's right, the bay shore. Ocean County north of Highway 37 and west of the Garden State Parkway; north of Cedar Creek and east of the Garden State Parkway -- don't ask me to draw that on a map -- and the Absecon area, the Somers Point region south of Jimmy Leeds Road and east of the Garden State Parkway. That is all spelled out in these

amendments, which I must remind you were very carefully developed with DEP.

SENATOR GAGLIANO: Did that include Asbury Park and Long Branch?

MS. DAVIS: Yes.

SENATOR GAGLIANO: Sea Bright?

MS. DAVIS: Yes, I think so.

SENATOR PALLONE: So, in other words-- I didn't hear what--

MS. DAVIS: No, not Sea Bright apparently.

SENATOR GAGLIANO: Not Sea Bright.

MS. DAVIS: Again, DEP is here, and they can--

SENATOR GAGLIANO: Just thought I'd ask.

SENATOR PALLONE: So, in other words, the urban areas we have-- We are talking about Urban Aid areas. Is it the same qualification? Those municipalities which we now consider as Urban Aid would be exempt--

MS. DAVIS: I don't know if they are exactly the same in all cases. I suspect they're not.

SENATOR PALLONE: But it's pretty much the same?

MS. DAVIS: There is probably significant overlap.

SENATOR PALLONE: And that means that even-- Just so I understand, does that mean directly on the coast or within 1000 feet or only beyond?

MS. DAVIS: No, the same rules would apply for directly along the ocean, and then 1000 feet in.

SENATOR PALLONE: Okay.

SENATOR GAGLIANO: One unit directly, 1000 feet--

MS. DAVIS: The same thing.

SENATOR GAGLIANO: --three units.

SENATOR PALLONE: I just want you to understand, because I know there are a lot of people here from Long Branch, or even from Asbury Park and local areas. When we are talking about this urban exception, it doesn't apply to the first, you know, 1000--

MS. DAVIS: One thousand feet.

SENATOR PALLONE: --feet or the first parallel road. It is in that area beyond. Where it is now 25, it would be 75. Okay. I have no further questions.

SENATOR GAGLIANO: I don't either. Thank you very much.

SENATOR PALLONE: I'm sure we could go on all day. We appreciate your coming down, Brenda.

We are going to have Don Graham up here next, Donald Graham is the Assistant Commissioner for Regulatory and Governmental Affairs for the New Jersey Department of Environmental Protection. Your title gets longer as you stay around.

A S S T. C O M M. D O N A L D T. G R A H A M: It grows with age; they grow with age.

SENATOR PALLONE: Don, you may have a prepared presentation, but basically what I want you to do initially, if possible, or at some point, is just to outline the problems we have been experiencing in the shore area with regard to overdevelopment -- I don't want to be too harsh, but haphazard development -- and why we feel it is necessary -- or why DEP feels it is necessary to move in this direction. The question is always, "Well, if DEP is doing a good job, why do we need to change things?" Not to suggest that you're not doing a good job, but obviously we feel there--

ASSISTANT COMMISSIONER GRAHAM: I don't know whether I would want to put it to a vote today.

SENATOR PALLONE: --is something that needs to be changed. I just want you to outline that, if possible.

ASSISTANT COMMISSIONER GRAHAM: Okay. I just want to say a few things prior to getting into that, Senator.

I appreciate your having us here today. Brenda is a hard act to follow, as the old cliché says. We have been participating with the Governor's office since the outset of

this initiative. We think it is a very worthy initiative. I have met personally with Brenda and those 70 mayors.

SENATOR GAGLIANO: Someone is indicating that he can't hear you, Don.

ASSISTANT COMMISSIONER GRAHAM: Is this on?

SENATOR PALLONE: It's on, but I guess you have to speak louder.

ASSISTANT COMMISSIONER GRAHAM: Okay. I met with the same mayors Brenda met with. We have heard, I think loud and clear, that 1987 calls for a reassessment of how we do business in regulating the coastal area of New Jersey.

There is some historical background on me. As you know, I was the decision-maker in what is now called the Coastal Resources Division. It was then the Division of Marine Services, and we reorganized it. I was the Assistant Commissioner for Natural Resources, which contained that Division. So, I do have some background and experience -- hands-on experience -- in regulation of the coastal area of New Jersey since 1974, and a lot of the fears, I think, that were voiced in the early debate -- the early concerns you had, and several others had, about the way in which we now do business in the coastal area and have since 1974. Why can't we keep on doing that? Why can't we just have some revisions to those rules and regulations, pass some new laws, and embody them in the Department of Environmental Protection?

I think the answer is clear. It certainly was clear to us after we finished meeting with all of those municipalities and counties along our coast. The answer is, I think, that more local participation of a legal nature -- of a structured nature -- is required. The fear of usurpation of home rule in 1987 certainly is nowhere near what it was in 1974, or 1970, when we began this modern environmental movement in New Jersey with the passage of new environmental laws. In my opinion, the municipalities and their elected

representatives -- local, county, and State -- now say, "Look, there are regional considerations present and it is not within the power of a municipality to help itself."

Someone before -- I will just digress for a minute -- pointed out -- I think it was you, Senator Gagliano -- putting two high-rise structures on a town line, with a tremendous impact to the neighboring municipality. I always use an example, which is present today, and I won't go into detail about where it is. But, in the Shore Protection Program, that problem caused us to pass the Shore Protection Master Plan in 1977. An up-drift community, or a down-drift community, could literally build a structure on the town line in the Atlantic Ocean, without due regard to the flow of sand to a neighboring municipality. That happened in this State, for whatever reason it was built, and then the taxpayers had to pay several hundred thousand dollars to protect the beach of the up-drift community.

That is as simple an example as I can give for the absolute urgent need today in 1987, with the growth pressures we have on us. We have to have some regionalization of thought; regionalization of structure, in order to cope with this. I think the Coastal Commission, as we are envisioning it now, and as the legislation is going to be submitted on Monday, will lay it out. It will provide municipal input; it will provide the delegation of authority which in 1987 we, again, feel is essential; it will provide the planning mechanism from the locals that will plug into the statewide Commission through the regional advisory boards.

You are looking at a person who didn't sleep a lot of nights in my younger years, when I knew what was happening in municipalities, and we were powerless to stop it because of the 24-unit threshold. I tried to make the case to the municipal officials that it is not a monster; it is not something that you should consider to be a negative. It should be considered to be a positive, and instead of building 24 units here and 24

units next-door and 24 units down the street, very possibly if you did some precise planning, and submitted it to the CAFRA regulations, it could be done properly.

We were never successful in doing that. The fear was always there that, number one, it wouldn't be allowed, and number two, if we did entertain it, it would be 1000 days before the person could begin. I will not deny that in some instances the CAFRA Program and the other regulatory programs in our Department have attached to them a tremendous amount of burden on the local developer, but I think the time is now for this to take place. I think the time is now because of those ill-advised land-use patterns that have taken place. I think the time is now because the local municipal official, the local developer, need only be given the mechanism to control their own destiny. In doing it the way we are proposing doing it, I think the developer, the planning board, the local planner, will be able to have a lot more predictability on what can take place. I think the environmental considerations immediately along our coastline, within that 1000 feet, are going to benefit by this legislation, not be inhibited by it. I think it is going to be a wiser and more orderly developed coastline.

I think the biggest thing I can see coming out of this is the consolidation of regulatory function. That is commonly called "one-stop shopping" -- it is commonly called a lot of other names -- but the consolidation of it, and the delegation of it in 1987, I think, is not only advisable, but essential. I, as a State regulator, don't see the same fear that I think the Legislature saw in the early '70s in passing these laws and embodying them in a State authority. I think there is enough confidence now; I think there is enough intelligence at the local level about the need for this legislation. They have made that clear to us, and I just fully support it, and look forward to working with you in the coming months in putting it on the books.

As I told you before, Senator, I want to be very brief and answer any questions you have of a historical nature, or anything you would like to ask me.

SENATOR PALLONE: Just from my own experience going up and down the coast, I have seen increasingly, over the last 10 years, the phenomena of everything, or almost everything, being 24 units or less. Has DEP done a study of that? CAFRA was started when, about '72?

ASSISTANT COMMISSIONER GRAHAM: Yeah. We have data that will shock you about the 24 units.

SENATOR PALLONE: Could you just give us some idea about what percentage of the development is 24 and below, at this point?

ASSISTANT COMMISSIONER GRAHAM: I really can't, no. I really can't give you a percentage, but I will tell you that it is dramatic enough that it is very troublesome. I think, personally, that it has been to the detriment of the communities that have allowed that type of sporadic development.

SENATOR PALLONE: The bottom line, Don, seems to be that-- You know, in the beginning maybe it wasn't so much, but now it seems like almost everything is 24 units, with very few exceptions.

ASSISTANT COMMISSIONER GRAHAM: The problem is, with a State regulatory authority like we have, where you don't have delegation, you have a bureaucracy. It's clear and simple. It doesn't matter that it is CAFRA. It could be the Stream Encroachment Program; it could be the Sewer Extension Program; it could be any one of a number of regulatory programs. It is a bureaucracy. No matter how much you try to refine that, and to simplify that, you still, when you get your local approval, have to come to another layer of regulation. In some instances of waterfront development, when you finish with us, after finishing with the local planning board, you then have to go to the Federal government, be it the Army Corps of Engineers, EPA,



or whoever it may be, for an additional layer of regulation. So I think the people just say to themselves, "Look, let's skip the other layer. Let's try and whittle this project down and get local approval, and build it."

Senator, you brought up something before that was extremely troublesome to us and we passed regulations to deal with it, and we have been very successful in preventing it. Let's say, if Don Graham subdivides a--

SENATOR GAGLIANO: A larger piece.

ASSISTANT COMMISSIONER GRAHAM: Excuse me?

SENATOR GAGLIANO: A larger parcel.

ASSISTANT COMMISSIONER GRAHAM: A larger parcel. If I subdivide it and I go before the planning board and I say, "I want to do 24 units," and they give me permission and I build the 24 units, if I come back next week, next month, next year, and I want to do the same thing, I am prevented from doing that. I automatically insert into State regulation by virtue of my building that twenty-fifth unit. Municipalities now know that, so if Don Graham doesn't have any interest in that parcel next-door, it can be built on. If my wife has it, it still can't be built on. We tried to pierce the shield. But I will tell you, it is not very successful, because the mentality of allowing 24-unit developments simply to escape another layer of bureaucracy is present, and it need not be. It is detrimental. I think this Commission structure will eliminate that to a tremendous degree.

SENATOR PALLONE: One of the questions that people in general have raised to me is, "Is it too late?" In other words, in certain parts of Monmouth County we are seeing so much of the 24-unit development right now, that it seems like almost everything is going to be a 24-unit development before the Commission even gets its feet off the ground.

ASSISTANT COMMISSIONER GRAHAM: We look forward to an expedited hearing schedule, and moving this legislation along

to its final conclusion, so we can stem that tide, hopefully. But, no, I don't think it is too late. I guess I am known as the eternal optimist. But I will tell you, one of the things I try to do in my own planning goals in my professional life, is say, "Where do you want to be five years from now? Where do you want to be 10 years from now?" I think that is what we have to ask ourselves today. We asked ourselves that in the early '70s, when the pendulum was drastically going the other way with the rape of our precious resource known as the coastal area, and the Wetlands Act was passed, and the Coastal Area Facilities Review Act was passed. So now in 1987, we are looking back at what happened in the last decade and a half, and we're saying, "It's time to do something else. It's time to modernize our thinking. It's time to modernize our goals, and be more specific and target them better."

I think if you look at where you want to be in five years, and in 10 years, you have to think that this revision as to how we regulate the coastal areas of New Jersey is absolutely essential. I don't think it is too late. I think it is going to make sense. We think we are well on the way to gaining the confidence of the local municipal officials and the community participants in those municipalities. I think that when they see they are going to have a much greater say-- I will say this -- I will tell you-- One of the questions you asked Brenda-- I think that in this Commission form of regulation, there is a much greater -- there is the potential for a much greater participation by all diverse groups concerned with the proper and orderly growth of the coastal area.

I think that in the Coastal Commission, the potential is much greater for it, because you have the local advisory boards; you have the Commission staff itself; you have the Commission itself. Another thing that is important to understand is that this Commission is going to be here. It is

going to be in the coastal area. It is not going to be in Trenton. It is going to be run from here, the same as the Hackensack Development Commission is run from the Hackensack Meadowlands Development, where the people who are concerned, and the people who have a need for access to that Commission, need only drive a short distance to do it.

I think the most important reason it is important to have it down here is that it will be here. It will be part of the coastal area. I think that is something we heard loud and clear from the mayors up and down the coast, and from those special interest groups up and down the coast, who we met with.

SENATOR PALLONE: Questions?

SENATOR VAN WAGNER: Whatever happened to the Coastal Zone Management Act?

ASSISTANT COMMISSIONER GRAHAM: The Federal Coastal Zone Management Act?

SENATOR VAN WAGNER: Yes.

ASSISTANT COMMISSIONER GRAHAM: What do you mean, what happened to it?

SENATOR VAN WAGNER: Did we do anything, as a State, to juxtapose any planning or management targets?

ASSISTANT COMMISSIONER GRAHAM: Yeah, we had to when the Coastal Zone Management Act was passed, Senator. In order to get delegation-- In order to get approval of our Coastal Management Plan from the Department of Commerce -- the National Oceanic and Atmospheric Administration -- we had to put together what you now know as the Division of Coastal Resources -- the coastal regulations, the waterfront development regulations, and the CAFRA regulations, and those components in our Division of Coastal Resources that feed into them.

SENATOR VAN WAGNER: How will the Coastal Commission juxtapose with the coastal management team headed by John Weingart now?

ASSISTANT COMMISSIONER GRAHAM: I think that is real clear. As Brenda said, the Division will come out of the Department and become part of the Commission. All of the Federal relationships that now exist in that Division will come with it. The Federal government is going to be vitally concerned that there not be a weakening of coastal regulation. In 1974, Senator, I would have been very concerned about the Federal government being told we were going to delegate to a local entity. I am not troubled by that in 1987, and I don't say that without any reason. I say that after detailed conversations with our Federal counterparts.

SENATOR VAN WAGNER: So, then, under the conceptual development of the bill, John Weingart's position will come out of the--

ASSISTANT COMMISSIONER GRAHAM: The Division of Coastal Resources.

SENATOR VAN WAGNER: --Division of Coastal Resources; will come out of DEP, in essence?

ASSISTANT COMMISSIONER GRAHAM: That is correct.

SENATOR VAN WAGNER: As a Department.

ASSISTANT COMMISSIONER GRAHAM: As a Division.

SENATOR VAN WAGNER: Or, as a Division, and will then have oversight responsibilities?

ASSISTANT COMMISSIONER GRAHAM: They will then be the staff to the New Jersey Coastal Commission.

SENATOR VAN WAGNER: They will then become staff to the New Jersey State Coastal Commission?

ASSISTANT COMMISSIONER GRAHAM: That's right.

SENATOR VAN WAGNER: Will they, in fact, provide the criteria and assessments to guide the regional sub-councils?

ASSISTANT COMMISSIONER GRAHAM: No. I think what is going to happen-- I understand your question, I think, but I think it is important to understand that you are not going from the top down in delegating or dictating State regulation. You

are going from the bottom up. I think that is important to understand. That we have heard loud and clear from all of you, and the mayors. The Governor specifically was concerned that that input be there.

The master plan will be formulated with the input -- the structured legal input -- of the municipalities. The regulation will take place with the structured legal authority of those representatives of those municipalities, so it is not just one State agency, or two or three State agencies, saying, "We have listened to you, and these are what the regulations are. Here they are. We have promulgated them, and that's it after due public hearing." We, in fact, will be able to sit with these regional commissions and the New Jersey Coastal Commission and formulate and then adopt those, with the full benefit of the input and authority of the local elected representatives.

SENATOR VAN WAGNER: The Governor recently -- or, actually, not so recently, some time ago -- appointed a Raritan Bay Regional Development Commission office. The individuals involved -- Arthur Kamin and Ron Martinedes (phonetic spelling), who is here today -- traveled around the municipalities over the last year or so, using basically the carrot on a stick approach, saying, you know, "If you come into the Development Commission, join it, we will be able to do some things that you ordinarily might not be able to do alone." They were able to develop some funding for some municipalities.

How will that process that is now in place in the Raritan Bay region juxtapose with the Coastal Commission, assuming that the Coastal Commission becomes law?

ASSISTANT COMMISSIONER GRAHAM: I would think-- I would have to defer to Brenda, but I would envision it as being a supplement, too. I think that has to have some discussion, about what their role is and how it would interface with the New Jersey Coastal Commission.

SENATOR VAN WAGNER: Well, would it be envisioned that the office, as such, since it was created by executive order, would be abolished, and that the Raritan Bay then, as indicated on this map, would become a regional sub-council?

ASSISTANT COMMISSIONER GRAHAM: No, not at all.

MS. DAVIS: No, absolutely not.

ASSISTANT COMMISSIONER GRAHAM: I think Brenda has to talk to you about that more, but I think I can answer it for you. Absolutely not. They would not be phased out. They would not be inhibited in any way from their goal as directed in the Governor's executive order creating them. But it would be a supplement to-- This initiative would be a supplement to theirs. The interface and how it would work and how it could be mutually beneficial could be worked out.

SENATOR VAN WAGNER: So, in fact, in the Raritan Bay region, there would be in effect two regional planning components, as such?

ASSISTANT COMMISSIONER GRAHAM: No, no, not really.

SENATOR VAN WAGNER: Or, let me say this: It would seem to me then, since the development office, as I understand it, is basically, or partially at least, an implementing agency, insofar as assisting municipalities to gain funding, then they would be subject to the planning criteria and targets developed by the regional sub-council. Is that correct?

MS. DAVIS: I should have left.

Just real briefly, the Bay Shore Regional Development Office that was created as you just described, is an important component of all of this. The Bay Shore Office is directing its attention to the economic redevelopment of that region of our State. We have worked very closely with Art Kamin in conversations about those municipalities and how we might work together for this common purpose of fitting the economic development of the bay shore region into the economic development of the whole coastal region. So, again, this is a case where close coordination is required.

I think you would agree, Senator, that the bay shore deserves some special attention from an economic development perspective, and the Bay Shore Office is part of, related to the Department of Community Affairs, and has as its concentration the urban redevelopment of that region of our State.

SENATOR VAN WAGNER: The what redevelopment?

MS. DAVIS: Urban.

SENATOR VAN WAGNER: Urban redevelopment.

MS. DAVIS: I mean, that is a very urban economic development situation.

SENATOR VAN WAGNER: The principal goals of the Coastal Commission include, besides the long-term economic viability of the shore region, to preserve and enhance the historic, cultural, and recreational aspects of our coastal region. I guess what I am trying to get at is, there is, I think you would admit, sometimes a clash between long-term economic goals and the preservation and enhancement of historic, cultural, and recreational aspects of a region. I just wonder, in juxtaposing those two entities, how they might be resolved if there was, for example, an economic goal developed by one agency, and a preservation, or conservation goal developed by another?

MS. DAVIS: Again, what we are creating is a vehicle for resolution and for coordination that does not exist now.

SENATOR VAN WAGNER: How would the vehicle be resolved then?

MS. DAVIS: This is like *deja vu*.

SENATOR VAN WAGNER: Yeah, it is for me, too, Brenda, because, as I said, I have been involved in legislation trying to create this very mechanism. Mine is somewhat stronger in nature and involves tax sharing and regional planning. It involves the involvement directly of State officials on that Commission to advise, etc. You know, it's *deja vu* for me, too -- okay? -- for a long time. I am very happy--

MS. DAVIS: It sounds like we're all talking about the same thing.

SENATOR VAN WAGNER: --we're here, but we are now at a point where we are going to pass legislation. You know, I don't mean to annoy you, or bother you; it is not my purpose to do that. But we are at a point where committees of the Legislature will take up legislation. Soon we will hear from groups of all kinds of people -- mayors, who will want questions answered, environmentalists, developers, whoever. I want to be able to know in my own mind-- I know I can read it in the legislation, but it is not always specific in legislation, for good purposes sometimes. I want to know in my own mind, or have in my own mind a clear idea of ultimately if there is a contention that cannot be resolved, and it all serves good purposes to have a vehicle where everybody can come together, who, in fact, will have the overruling jurisdiction?

Now I know Commissioner Graham has said we can't really clearly say that, because we have the Army Corps, we have the Coast Guard, and we have all these people involved.

MS. DAVIS: No, he was talking about the Federal agencies.

ASSISTANT COMMISSIONER GRAHAM: I was talking about something else.

MS. DAVIS: This is State, and in this instance--

SENATOR VAN WAGNER: All right, who in the State--

MS. DAVIS: --the Commission is the last word. I think we just established that. The Bay Shore Agency, as part of the Department of Community Affairs, has a more restricted mandate -- a very important mandate for that region of the State and, again, close coordination between that group and those municipalities in the whole Coastal Commission is critical.

SENATOR VAN WAGNER: Okay.



SENATOR GAGLIANO: I just have one last comment. As we were discussing the formulation of the master plan, or regulations, Don, you made it very clear that they would not come from the top down.

ASSISTANT COMMISSIONER GRAHAM: Yes.

SENATOR GAGLIANO: I think that is so very important, because the Council on Affordable Housing -- they call it COAH-- We have regulations there that came from the top down, and they are a disaster. They are a disaster. We just can't allow that to happen any more -- to give any organization of the State government such broad powers. One or two public hearings, and they pass them the way they want them. We just can't allow that to happen again. That is why I think some of the testimony from us, so to speak, is that we are concerned about that.

ASSISTANT COMMISSIONER GRAHAM: We appreciate that, Senator. I think we have heard that loud and clear from your colleagues, and certainly from your constituents, that it's got to be that way in 1987, and we intend to do it.

SENATOR PALLONE: I just want to ask you one thing, Don. A lot of times, developers tell us, as local officials, which I also happen to be, that the whole CAFRA permitting process right now takes a tremendous amount of time, and seems to create a lot of delays. For example, in a local situation with the Hilton Hotel -- which was previously mentioned -- if I am not mistaken, it took almost three years to finally get the CAFRA permit.

What is the reason for that? How do you envision that the new process will be different?

ASSISTANT COMMISSIONER GRAHAM: Well, it goes back to what I said before, Senator. I am not going to evade the question, but I am not going to specifically talk about the Hilton. I will talk about the bureaucracy. I think that in any bureaucracy there is always two sides of the story, so you

can't generalize. But I think what is clear -- I think what is clear in the coastal area at least -- with the growth pressures that are on the coastal area, it is time to have more people participate in it. It is time to reduce the bureaucracy. Rather than look back to this one program and what were the problems inherent in that program in the last two, three, or five years, I think it is clear, with the Department's support of this legislation and this initiative in general, that we see the need for regionalization -- structured regionalization -- to cope with the growth, and to have the local citizenry involved in that process.

I think, if my experience is any ruler, it is going to simplify the bureaucracy, and you are not going to have those horror stories. I'll use the work "overreach." It is a criticism you read; it is a criticism that is made. Certainly there is overreach in a lot of areas. I am not condemning this program or any other program for overreach, but you have to be very careful of overreach, of a violation of legislative intent. How you do that is with, hopefully, good vigilance on the part of the people who are administering the program. I happen to be, in my opinion, very satisfied, since 1972, when the first regulatory program went into effect, about carrying out its intent, and not overreaching as much as we possibly could. Several years subsequent to that, it began then to lose the confidence, in my opinion, of the local bureaucracies, and they started to go the other way with the 24 units, or they started to allow 24 more units, because of the horror stories they were getting about how long it would take and, yes, how arbitrarily, possibly, the regulations were being implemented.

SENATOR PALLONE: I can see--

ASSISTANT COMMISSIONER GRAHAM: Excuse me. I would like to say that I would hope that that would not be as rampant as we think, but in this particular thing -- this is a regional program -- I really think it is going to be eliminated to a great degree -- potentially, though.

SENATOR PALLONE: I can see in theory, Don, how that, you know, with the one-stop process, and with the local planning board dealing with the CAFRA jurisdiction under the Coastal Commission -- that in theory, you would eliminate a lot of the bureaucracy, but I suppose you could also be devil's advocate, and say, "Well, since the appeals are going to the regional councils and then to the Coastal Commission, they could, in theory at least, get back into the same old process again at the upper levels."

ASSISTANT COMMISSIONER GRAHAM: Well, yeah, that's a good--

SENATOR PALLONE: I think it is important that you have those protections.

ASSISTANT COMMISSIONER GRAHAM: --point, Senator. I think if you look at the structure of the regional advisory boards and the Commission, and the compliance with the master plan, you are going to eliminate, hopefully, a lot of the problems and a lot of the conflicts prior to the decision being made. I think that is something I am excited about happening.

SENATOR PALLONE: So, theoretically, you would have very few appeals, although there is always that possibility.

ASSISTANT COMMISSIONER GRAHAM: You know, in regulation, the preapplication phase of the entire application cycle is the most important phase. It is where Don Graham can come and say, "I've got this piece of property. I want to do something with it that is consistent with your master plan. What can I do? This is what I conceptually want to do with it. What are the conflicts? What are the yeses, what are the nos? I haven't spent any money yet. I have not developed it yet.

SENATOR PALLONE: The thing is, if you look at the CAFRA statute, the way it is now, the current law, it is very specific about the procedure and the number of days when decisions have to be made and materials have to be filed. But,

as you point out, most of it is in the preapplication phase. I guess it takes a long time to get to the hearing, and to actually trigger the statute, in a sense.

ASSISTANT COMMISSIONER GRAHAM: My point is, if a quality document comes to the -- inserts into the formal 90-day clock-- If it is a quality document, that means it has had a very good preapplication dialogue, and a lot of the problems were eliminated; and now it is going to be much easier to move that along to a final decision, free of conflicts, or free of conflicts to as much of a degree as can be expected. I think a lot of that is going to be-- That is the value of what we are going to do -- another value of what we are going to do.

SENATOR PALLONE: As much as I support the proposal, I can just see some people coming in and saying, "Okay, everything may be switched now." Right now, it takes a long time to get yourself ready for the hearing and for that 90-day clock period. But now, of course, you are tagging on the appeals process, and all that, which could theoretically take longer.

ASSISTANT COMMISSIONER GRAHAM: You have the appeals process now, subsequent to the 90-day clock.

SENATOR PALLONE: Yeah, that's true. Are there any other questions of Don?

SENATOR VAN WAGNER: Yeah. I am having difficulties here, and I guess maybe my difficulties-- I hope they didn't drive Brenda Davis out of the room.

SENATOR PALLONE: No, she had to leave.

SENATOR VAN WAGNER: I realize that. You see, it has been my feeling, at least since the proposal first generated-- First it was the Clean Ocean Authority, if you recall. You know, this has a genesis in another proposal the Governor made in his State of the State Address.

ASSISTANT COMMISSIONER GRAHAM: The same proposal.

SENATOR VAN WAGNER: The same proposal, but people don't like authorities. They don't like that name. It kind of gives them pause to shutter a little bit, that it is going to be a government within a government.

ASSISTANT COMMISSIONER GRAHAM: Reminds them of a traffic jam.

SENATOR VAN WAGNER: And we know about governments within a government. We certainly don't want that to happen. I say this in trying to get a view of what the goals and objectives of this legislation is. I know I am going to have to read it in more detail and break it down so that I can understand it and what its outcomes are supposed to be.

But, I see a pendulum swinging back and forth here. I understand there are conflicting views. On one hand, it is proposed as a mechanism -- hopefully on a long-term basis, if not, a short-term basis -- to help us preserve the quality of our shoreline; to help us address, in some small way, through better land-use planning, perhaps better infrastructure development, an opportunity to improve the quality of our coastline, and to protect the environment that goes along with that. Am I correct?

ASSISTANT COMMISSIONER GRAHAM: Yes.

SENATOR VAN WAGNER: At the same time, we are also holding out here a mechanism that says, "Look, we are going to take away all of those nasty meetings you have to have when you travel to the DEP, and we are going to try to remove all that cost you go through in hiring engineers, lawyers, and other people who are involved whenever we have a preapplication meeting, or a meeting over the fact that you are not happy with the application. We are going to move it out of that Trenton bureaucracy, and we are going to put it right down at the regional level and make it easier for you to deal with, maybe even less expensive for you to deal with."

I guess what I am trying to resolve in my own mind is, when these goals -- these two goals -- begin to clash, when the goal of speeding up the process clashes with the goal of some people in this audience, and some people in our State, who are saying, "Slow up. Let's take a look--" I realize the Commission resolves that. They say, "Slow up," or "Speed up." I am trying, I guess, to find in my mind ultimately how is that decision reached? Which takes precedence over what? Communities and local officials are beset by various types of pressures, the ultimate pressure being, "I've got to keep the tax rate down." You know, "I've got to try to keep that tax rate down. That is my big problem. How do I do that?" Well, I can spend my time trying to get more money from the State of New Jersey to help me to offset the property tax rises, or I can try to seek out ratables that will give my town a better ratable base, or I can limit growth in my town, so I don't have to spend so much on attendant services.

All of those conflicting kinds of views and goals have beset us for years in this State, and now we come to this point where we say, "Okay, we have to start to come together and realize that we have these conflicting goals; that we have an environment to protect; we have a fiscal tax base to deal with; we have the quality of life of our citizens. I am just trying to determine in my own mind just what the priority goal of the Coastal Commission is. Is it to protect the environment? Is it to speed the process? I know you are going to say the goal is to do all of those things, but which one is going to be the priority goal? That is the question.

ASSISTANT COMMISSIONER GRAHAM: I think, first of all, that is your phrase -- "speed the process." That is not our phrase. Senator Pallone asked me a question, and I said, "Well, let's simplify it, as well as--" I like to use the term, "It is going to sophisticate it more." It is going to allow for delegation of authority back to the local level, to

eliminate a layer of bureaucracy where one is not necessary possibly. The main spin-off effect of that is simply not speeding it up, as you say.

I think the main goal of this Commission, as I said previously, is to provide a better vehicle in 1987, with much greater structured local legal input, both from the communities and the elected bodies within those communities, to the proper and orderly development in the next decade, or whatever, and beyond, of the coastal area of New Jersey. That sounds like a speech, but I can't say it any differently.

I have assessed this. I have some background in coastal regulation, as you know, since 1973. I was a decision-maker. I am not here as someone who is barren of background in it, and I can tell you, it is my assessment -- personal, Don Graham, not Assistant Commissioner, and not the Department, although it is the Department's position-- My personal assessment on the needs of the coastal area is that it's got to have some delegation back; it's got to be more consistent with local thought; it's got to be more consistent with local development pressures.

I happen to be optimistic, from talking to those 70 mayors with Brenda and her staff, that they are telling the accurate facts, and they are being honest to themselves and to us when they say, "You know, we really do understand the regional issues between us. We understand that jetty can't go on the pan line and block the drift from getting to another one. We understand those condominiums can't go there." I happen to have some faith that in 1987 the local community really understands that, and they are electing people to represent them who understand it as well.

SENATOR GAGLIANO: Mr. Chairman, respectfully, when I went back to get a cup of coffee, I was bombarded by people who said we had not given the local people a chance to be heard.

SENATOR PALLONE: I agree.

SENATOR GAGLIANO: I think we should thank Mr. Graham, and go on.

SENATOR PALLONE: Thank you, Mr. Graham. And we will move on.

We did have about four or five individuals who have to leave within the next hour or so, so I am going to have them go first. The witnesses will vary between environmental groups, local officials, and developers, or people concerned about development. The first person we will have is Mr. Derry Bennett, from the American Littoral Society. We will put you down as an environmentalist.

SENATOR GAGLIANO: I would put him down as a truckdriver. (laughter)

D E R R Y B E N N E T T: Thank you for getting me on. There is a meeting at one o'clock in Sandy Hook on wetland litigation which I need to get to, so I appreciate being up here early.

My name is Derry Bennett. I am Executive Director of the American Littoral Society, an environmental organization located at Sandy Hook. We have been in existence for 26 years.

We were around when CAFRA was drafted; when the Wetlands Act was drafted; when the Waterfront Development Act was drafted. We have been concerned about those laws ever since they were drafted and while they have been enforced. I have talked to people who think I understand CAFRA and the laws, and I don't, as much as I work on them. I think in some respects the only people who really understand them are the people in the Division and the lawyers who prepare the environmental impact statements for the developers. I think they are complicated, but we have been able to work with them.

I think the proposal the Governor is coming up with is even more complicated. We don't have a position right now, saying, "Yes, it's good," or "No, it's bad." I think we want to leave you with the feeling that much of what is in the Governor's proposal makes sense. I think we are concerned,



possibly, about the proposal for a Commission, versus maybe some other approaches that might do the job.

The major problems we have with present coastal regulation are, under the present laws, we think there is too much development along the coast; that it is in too many of the wrong places; and that it is there on kind of a blind faith that the impacts of this development can be absorbed -- can be somehow cleansed by the local waters of the bays, the tidal rivers, and the ocean. I think there seems to be a feeling in many people's minds that if you can get the water from development to run off somehow into the ocean, that the ocean will fix it; that Barnegat Bay will fix it. We are now beginning to understand that the land-use impacts are creating serious problems for local water quality.

Our problems with CAFRA basically have to do with two things: One is the 25-unit threshold, which you have already discussed, and which we have discussed with developers and with the Division with regard to ways of dropping the number of units down. I will tell you that in those discussions with builders' associations and their attorneys and our attorneys and environmental groups, we were not able to reach a compromise on one to three units here, up to 75 or 50 or 100 back there. I would alert you to the fact that when the legislation comes out and that compromise is made, it is going to be a tricky one, the way it was with the Freshwater Wetlands Act.

Another major problem we have with CAFRA, and really more basic than that, is, when the law was originally passed, there were a number of items in that original legislation that we feel the Division ignored. There was provision for the nomination of geographical areas of particular concern -- GAPCs. This was an attempt to get the public to nominate areas of the coast that they felt should be protected. There were to be presented alternative management strategies, and there was

to be a semblance, at least, of a master plan. Instead, the Division chose a reactive approach, in that they said, "We will not tell anybody what we think the coast should look like. We will let you come to us with your proposals, and then we will react," and they set what they have now, which are performance standards.

We have long said we feel there should be some pro-active approaches to coastal land-use planning, rather than reactive. That is contained in the Governor's proposal, and we support that.

SENATOR VAN WAGNER: How? Explain that to me.

MR. BENNETT: How there would be--

SENATOR VAN WAGNER: How is the pro-active portion contained in this proposal?

MR. BENNETT: I think what we would say is-- We would take the coastal area, and we would say, "Okay--" We would base it primarily on water quality conditions. Take an area like Raritan Bay, or take an area like Barnegat Bay, and you would say, "Okay, the carrying capacity of the land that feeds that watershed is such," because if you do more--

SENATOR VAN WAGNER: Yeah. I didn't mean to get you into that. What I wanted to know is, based on what you have heard, in terms of the regional sub-councils and the fact that they would develop the plan and then submit it for reaction, how is that pro-active?

MR. BENNETT: I picture that as being pro-active in a sense that when you have this master plan -- these master plans -- in place, that, for the first time, tells everyone who lives on the coast, "This is what we expect the coastal area to look like 25 years from now" -- that these areas are not going to be built on -- period. These areas near the shore are zoned such that if they are damaged, they will not be reconstructed, because this is a high energy erosion area, things like that, so that you begin to be able to anticipate what that coast looks like.

SENATOR VAN WAGNER: I didn't hear them say that, but--

SENATOR GAGLIANO: What he is saying is, the plan--

SENATOR VAN WAGNER: --if you think that is what they said, then maybe you gave me--

MR. BENNETT: That is what we are going to say.

SENATOR VAN WAGNER: Well, then, you gave me a lot more clarification than they gave me. Thank you.

MR. BENNETT: None of us have seen the legislation yet. We are reacting to the document the Governor announced last month. The next thing we will react to is the draft legislation. That, I think, is where most of the fun is going to start.

I can speak for the Littoral Society; I can't speak for other environmental organizations. But, we are going to be meeting -- about a dozen of us -- between now and Labor Day, to go over the legislation and go over this proposal. We are going to be asking ourselves really one question, and then a second one from it. We agree, as the Governor does, and as I think you do, and everybody in this room, that the present pace and location of coastal development is wrong, and that changes have to be made in how it is regulated.

Our first question is, do we do this by amending CAFRA and strengthening the existing Division of Coastal Resources, or do we go for this whole new Commission, which is very different? I think that is a basic question that we haven't asked ourselves. We plan to ask ourselves, and we plan to say something as we see the legislation.

At the very least, I want to let you know that this one group of people is not sure of itself on that, as I don't think any of us are. So, we are not jumping on the Commission bandwagon right now. The metaphor I used is that we have a horse right now that we have been riding, and it's CAFRA and it's the Division of Coastal Resources. We know how to ride the horse. It may not be the fastest horse in the world, but

we know how to ride it. Along comes another horse that everybody promises is going to be a speed demon, and it is going to win every time out. But it is going to take a little while to breed it. It's still two generations away.

SENATOR VAN WAGNER: You said it better than I was trying to say it. Thank you.

MR. BENNETT: Are you willing to jump off the slow horse and trust that the fast horse will catch you before you hit the ground? Our feeling right now is that we are not sure, and I hope no one else is, right now either.

SENATOR VAN WAGNER: Good.

MR. BENNETT: A couple of specific points we have with the Governor's proposal: We are not sure about the delegation of the CAFRA permitting process or power to the municipalities. We are leery of words like "streamlining" and "one-stop shopping." We think "double veto" is a pejorative term in the documents. In some respects, when you are dealing with delicate land/water interfaces, there is nothing wrong with a double veto and, in fact, maybe there should be the triple veto we have now. I think there are times when the Corps of Engineers, the Fish and Wildlife Service, the National Fisheries Service should be involved in important decisions having to do with modification of productive estuaries.

So, we are leery of the delegation. We are also concerned that what the Governor's proposal is trying to do may not be accomplished without somehow extending the CAFRA region. Now, maybe you can't extend the CAFRA boundary, and maybe you can, but the water quality problems that Monmouth County has, and the-- Well, let me stick with Monmouth County for a while, and Middlesex. These are problems that are created by counties to the north of CAFRA -- Bergen, Hudson -- and they are created by counties in other states, primarily New York. In the Delaware Bay area, the water quality problems are created by not only the communities in the southern part of the

bay, but by Delaware communities, Pennsylvania communities and, for that matter, New York communities, because a water quality problem in Delaware Bay is dictated, in part, by withdrawal of water from the Delaware River upstream by New York City.

So, somehow, either the jurisdiction of the commissions -- if commissions are set up -- need to be expanded beyond the CAFRA zone, or there have to be some very good link ups so you can attack those problems. There are many things we are doing badly in Monmouth County that are messing up local water quality. But I think if you fix them all up, you are still going to have the problems of combined sewer overflow, the Fresh Kills Landfill, the so-called -- and I don't know whether it is true or not -- wooden sewer pipes of Hoboken. We see Hudson River towns with enormous development pressures, and they want to do it -- high-rises. They have rotten sewer systems. We are going to bear the brunt of it because we are downstream.

Finally, I think the key to this -- whatever we come up with -- would be to concentrate on water quality, and one of the major impacts on water quality is land use. But my idea of a goal for a Coastal Commission, or to strengthen the Division of Coastal Resources, would be to improve the water quality along the coast. If you do that, then you are probably having good land use. Condominiums don't create bad water quality and single houses do, and vice versa. It has to do with how you build them, and it has to do with understanding that when a little bit of silt here, a little bit of overboard discharge from a motorboat there-- They are all part of the problem.

My goal for this Commission, or improved Division, would be-- We ought to be able to harvest shellfish directly from the coastal waters of New Jersey. If the shellfish and wildlife are healthy, then we are doing a good job on local land use.

Those are my thoughts. If you have any questions, I will be delighted to answer them.

SENATOR PALLONE: Well, Derry, the main two things I can see that those who are concerned about the environment and overdevelopment would be concerned with, which are kind of pinpointed in this proposal-- One is the local permitting process. I mean, the whole notion that the CAFRA permit, in a sense, is not going to be issued on the State level in Trenton, but, rather, is going to be issued as part of the local planning board process. We didn't really have time to get into it, but I am not sure that we have all the details about exactly how that is going to work. You talk about a one-stop permitting process. Well, CAFRA was mentioned, but what about your wetlands? What about your Army Corps? How does a local planning board deal with all that? You know, it is very unclear, at this point, exactly how that is all going to be put together. I think we really have to seriously look at that whole question about whether or not the local planning board should, in effect, be substituting for what happens now on the State level.

The other thing you didn't mention is Commission membership.

MR. BENNETT: I tried to--

SENATOR PALLONE: I know that there has been a lot of concern about the fact that the Commission may end up being pro-development, and that something may have to be done to tinker with it to make sure that that doesn't happen.

MR. BENNETT: I tried to be brief. I know this is a public hearing. I figured we wanted to get a lot of people on, and I would talk briefly. I have another four hours of notes, which I figured I would not cover. But I can answer that one specific question, and that would be, right off the bat, that we see one out of 11 as very difficult.

SENATOR PALLONE: Yeah.

MR. BENNETT: And, taking it one step further, and making a comment on the Governor's proposal, we welcome the proposal. I think it is a good way to stir up a debate and a discussion which I think could be very productive. A lot of what he says in there -- the things they are trying to accomplish -- we think are good.

When you get down to the specific things, there is going to be a lot of argument. I happen to think-- Remember, Governor Kean was instrumental in getting the original CAFRA legislation introduced. I happen to think personally-- My instinct is that he has a pretty decent environmental record, except on the bottle bill, and maybe some others. But, essentially--

SENATOR GAGLIANO: Excellent on recycling.

MR. BENNETT: Yeah. His environmental record is pretty good. You run into a situation here where you have the Governor -- a Governor -- appointing five people to this Commission. The same old question -- who is the next Governor? Is he on our side? The Governor has veto over the minutes of the Commission. Is he a good guy, or isn't he? But those, I think, are things we will discuss when we see the legislation.

SENATOR PALLONE: Things we have to look into in more detail. Questions?

SENATOR VAN WAGNER: No, he answered the questions I didn't ask him, which I think is great.

SENATOR GAGLIANO: Derry, I think we all have lots of questions, but we do want to hear from the other people. So, maybe if Senator Pallone schedules another session on this, it would be a good idea, because I think you raised a tremendous number of issues, as you usually do, but we don't have time to deal with them now. So, respectfully, I would suggest we go on.

SENATOR PALLONE: We will go on. I should mention that we plan-- We may have other hearings on other aspects of

the Coastal Commission, too, because we are only dealing with the land use and master planning aspects today.

But, Derry, thanks again.

MR. BENNETT: Thank you.

SENATOR PALLONE: Again, we are going to try to vary it, so the next person I will have is Bob Furlong, who is a Sea Bright Councilman, and President of Friends of the Jersey Shore. So, you are here in both capacities -- local official, as well as environmentalist?

COUNCILMAN ROBERT FURLONG: Yes. Thank you very much. I would like to add that I am a member of the Advisory Council of the Coastal Resources Division, so I am wearing three hats.

First, I just have some side remarks to make. It gives me a very warm feeling to see this meeting on this particular piece of legislation. My involvement with shore protection goes back to 1981 in Wildwood, when the American Beach and Shore Protection Association had their national meeting. I joined the organization at that time. I have been to every meeting since, whether it was in Ocean City or Ocean County or Monmouth County, and Trenton. The one meeting that stands out in my mind is the one in 1984 at Monmouth College.

At that time, Jack Kraft (phonetic spelling), who is a member of the organization I am the President of, brought out the shore protection authority idea. At that time, it didn't fly because it didn't have that much of a constituency. With the Governor expanding the idea, I think it has given so much more flesh to it, and obviously this is what was needed. But the problem I have-- Before we get into the Commission, or the authority, or whatever you want to call it, there are two things: There is a State Commission on Taxation that is presently having a multitude of hearings trying to decide how to apportion the tax burden to the people in the State of New Jersey. Presently, this Commission must relieve the dependency



municipalities have on the property tax. This race for ratables -- I will classify it -- causes decisions always being skewed toward dollars, rather than sense, and that is a catch word. I see it in my own town. People are saying, "We need more ratables," and that thought takes priority over where are they going to be.

The second thing is -- and I think we are wasting our time unless this happens -- a stable source of funding must be passed in some measure or some form before we can go too far forward. A one-shot election year deal for \$10 million or \$12 million doesn't cut it, because we don't know next year if that \$10 million or \$12 million is going to come through. I think this whole Commission is going to depend upon source of revenues, and obviously, the one \$20 million shot, the one \$10 million shot really will not do it.

I think it is incumbent upon the Legislature to get together on one or both, or a combination of the two plans, which has been before you for approximately three years.

The other point -- and I believe I am putting on the other hat -- is home rule. I think we are overly concerned about home rule at this particular hearing. I personally feel that many small towns would be glad to shift the burden and the expense of shore protection, water quality, pollution, sewage. You have it. They don't want any part of it. They can't handle it.

Now, just to show you-- This little town of Sea Bright is three and a half miles long. The whole shoreline is 127 or 128 miles long. That means that Sea Bright controls 3% of the entire coastline of New Jersey, and probably I couldn't come up with a .000% that 1800 people represent against six million people. And yet, we are making decisions without professional background, without knowledge, only based on small, narrow criteria of how many ratables we need, who knows who, and what is ahead. It is a knee-jerk, reflex reaction to

every proposal that comes before the planning board or board of adjustment. It isn't working.

Home rule is great for certain things, like education perhaps, or police, fire, local cleaning of the streets. But, when it comes to protecting the number one natural resource in the State of New Jersey, and the number two industry, I am afraid we are putting this responsibility in the wrong hands.

Now, one thing I haven't heard today, and I am surprised, is county government. Now, county government has large professional planning staffs; they have large engineering staffs; they have large legal staffs. They are equipped. They have large resources for money.

The other factor which has been overlooked is, the original master plan -- the Dames and Moore Master Plan -- which cost approximately \$600,000 in 1981 dollars, divided the Jersey coast into 17 reaches. Reaches is another word for regional districts. That means that what happens in Monmouth Beach affects what is happening in Sea Bright; what happens in Long Branch affects what is happening in Monmouth Beach. How can each one of those municipalities be given the responsibility to make decisions about land use, when each decision impinges upon the next guy up the street? So, the problem about A and B must no longer be allowed to exist. We know it's there. We know it is politically difficult, but we must override that concern. It is about time the people in the Legislature became statesmen, rather than politicians, and realized this, and not worry about reelection or who is going to vote for whom.

The whole health of our entire State depends upon what decisions you make about this Commission. I feel very deeply about that.

SENATOR GAGLIANO: Are you for it or against it?

COUNCILMAN FURLONG: Oh, I am very much in favor of a form of it. But now, for instance, here are 55 pages of

regulations. I can't read them. I have reasonably good vision, but the type is so small. We can't sit here and talk about this. This is the State of Florida, which is light years ahead of the State of New Jersey, and tourism is only the number one resource, not the number two resource. These regulations cover everything we have discussed. That is what the staffs are for. That is what CAFRA people are for. That is what all these engineers and what have you are for, to put these things together. We must agree on the broad outlines, but not on the details. They work with a 50-foot setback in Florida. Nothing can happen 50 feet from the high water mark. We don't have to go too far up Ocean Avenue to see what can happen 50 feet from the high water mark. There is a condominium being built -- 24 units -- sitting on the dunes. I swore that was in a "V" zone, and yet they tell me I am wrong. But it doesn't belong there. If it weren't for the race for ratables, if it weren't for planning boards with inexperience, or that had the wrong motivations, it wouldn't be there. There is no question in my mind.

We have a proposal in Sea Bright for \$24 million worth of homes. I daresay it is going to be approved, and primarily because it is a \$24 million ratable. This is my concern.

SENATOR VAN WAGNER: I take it you understood what I was driving at?

COUNCILMAN FURLONG: Absolutely, Senator. You were absolutely correct. I understood what you meant.

Now, I don't know what can be accomplished. Florida and California have reams of legislation, reams of experience. We can draw on them. They will come here. Robert Dean, Director of the Division of Beaches and Shores, came right up to see Leon Avakian (phonetic spelling) on a much smaller matter. The people involved with the shore can't wait to help and to give you input, and they're out there.

Another point I am concerned about is the membership of the Commission. I don't think the membership should be experts. I think experts should be hired and paid. I think the membership should be citizens who have background in government, background in negotiations, background in bringing people together. Have you ever dealt with a down-to-earth environmentalist? Nothing else means anything except his particular problems. Have you ever dealt with a developer? All he wants to do is build the 24 and get the hell out to the next 24. I don't think you need a developer on it. I think you need a smaller group of capable people who will reach out, pay experts, and make decisions based on what is good for the community at large -- everyone -- not specific groups. This political ploy of always trying to bring everybody in so everybody will agree, I don't think is going to work here.

My biggest concern about this legislation is that it is going to be too complicated and boggle people's minds, and will not be able to be enacted because, as your questions show, you are not sure of so many things. And yet, everything you ask for is in this 55 pages of closely spaced regulations, but you are not going to get an opportunity to see those.

I would like to close with two points, if I may: In 1958, the Sea Bright/Monmouth Beach Project was authorized -- 1958. In subsequent years, there were over \$200 million worth of projects authorized by the State of New Jersey -- by the Federal government. I believe there is only one I know of that is large that is going on right now, and that's the Barnegat Bay. The other one is the Sea Bright/Monmouth Beach/Long Branch Project. Why does it take 27 years for something to happen? Sea Bright would never be in the position it is in if this had been done in 1960, '62, '64. There was no constituency, and the State of New Jersey wanted no part of the Federal government. That's a fact. They didn't even know the telephone number of the Corps of Engineers all those years.

And yet, we need the Federal government; we need the State; we need the county. We need the local to help us talk about things, but we don't want them making the final decisions, because they are not going to make the right ones. They are going to make them based on provincial, parochial ideas of what will benefit them alone. A and B must never work. Sea View Shopping Center, built in Ocean Township, with all the ratables in Ocean Township-- Asbury Park has all the overhead from the people who work there with the kids.

Regionalization in certain areas has to happen. Whether it is this year, or next year, or in 10 years, it is going to happen. It is going to happen along the shore. It is going to happen the right way, and by meetings like this, it will.

One last statement: I believe everyone in this audience-- When they were downstairs, they may have looked up at the wall as they walked in. There is a delightful oil painting by a man by the name of Ripley, in 1907. It shows Long Branch the way it was -- beautiful individual homes, paths to the beach, totally gentrified. Only rich people could live there. Then we see it the way it is now, and obviously the opposite situation has occurred. Our problem is: What is it going to be? I have no problem with 24 condominium units, because I say to myself, "Here are 24 families enjoying the ocean, where prior to that, only one family enjoyed it." I think it's great.

I think the shore is the greatest enterprise zone in the United States, and it hasn't cost the State of New Jersey or the Federal government one buck -- no tax abatement, no real estate abatement, except a few times in local communities. But basically, I don't want to see gentrification happening again, and that is my other concern. I want to see the shore develop so people of all income groups can enjoy it. It is getting to the point where only the wealthy can enjoy the shore in certain areas. That's bad.

The thing they tried to do with affordable housing-- Maybe it was misunderstood; maybe they were wrong. But at least they made an effort in CAFRA to try to get people into the area who should be in the area. I worry about Asbury Park. I worry that as they build the condos, they are going to push the people back to Jackson Township someplace. I know it's a problem. I know you have to deal with it, among the many problems you deal with. But basically, men of good will, which I assume all of us in this room are, will come up with the right solution, and the Coastal Commission, or authority, or whatever you want to call it, is the framework, and from this framework good will come. That is why I am here today.

Thank you very much. (applause)

SENATOR PALLONE: Thank you, Bob.

SENATOR GAGLIANO: I just have one question with respect to the structure of the Commission. I have always felt -- you mentioned counties and that triggered a thought in my mind again -- that whatever is developed with respect to a coastal-wide, or Coastal Commission, the county board of freeholders, whatever that county may be, ought to be the appointing authority. I just sense that, for example -- and it doesn't matter whether it is Republican, Democratic, Conservative, or Liberal -- if we allow that spread from Middlesex County all the way to the Cape May/Cumberland area, we will have two representatives from each county who basically understand the problem and know to whom they are beholden with respect to their nomination. I think that would automatically then get the county more involved also in the overall operation of this thing.

I think all of us are a little gun-shy because of some of the organizations we have seen built and nominated by the Governor. It is done in good faith; they want to do the right thing. But so many of them have tunnelvision when it comes to their particular area of expertise, or their interest, and it

does cause us more problems sometimes than it should. I really believe that maybe we should look at that; that the county board of freeholders would be the appointing authority, and there would be, maybe, whatever it might be, a three-year appointment, so that if they are not happy with these people, they can appoint others. It would be a larger Commission, but it would be something I think which would be closer to home.

COUNCILMAN FURLONG: Excuse me, I'm sorry to interrupt.

SENATOR GAGLIANO: Go ahead, that's all right.

COUNCILMAN FURLONG: You have said exactly what I tried to convey. I have already had conversations, and have written letters to Harry Larrison six months ago, before this was introduced, suggesting to him that the future was a commission. I wanted an opportunity to sit down with him to structure a county program that would be ready when something like this occurred.

I also worry about something else. I worry about the pairing of counties -- the Middlesex/Monmouth type of thing -- and from it one person comes who is on the voting membership, which is four voting memberships out of the eight counties. I worry about that a little bit because I am afraid an Atlantic County might overcome a Cape May County. Obviously, with everything that has happened in this State, they have overcome 23 (sic) counties.

So, I would like not to see the pairing of counties. I would like to see a much, much bigger county role. I would like to see a shrinking of the municipal world, and I think you would get the answer to the whole thing.

SENATOR PALLONE: Go ahead, Senator Van Wagner.

SENATOR VAN WAGNER: Thank you, Mr. Furlong. I appreciate your coming here today. I would like to have the opportunity to forward to you a couple of pieces of legislation for your perusal. I think Mr. Bennett left, but I would like him to look at them, too. One is a bill by Mr. McEnroe, which

is A-2260, introduced March 13, 1986, which expands the powers of county planning boards, and a bill introduced by myself which is similar to that -- S-3398 -- along with the bill I asked Ms. Davis about, assuming we are men and women of good will -- S-699 -- which is an actual Regional Planning Act. It is my view -- and I think at least conceptually you might share it -- that we could reach this point, without recreating the wheel, by simply amending and changing the County Planning Law and allowing them to establish the reaches you talked about on a county-by-county basis. We could do that very simply and very succinctly in a very simple act of the Legislature.

It would entail, as you point out, a degree of political courage, since in order to implement that, we would have to establish that power as being a higher power, if you will. But I would like you to take a look at those bills, if you would.

COUNCILMAN FURLONG: I would only concern myself, Senator, with the other characteristics. I think land use-- I think you could accomplish it at the county-by-county level without going to a higher structure, but the thing Derry is concerned about, I think, calls for a larger organization, because I think water quality, non-point source of pollution, all those problems, go more than countywide. I think there is where you need this Commission.

SENATOR VAN WAGNER: But, if you noted in the comments by Commissioner Graham, the purpose -- at least as I understood it-- Part of the move toward implementing that would be to lift the Division of Coastal Resources from DEP and make it a mechanism of these councils. It seems to me that if one juxtaposed the County Planning Act, along with a simple movement of that Division, and expansion of the resources available to that Division, you could accomplish the same thing.

COUNCILMAN FURLONG: What concerns me about the movement of the DEP Division of Coastal Resources is-- I look



upon that a little bit like the Peter Principle. I am not so sure that is a healthy thing. I believe that people in Coastal Resources today could provide staff functions, but this particular Act does not include the whole State. There are other areas. There are going to be two separate functions out of the CAFRA zone. They are going to be doing the same thing in the rivers somewhere up in North Jersey. So, you have a problem here. You might create two bureaucracies out of one, which concerned me.

SENATOR VAN WAGNER: That is my point.

COUNCILMAN FURLONG: I believe there are capabilities in Coastal Resources that would be helpful; however, I don't believe in the Peter Principle of moving it sideways to, and just filling it up with some more bodies, and having the same bureaucratic problem that Mr. Graham referred to. The way you can slim it down is to give permit power to the counties. This master plan business of every town-- Baloney, you can't do it. Consider the time writing and reviewing master plans which are meaningless, nothing more than--

SENATOR VAN WAGNER: I think we are both saying the same thing in different ways.

COUNCILMAN FURLONG: --boiler plate. That's all they are.

SENATOR VAN WAGNER: I think we're saying the same things in different ways. The expansion of the County Planning Act contemplates doing just that.

SENATOR PALLONE: Bob, we would like to have copies, if we may, of those Florida regulations and statutes.

COUNCILMAN FURLONG: You can't read them. You need a microscope.

SENATOR PALLONE: That's all right, we'll get a microscope. Now we are going to move on.

SENATOR GAGLIANO: We'll let staff do it.

SENATOR PALLONE: Thanks again for coming. You are always very informative.

Just so everyone knows procedurally what we are going to do-- We have three more speakers who have to speak before we take a break. The order is going to be Phyllis Elston, New Jersey Environmental Lobby; Mayor Phillip Huhn of Long Branch; and John Stokes, from the Pinelands Commission. Then we are going to take a 45-minute break, and start again at two o'clock. So, let's start with Phyllis Elston, from the New Jersey Environmental Lobby.

**P H Y L L I S   R.   E L S T O N:** Thank you for accommodating our schedules, too.

My name is Phyllis Elston. For the record, I am Executive Director of the New Jersey Environmental Lobby, which has offices at 46 Bayard Street in New Brunswick. I have prepared testimony which is brief, and I will give it because I am here as a representative of my Board. I think I should intersperse it, though, with some comments that have been formulated as I have listened to testimony so far today. I think as the day goes on, obviously you are going to hear more and more echoes, because some of what I will say on behalf of my Board has been said to you already by Mr. Bennett and the gentleman who just spoke from Sea Bright.

Let me say, as Derry Bennett did, that the Lobby does not at this point have a position on the Governor's proposal. That, again, is for the same reason. It was late winter, or early spring, when representatives of the Governor's office came before a meeting of the New Jersey Environmental Collegium, which, as I am sure you already know, is a collection of environmental groups that meets on a monthly basis to share information and look for solutions to mutual problems. When the representatives from the Governor's office came before the Collegium and presented what the original plan was when it was called the Clean Ocean Authority, I would say that the consensus of the Collegium that day, which was sent back to the Governor's office-- The environmental groups that

looked at that proposal that day were not so sure that if something wasn't broken, then perhaps we should not be trying to fix it. We must first, you know, find out that, indeed, it is broken, and use that kind of intervention. That is the message that went back.

To my knowledge, we were not in -- and I am speaking now as a member of the Collegium -- as such, on the planning process that went on between Brenda Davis' office and DEP. So, the view that I will present today will be different from what you heard from Commissioner Graham.

The New Jersey Environmental Lobby does agree with the Governor's statement as is in the report, that, indeed, "We are faced with potentially disastrous threats to the future of the coastal region," and we do need to preserve and enhance the shore area. The Lobby also identifies water quality, shore protection, land-use management, regulatory inefficiency, ocean disposal, and beach quality, all to be issues of great concern.

As was said already here today, protection of all of New Jersey's natural resources is our top priority right now. They are in serious jeopardy and, as the gentleman mentioned, there has been a bill before the Legislature for three years. Until the Legislature embraces a bill that will provide a stable source of funding for natural resources protection, we are in trouble all over the State. We are talking today about 126 municipalities comprising 18% of the State. That leaves 82% that we are not talking about here today. A large amount of that 82% has a very vital interest in the shore communities. They are our recreational places, too, and we do care about them.

As a person who was an elected official on the municipal level for 10 years, I know about the importance of home rule. I also know about the efficiency that sometimes comes about when there is a mandate from the State and municipalities are made -- I hate using that word -- but when

it becomes necessary for municipalities to conform to a State set of regulations. Oftentimes, good things result from that, in spite of the fact of the kicking and screaming that sometimes goes on at the local level.

NJEL is concerned about the proposed removal of the Division of Coastal Resources from the Department of Environmental Protection. The fear is that this measure could cause a serious threat to the group's firmly established image of environmental protection. The taxpayers of New Jersey pay for that Department. It is vast and, granted, there is a large amount of bureaucracy within that Department, but within that Department there is also an Office of Public Participation, and we should be using it. There is also a bulletin that we pay to have printed -- we, the taxpayers, pay to have printed with great regularity, that has a series of numbers -- phone numbers -- and names of individuals who have to do with the speeding up of permitting processes. We, the taxpayers of New Jersey, just spent over \$30,000 to hire one individual within DEP, who has a separate office now to deal with concerns coming into DEP and within DEP itself, and to educate DEP personnel to the problems existing on the local level. Now, that funnel has been needed for a long, long time. It is there now, and we are paying for it. The woman just got there within a few weeks ago. We have not seen how that is going to work yet. Maybe that is going to help to remedy a lot of the "runaround" that developers often complain about. It will work for the outside; it will work for the inside, as well. I think we should give it a chance.

With regard to land use, much of our shore area has been abused because of the famous CAFRA loophole, that threshold of 25 units, making it too easy to develop below that point without adequate regulation. Perhaps this problem should be remedied by lowering that 25-unit figure, which the report is proposing. Examination, however, of how CAFRA regulations developed-- That was before my time. I don't know; I don't

have the knowledge to say so and so said this, and so and so said that. But, I would be willing to bet that that 25-unit loophole probably had input from the development community, and maybe that is why it is in the CAFRA regs. It is something we always have to deal with, and I will address that again when we talk to composition of the Commission.

With regard to regulatory inefficiency and confusion over local ordinances and the CAFRA regs, this could be remedied by a coordination which would emanate from within the existing DEP structure. This has been accomplished in the past with regard to soil erosion and sediment control ordinances and surface water management ordinances, where there was a guideline from the State, and municipalities had a deadline to conform so that the process would be an orderly process, and a uniform process. As far as soil conservation service offices working on the county level, that has been a large help in coordinating confusion that existed before that time. Again, mechanisms do exist within DEP to help remedy the permitting process.

The goals of the proposed Commission, as listed on page 14 of the report, are admirable; however, these must also be assumed to be the goals of the Coastal Resources personnel as they exist within DEP.

I want to once again go back to the damage which might occur by lifting that unit out of DEP, thereby disconnecting them from the rest of the expertise which exists within the Department.

The New Jersey Environmental Lobby is concerned over the proposed structure of the Commission. I guess this is the greatest concern. Once again, there has not yet been a position taken. I am here today to raise questions, and to bring back answers to them.

Although the local and regional input is important, such information can, and perhaps should be provided through

the public participation procedures that currently exist. An 11-member Commission with only one member from an environmental organization is very worrisome, at least to my Board.

With regard to the wetlands bill that was just passed after so many years of trying to get a bill, 161 environmental groups were working in coalition with DEP and with the legislators on that piece of legislation. That wasn't all of them, so, you know, what is the mechanism for surveying 161-plus groups and finding that one person?

Also, balanced input. We are worried about balanced input, since there would be equal input from the development community on the Commission, and the others of the 11 members, who are question marks. The goals of environmental protection are historically not very well advanced by industries' representatives. Also, in the proposed Commission, the influence of the Commissioner of DEP, we feel anyway, could be seriously diluted. The gubernatorial oversight provision, which would lend the power of veto over the minutes of the agency, as Mr. Bennett said, may be fine, because the Governor's current environmental record is a decent one. However, we worry about what would happen with that procedure. It might not necessarily advance environmental protection in the future under another individual.

To expect adequate legislative review by having a share of the Commission's budget being provided through the annual State budgeting process, may present the same problem currently being experienced by that natural resources half of DEP -- no stable funding, and the necessity for the environmental community and others to come, as we did this year, and ask for budget modifications. Well, I don't have to tell you, Senator Pallone, because you took them forward.

A serious weakening of the New Jersey Department of Environmental Protection appears on page 24 of the report. We feel that with the transfer of various personnel from the

Department, it is suggested that the Commission would recommend changes to water quality standards and effluent limitations, among other things. We worry about where the expertise will come from, with one member only on the Commission being from the environmental community. Again, if the process isn't working in the existing structure, perhaps we should think about funding it and fixing it. Another layer of a new and regulatory body would not necessarily work better than what we already have in place, but you are looking at something that costs us \$2 million, as opposed to a new body, that would cost \$20 million.

In conclusion of the formal testimony on behalf of my Board, we question the expense and efficiency of the formation of the proposed Commission, certainly not the problems and/or goals espoused in the report from the Governor's office. However, it is hoped that our coastal problems can be remedied through adequate funding to the Department, proper use of existing expertise, taking advantage of the Department's strong image of environmental protection, and the closing of the CAFRA loophole.

I should add that we have in place a State Planning Commission, a Governor's Council on New Jersey Outdoors, an extensive Municipal Land Use Act, which has caused much agony for local elected officials, but which, since 1975 or 1976, we have learned to live with -- we have learned to function under. I don't know that the CAFRA regs are more complicated than that. We also used to have something called the State Development Guide Plan. Now that is being ashcanned for whatever will come out of the State Planning Commission, and the State Planning Commission's draft is being ashcanned by the Governor's office. We worry about another document that is going to come out -- this thick (demonstrates) -- that is going to talk about what we should do with our State.

I am going to quote Senator Dalton right now, because he said something at a recent meeting which makes very efficient sense. They were having a meeting about the Right to Know -- another, as you know, complicated, but necessary piece of legislation. The body that was meeting with the Senator was trying to get him to do other things. And very truthfully, the Senator said, "I agree with you. These things are necessary. We have to look at them, but I'm telling you, in all truth, that I can't look at these things until January. My agenda just won't allow it." Then he said something I want to remember every day that I am in this job: "New Jersey has some of the best environmental laws on the books, but we are doing a not-too-decent job of enforcement."

Now, whether that is because of layers of bureaucracy, whether that is because of dot, dot, dot -- fill in the blanks -- I don't know. But what the Senator said is what we have to do. We have to stand back, look at what we've got, decide how to fix it, and make it work.

SENATOR PALLONE: Thank you, Phyllis. That is absolutely true.

SENATOR VAN WAGNER: Thank you.

SENATOR PALLONE: One of the things that you kept stressing, and I think Bob also stressed, was the whole question of funding. One of the things that I heralded the most when the Governor came to Asbury Park a few weeks ago, was his commitment to say, "Well, we are going to put \$20 million into this Commission from general revenues." Obviously, we need a stable source of funding. There is no question of that. I also thought it was a positive sign that Ralph Izzo, who was there to speak on behalf of the Governor at the Save Our Shores meeting the next day, specifically came out and said that the Governor would support a compromise bill on the stable funding issue.



I think one of the reasons why I am so optimistic about the Commission is because there seems to be more of a commitment of funds. I think that part of the enforcement problem, as you know, is that there haven't been enough people out there to go against the polluters, to bring the suits, to do the types of things that are necessary. Of course, it could all be pie in the sky, but the money is a big part of it, I think, as far as enforcement and everything.

MS. ELSTON: There are two more points I should make, just to elaborate on what Derry Bennett said when he stressed, and I stressed again that we don't have a position, and we're looking at this. This task force that has been formed within the Collegium will carry representative members from various groups, and then there will be a position taken, and individual environmental groups can either embrace that or form one of their own.

The other thing that is a big worry, and this is what I will bring up to the task force, is the thought being given to the local boards and the permitting process. This has been touched on before today, too. I have to say that local people on the planning board level -- and I have been one of those people for 12 years -- are generally very dedicated people. They aren't necessarily-- I'll say we. We aren't necessarily technically trained, so I worry about the permitting process at that level. The other thing that makes me worry even more, is that in so many instances, local boards are thoroughly -- forgive the word "infiltrated," but that is what I will use -- infiltrated by the development community. So you have to wonder about the balance and neutrality on local boards, if that is where the permitting process would be heading.

SENATOR PALLONE: I think that is definitely something that we have to look into. Any questions?

SENATOR GAGLIANO: I just have one question: Do you think your group would be more amenable to a commission or a

group that represented the shore communities -- all 120--some of them -- on more of an advocacy basis than on a regulatory basis?

MS. ELSTON: I would think the answer to that-- I would say that, yes, they probably would. That is a question and a comment that I will bring back to my own Board and to the task force as well.

SENATOR GAGLIANO: To my mind, years back, when I thought, what would be good for the Jersey shore, I always felt very strongly that a group of well-meaning people, and a good cross section representing the counties involved, would be an excellent advocate for the shore. This goes substantially further than just advocacy now. We are going to build our own master plans, our own regulatory frameworks, take over other regulatory frameworks that are in existence. I just wonder if we should go that far.

MS. ELSTON: Well, I am going to bring that information back on both levels. I would think that they would look on that favorably. As I say, we all know the importance of the shore. We all care about it. I come from the interior part of the State. I only come from here in the summertime, but I know there are other people out there who care about it, and who need to hear your collective voice, yes.

SENATOR PALLONE: Along the line that Senator Gagliano just mentioned, we did have, going back a couple of years ago -- and I think it was kind of the seed for this whole idea -- an Ocean Ombudsman.

MS. ELSTON: Yes.

SENATOR PALLONE: Which I think was proposed by Leo Kearny (phonetic spelling), at the time. It was mainly perceived as almost a public advocate, in a sense, for the ocean. Dare I use the term, "public advocate," but--

SENATOR GAGLIANO: No, don't say it.

MS. ELSTON: But, it is an excellent idea.

SENATOR PALLONE: You know, when the Governor spoke in his State of the State Address about the Clean Ocean Authority, it seemed more in line with that notion of an advocate -- an agency to bring suit, and all that.

The master plan and the planning aspects, at least from my perspective -- and I could be wrong -- seem to have developed over the last six months to a greater extent than they were there in January, or even before.

MS. ELSTON: As the gentleman from Sea Bright said, and after 10 years in municipal office, where I often had to fight against the usurpation of home rule, 10 years later-- That has been a big 10 years. I think municipal officials really -- partially because of the Municipal Land Use Law and the necessity for formulating master plans-- We don't have to worry about them comprehending the fact of the importance of regionalization any more on certain issues, just as what was said, certainly with the ocean communities, just as for those along our rivers. You know, there used to be river keepers who would be sure that damage didn't occur, and who would report these kinds of worries. The Delaware River still has a river keeper, one lady. There are those similar problems, and there is a place for regionalization. I think this probably won't be accomplished if the attempt is not without regionalization.

So, I think the idea of that regional collection speaking with the voice of an advocate is an excellent idea.

SENATOR PALLONE: Thanks a lot, Phyllis.

SENATOR GAGLIANO: Thank you.

MS. ELSTON: Thank you.

SENATOR PALLONE: Next we will have Philip D. Huhn, the Mayor of Long Branch. Do you have the others with you, Mayor?

M A Y O R P H I L I P D. H U H N: No. Most everybody had to leave. In fact, I would like to make a comment about that, if I may. My name is Phil Huhn, Mayor of the City of

Long Branch. I noticed with some dismay that the many people who came here today hoping to speak, on both sides of the issue -- for, against, or whatever -- had to leave, I guess because of prior commitments, and certainly jobs. If I may make a very humble recommendation for the future, possibly the nuts and the bolts testimony which we spent all morning on -- which certainly was very important -- could be conducted either at the end of a public hearing such as this, or perhaps before a committee in Trenton at a public hearing.

It was very informative. I would like to congratulate Brenda Davis and Donald Graham for the great job they did putting this together.

What I would like to do, in the interest of brevity and conciseness, is just read my statement. Then, if any of you have any questions, or whatever, I would be happy to answer them, based on some experiences I have had, and that we have certainly had here in the City of Long Branch.

I am a member of the Board of Directors of the League of Municipalities, and I am a past President of the Monmouth County Association of Mayors. I would like to take this opportunity to voice my opinions today on the question of coastal development. I strongly support Governor Kean's initiative to set up a Coastal Commission to oversee the activities along the Jersey shore. I have taken part in many hearings on this matter since the Governor proposed this in his State of the State Address back in January. I am most enthusiastic about this Commission and its ability to help form a development policy that will mold the New Jersey of the future.

There has been concern about the loss of home rule if such a Commission is established. I feel that basically, and if done correctly, such a Commission will actually strengthen the shore community's input; it will give us a voice in how we would like to see our shore areas develop. I was born and

raised in Long Branch and, quite frankly, it disturbs me that legislators representing communities far from coastal towns are attempting to set policy for our shore area, without consideration for our goals and objectives. A Coastal Commission which is truly representative of all interests that respect and take into consideration the input of the affected communities, I believe, is sorely needed.

It seems to me that in the past, and even today, some legislators prefer to address the needs of the shore communities with policies and regulations that, in many cases, may stifle progress. They prefer to approach the issue of coastal development and protection with the most noble of intentions, but using all the wrong methods. Time and time again, it has become the norm to operate on the needs of the shore communities with a blunt ax, instead of a scalpel.

It is so important that we determine today how hand-in-hand controlled redevelopment, which is so desperately needed and so long awaited in these areas, can remain sensitive to the environmental concerns of our coastal region. We must take into consideration that each town in our county has a uniquely different character. What may be good development policy in Holmdel or Colts Neck, may not necessarily be good development policy in Long Branch or Asbury Park. Conversely, what we do in Long Branch may have significant consequences for Eatontown or Oceanport. All the more reason for a coordinated, unified Coastal Commission to review the overall effects of planning, development, and implementation.

I, too, am opposed to overdevelopment. However, the tactics being employed, even within our own community, to stir up the emotions of the citizens who will benefit the most from sound development is unconscionable. What is needed is a rational, logical approach to the philosophy of redevelopment, instead of employing the emotional, politically motivated rhetoric which benefits absolutely no one. Our community, as

well as our neighboring communities on the shore, cannot, and should not, sit back and miss the greatest economic opportunity this area has experienced in the past 100 years. There has been some thought of expanding the authority of the Coastal Area Facilities Resources Act, better known as CAFRA, among other things in this area. At best, CAFRA has proven to be inconsistent, without direction, and allowing for no reasonable or timely recourse for their decisions. I don't want to see CAFRA's authority expanded with little or no regard for the needs of development and redevelopment areas such as the bay shore communities, Asbury Park, and certainly Long Branch. CAFRA's inconsistency, lack of continuity, and their insistence on treading in areas which they were never meant to get involved in, such as the color of a project, the size, and the building materials, have done more to create problems than to solve them.

I strongly urge that we examine and reexamine the purposes, objectives, and philosophy of CAFRA before we decide to expand any of its authority and provide this authority with guidelines and a flexible framework in which to operate. I would like to restate my support for the CAFRA concept and its original intent to protect our environment. The shore communities desperately need qualified environmental input. However, continuity and good sense should also prevail. That is why I must reiterate my avid support for a Coastal Commission consisting of professionals representing all interests -- environmentalists, engineers, architects, developers, local government officials, and private citizens who know and understand the impact that projects such as our own Beachfront Hotel have on the socioeconomic well-being of a community, as well as its environmental health.

It is also time that we, as locals directly involved in the day-to-day activities of our respective communities, band together to ensure that bureaucracy does not impede the

planning process we worked so long and hard to set into place. It is also time that we realize the impact that our development has, not only on our communities, but on our surrounding neighbors as well. An environmentally sound, comprehensive plan that also realistically addresses the unique needs of this area is desperately needed. Continuing to tolerate or expand the existing situation of "stagnation without representation" would be suicidal. For those reasons I strongly and emphatically support the Governor's initiative to establish a Coastal Commission and reject any effort to expand the authority of CAFRA at this time. If done correctly and responsibly, this Commission will be a benchmark in planning and controlling growth, as opposed to stifling it. And finally, the coastal communities will have nonpolitical representation in Trenton professionally and truly environmentally motivated to see that this area grows responsibly, economically, and conforms to the wishes of the public. Only this way can the Jersey shore remain the showplace of the State.

Just as an aside, as I said before, I spent quite a bit of time with Ms. Davis and Mr. Graham in helping to establish, or to identify some of the problems we have had, both developmentally as well as environmentally. I think they have done one heck of a job in presenting to you legislators a pretty rough idea -- certainly not too rough any more; perhaps more fleshed out now than it was six months ago -- a Commission and a proposal that I feel very strongly can work. It is not going to be without its difficulties, but I think it is a very, very viable program and, as I said before, I support it 100%.

SENATOR PALLONE: Mayor, you don't have any problem, though, with the lowering of the CAFRA threshold within the context of the Commission?

MAYOR HUHN: You're talking about going down to the regulation of--

SENATOR PALLONE: Right, within the context of the Commission.

MAYOR HUHN: I think, Senator Pallone, my major problem with CAFRA is on several levels: Number one is the time element involved with getting through the CAFRA process; the unnecessary delays. I will not bore the public with-- You know what we went through here in Long Branch for three years to get a project that has been desperately needed in this city for redevelopment for 75 years. It is a time problem. I think it has been a problem where there is no recourse to a decision they make. It is a unilateral decision; that's it. If you don't like it, you go before an Administrative Law Judge, or you go before a panel comprised of members of CAFRA. It also takes anywhere from six months to a year just to get before them.

My problem is in the procedure, not so much what they want to regulate. There is no question that we need the regulation on the Jersey shore -- no ifs, ands, or buts about it.

SENATOR PALLONE: But what I'm saying is, given what Brenda set forth, which is in the bill that is going to be introduced next week, whereby you have this one-stop method-- In other words, the local planning boards basically, in most instances, have the permitting process. You don't have any problem with the lowering of the CAFRA threshold along the lines of what was suggested? I only mention that because I see-- When you say you support the Governor's initiative to establish the Coastal Commission and reject any effort to expand the authority of CAFRA, that does not include lowering the threshold in the context of the Commission.

MAYOR HUHN: Yeah, within the Commission. Yeah, because what happens here, as has already been said by perhaps wiser people than I, is, for the first time, the local

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municipalities are going to take part in the planning process, which right now we don't have. It is a one-way street from Trenton. Trenton says, "You do this. If you don't like it, here is your recourse," which is basically no recourse. But, with the Coastal Commission, with members from Sea Girt, from Long Branch, from Middletown, from wherever on this developing policy, I can live with that, because what we do in Long Branch certainly can have a negative impact in Oceanport, and vice versa. So, there is no question that that is one of the main reasons I support the Coastal Commission, because now we will have two-way communication going on, rather than just one-way directives coming down from Trenton.

SENATOR PALLONE: Okay, thank you. Any questions?  
(no response) Thanks a lot.

And last before we break, but certainly not least, is John Stokes, Assistant Director of the Pinelands Commission. I don't want to stop what you intend to say, but I am interested in particular in knowing how you see the Pinelands Commission dovetailing with the Coastal Commission, and to what extent some of the precedents of the Pinelands Commission are being used here procedurally?

J O H N S T O K E S: I agree with you. I didn't come here today as an expert on the coastal area, nor as an expert on the Governor's initiative, but I do think there are some parallels between the Pinelands Commission and the proposal, and I do think, at least from an institutional and operational standpoint, that you may be able to draw upon some of the experiences in the pinelands to structure the best possible proposal for the coastal area.

Let me just recount for you, if I might -- and I will keep these remarks very brief -- four or five general ideas that I think are crucial to the success of a Coastal Commission. Many of them have been discussed previously. One is, there needs to be local participation and involvement in

Commission decision-making. The Pinelands Commission has 15 members, seven of which are appointed by counties, so almost half of the members of the Pinelands Commission represent local interests. That is not to say that the plan, or the program that is being developed for the coastal area, as was the case also in the pinelands, will not be free of conflicts. There are inherently conflicts between municipal objectives, county objectives, regional objectives, and State objectives. But you have to have the institutional framework to try to deal with those differences. So, I believe, personally, very strongly that there needs to be local representation.

SENATOR GAGLIANO: Excuse me, sir?

MR. STOKES: Yes, sir?

SENATOR GAGLIANO: Who appoints the county representatives?

MR. STOKES: The freeholders.

SENATOR GAGLIANO: Good, thank you.

MR. STOKES: Two, there needs to be adequate financing for the Commission's operations, in two respects: One, in the development of the plan for the coastal region; and two, once the plan is initially in place, to make sure that it can be refined -- updated -- to respond to changing needs. A problem that we have experienced, to some degree, in the pinelands is, there was an initial level of funding that enabled us, I think, to put together a pretty good and comprehensive plan. Once that was done, people kind of said, "Well, it's all done now, and we can move on to something else." That does not reflect reality, though. Times change, issues change, situations change, and the Commission needs to be able to respond to those.

The third item is, I think there needs to be a very clear demarcation of responsibilities between this Commission and other State agencies. We have spoken quite a bit today about coordination, participation, and the like. There will be some very serious issues which confront the coastal area, and

we have discussed some of them today. Someone -- whether it be the Governor, whether it be an executive office of the Governor, whether it be this Commission, or some other body -- needs to be in a position to render a judgment, and to try to bring pieces into place, so that you have a consistent policy and consistent movement towards resolution of a problem.

So, I would encourage you to be very, very cognizant of any uncertainty that exists between this Commission and what it will do and what it can't do, and other State agencies, which will impair the ultimate success of the effort.

The fourth item deals with incentives. One of the things that was lacking in the Pinelands Commission, was what I refer to as "the flip side of the coin." The Pinelands Commission is essentially a regulatory agency. Our job is primarily, through regulation, to say no. That is regulation, in my opinion. You can't do this; you can't do that. That is necessary, but it is not the only thing. In order for the coastal area, I think, to live up to everyone's expectations over the long term, there are going to have to be some positive steps taken, and it's not just, "Don't always do this," but we should do something else. That is where the incentives come in. I think they are important from two standpoints: One, capital funding is essential. If you wish municipalities and counties to buy into the process, you need to offer something to them. You also need to stimulate the positive aspect of it, and that is, "Gee, we need additional transportation facilities. We need some improved wastewater treatment facilities," whatever. There needs to be a mechanism in place to provide that, and I think that needs to be a stable source of funding.

The second part of the incentives, I believe, and we have discussed some of it today, is the ability of local government to deal with some of the issues. As I understand the proposal, the Commission will be developing a plan.

Municipalities will then translate that regional plan into a municipal planning program, and ultimately local ordinances.

SENATOR PALLONE: Not to interrupt you, but one of the things that was stated from the very beginning, back in January, was that that process was going to be very similar to what you do at the Pinelands Commission.

MR. STOKES: It is. As I understand it, it is very similar to what we do on the Pinelands Commission.

SENATOR PALLONE: Okay. Do you want to explain that? Is that what you are going to do?

MR. STOKES: Well, I wasn't going to explain it so much, but I was going to give you at least a suggestion, from my perspective, as to how it might work better. It is not an easy process, but it is a necessary one.

We try to deal with regional objectives, regional issues. And it is important for a municipality to then be able to translate those -- refine the policies, standards, requirements, whatever you care to call them, which emanate regionally and make them work locally. Now, there are conflicts, undoubtedly. You don't get 100% agreement on any issue. You need to provide--

SENATOR PALLONE: Give us an example, though, of how it works -- just briefly. How does it work, for example, with the Pinelands Commission, in terms of those guidelines and how they are translated into your local master plan?

MR. STOKES: Well, after our regional plan was adopted -- and I'm going back eight years, or seven years at least -- we sat down with the municipalities and developed, in essence, what amounted to a several-stage process. Our plan includes a land-use element, setting forth general areas of the pinelands which should be conserved, versus areas of the pinelands which should be developed for residential, industrial, or other economic purposes. We sat down initially with municipalities, generally planning board representatives, as well as

representatives from the governing bodies, and tried to develop initially a general land-use plan for the municipalities. When I say "plan," I don't mean in the formal narrative sense, but a graphic depiction of what the overall land-use scheme for a municipality would be in relation to the regional plan. That then gets translated into the formal preparation of a master plan, which the planning board then considers, and it also has to be translated into a series of ordinances. We have a number of performance standards in the pinelands, as well, so our program has two thrusts to it: land use, and then individual performance standards dealing with water quality, storm water management--

SENATOR PALLONE: Do you actually get site specific? Do you actually look over the master plan, and say, "Well, these are areas within a municipality," for example, "where we want certain types of development, and where we don't want other types"?

MR. STOKES: We establish, from a regional perspective, those broad areas. In this area, the pinelands, because of natural attributes, or whatever-- This should not be developed very intensively. These areas are appropriate for development. We then work with municipalities which refine that. For example, we have a designation that we call "regional growth area." We establish an overall level of development which we would like to see within that regional growth area. Municipalities then take that, and develop individual zoning districts.

SENATOR PALLONE: See, the reason I mention this is because before -- it was Mr. Furlong who mentioned it, I think-- He mentioned development within the "V" zone, for example, which is that area right next to the wet sand area, next to the, you know, the tidelands, whatever. He mentioned that there was an instance -- in Long Branch, we might as well mention it -- where there was a 24-unit development right on

the water -- okay? -- not in the water, but, you know, very close to it.

SENATOR GAGLIANO: Kind of wet.

SENATOR PALLONE: Right, kind of wet. He said, "Well, we wouldn't allow development within the "V" zone. I don't know if that particular project is in the "V" zone, but under the current law, the way I understand it, because it is under 25, it doesn't matter if it is in the "V" zone. So, theoretically, the Commission would establish certain zones close to the water, perhaps, where no development at all is permitted, or where certain types of development are permitted. I was a little concerned when Brenda said, "Well, we are not being site specific," that that meant that she doesn't actually get down to drawing lines. But I think the intention is -- certainly my intention is -- that the master plan on -- the shore master plan on the regional level would get down to specifics, at least in terms of devising certain zones where there shouldn't be development. You do that with the pinelands.

MR. STOKES: I think that is a crucial element of the next part of the program; that is, once you have the overall plan established, and you try to work with municipalities to have it integrated into their own requirements, the issue then of individual projects and the permitting horror stories we hear, tend to be less.

Now, there are two parts to a permitting program: One, the substantive requirements and how clear they are; how understandable they are. The other is the process itself. I am speaking in terms of the substance now. If you have agreement from a regional plan down to individual municipal plans, then the individual permits -- the individual projects that are proposed -- become less problematic, because people know going in, "This is what we wish to see. This is what we all agree should happen in this area."

SENATOR PALLONE: I don't want to dwell on this too long, but the way I envision it-- For example, if we reduce the CAFRA threshold and the local planning board has to adopt the minimum guidelines of the regional commission-- For instance, let's use the "V" zone example. The master plan for the region decides that there won't be any development in the "V" zone. Okay?

MR. STOKES: Then the--

SENATOR PALLONE: Then the local town-- Theoretically, if someone comes before them with an application for a project in the "V" zone, I guess in theory they could grant a variance, and say, "Well, in this particular instance, we are going to allow it." But if they did that, that could always be appealed to the regional council or to the Commission, to say, "No, that goes along our basic policy." There has to be some-- You know, it just can't be verbal guidelines. There has to be some site planning in the center, or site-specific guidelines for the local master plan. I think that is envisioned.

MR. STOKES: Yeah, I would agree with that, because absent that, you are always going to face the individual decision and what that means in terms of the municipality, the county, and the region, from their standpoint, from their objectives. If you get agreement from a planning and land-use and zoning standpoint, then everyone, including the developer, knows what the rules are and what the expectations are going in.

Just to recite our experience, in towns where we have incorporated the regional plan in our requirements, both the land-use part of it and the individual performance standards, in the municipal ordinances, we actually only get involved -- and we do have oversight responsibility on permitting; we have what I think Brenda referred to as "call-up authority" -- we actually only call up for our review about 5% of all of the projects that are permitted locally. Out of that 5%, we

probably modify maybe 2% or 3%, and those would be areas where we have a definite problem with the municipality.

But, getting back to the incentives, Senator, one important incentive is, you need to provide municipalities with administrative funding. We talk about capital support, and so forth and so on, but if you want municipalities to play a prominent role in implementing the plan from a zoning standpoint, and the planning boards, and so forth and so on, you have to provide them with the capability to do that. Unfortunately, we don't have that in the pinelands. So we have municipalities that don't have that capability. They have good intentions, but they can't afford to spend thousands of dollars, you know, each municipality having its own engineer, planner, and so forth and so on. That is not to say that they don't have somebody on a consulting basis, but it is very nominal.

The last point I want to stress is that dealing with permitting. We mentioned the substance of it, and I believe that you eliminate, or reduce the number of substantive problems by incorporating regional standards into municipal plans. The other side is the process. Frankly, I think the process we employ in the pinelands may not be wholly applicable, or suitable for the coastal area. It is still a complicated process. I think some very serious thought needs to be given as to how that process can be streamlined, without taking away its effectiveness. We have heard some discussion about all of the other permits that are required. So far, your discussion has dealt with municipal permits versus CAFRA permits.

SENATOR PALLONE: CAFRA, as opposed to the others.

MR. STOKES: You know, we can recite, probably, a dozen different permits that developers need to obtain for different projects. There needs to be some attention given to that.



Let me go back to what I mentioned earlier about a clear demarcation of responsibilities.

SENATOR PALLONE: I think one of the reasons why-- You know, I think a lot of people don't realize that when Brenda spoke today, and when Don Graham spoke, that in many cases we were getting, for the first time, some of the details of this Commission. We started out in January with just the general notion that the Governor presented. Two or three weeks ago in Asbury we got more details. Now we are getting down to the fine points. The finer you get, the more you are going to realize there are going to have to be changes. A lot more research is going to have to go into it, and a lot more hearings like this. If anything, I think the discussion today has been really interesting, because it shows that on the one hand, you know, there are some things the environmentalists object to; there are some things developers are going to object to. I have always felt that if there is something that both sides object to, it is probably something good, because you are not necessarily appeasing, or going one way or the other.

I know we don't have time today, but I would like to get into the details of how the Pinelands Commission and this would differ, and what similarities are there.

MR. STOKES: Fine.

SENATOR PALLONE: Thanks again.

MR. STOKES: Thank you.

SENATOR PALLONE: We are going to take a break. I think we better go to 2:15. We will start again at 2:15. Everyone who is interested in speaking will have an opportunity. You may have to wait, but we have no intention of closing debate and not letting anyone who wishes to speak do so.

(RECESS)

**AFTER RECESS:**

SENATOR PALLONE: I want to apologize. I know we announced in the beginning that anyone who wanted to testify should sign up, up front here, but I guess some people either didn't hear it, or we should have repeated it. I have you (speaking to unidentified person in the audience), because you called in advance.

UNIDENTIFIED SPEAKER IN AUDIENCE: Oh, okay. Thank you.

SENATOR PALLONE: Let me repeat, that although there may not be as many people here, even as many Senators here this afternoon, all of this is becoming part of a formal record which the Committee receives, and which is then passed out to all legislators. This forms a basis for deliberation. So, the fact that you are testifying in the afternoon doesn't mean it is any less significant from the point of view of where the legislation is going, because all of this material is read over and disseminated and, you know, gets to be a very important part of our deliberations.

I am going to start with Robert Sickler, a resident of Long Branch, and also a developer.

R O B E R T S I C K L E R: Thank you, Frank. At least I don't feel like I am on "Eyewitness News" any more. We could probably hold the rest of this hearing in my kitchen. Anyway, I will pretend to be important here, and have my say-so.

My name, as you said, is Robert Sickler. I live at 404 Ocean Avenue, North Long Branch. By occupation, I am a builder, a contractor, and a developer. Unfortunately, today a developer seems to be on the same social level of acceptance as a car salesman, a politician, or a television evangelist. In any case, I am involved in three high-rise developments in Long Branch today, which are an culmination of nine years of planning on my behalf. I take offense at the general

classification of developers being uncaring, money-hungry monsters from North Jersey. I absolutely love Long Branch, and wouldn't do anything that I thought was bad for Long Branch. I have lived in Long Branch almost all of my life, and I will continue to do so for the rest of my life. As far as monsters go, I am afraid of monsters.

For the past four years, I have worked with the city planner and the city on my ideas for my projects, so that they come as no surprise or sudden avoidance of CAFRA. In fact, I have spent \$80,000 so far with a CAFRA application that is over two years old. Developers cannot work in a time frame or a monetary frame of that magnitude. In short, as Conservation Foundation President William Reilly (phonetic spelling) said, "The system is confused, inconsistent and, in some areas, inadequate, and altogether in need of review." I think David Kinsey (phonetic spelling), the ex-head of CAFRA, hits the problem right on the head, when he says, "Despite a decade of achievements and learning from mistakes, desirable reforms in the State's approach to coastal management are blocked by a stalemate among local governments, builders, environmentalists, and the State Division of Coastal Resources -- the four interests with the biggest stakes in the coast. Coastal management has been institutionalized in New Jersey, but at the cost of an unstable accommodation among these key groups."

At present, there is no forum in New Jersey to bring together these interests concerned about the coast to jointly examine and reconcile their divergent perspectives. I strongly suggest that the new Commission -- which I found out about today -- should be a Commission made up of equal representation of local government, builders, planners, and environmentalists. The Commission must make policies that are: Number one, comprehensive; number two, constitutional; number three, legally enforceable; number four, inclusionary of all socioeconomic groups; number five, environmentally sound;

number six, fiscally sound; number seven, flexible; number eight, easy to understand and administer; number nine, expeditious; and number ten, not politically influenced.

Developers in Long Branch have been accused of skirting CAFRA by building 24 units. Gentlemen, all I can think of is that they are a bit like me. They are afraid of monsters, and I am afraid of CAFRA.

On a more local level regarding the overdevelopment of the shore, I always thought overdevelopment was something that wasn't planned in advance, or something that was to be built where there was insufficient water or sewer lines, or perhaps where roads couldn't handle the traffic. Two of the projects I am involved in, in North Long Branch, have been rezoned high-rise for over 30 years. It is surely no surprise that someone would eventually build them. There are sufficient water and sewer facilities for the developments proposed in Long Branch. All of the proposed projects are within 300 feet of a major four-lane, brand-new highway. In a leaflet that Mr. Pallone has sent to the general public, he seemed to be worried about erosion and ocean pollution. Well, none of the proposed projects in Long Branch will have any ocean pollution, and only one project is possibly related to erosion, which we spoke about today at length -- that particular project.

Recently, the county planning board has recognized Long Branch to be a socially and economically imbalanced community, and that the high-rises should be allowed. Even CAFRA recognizes Long Branch to have a special need, and shows consideration when reviewing high-rises in Long Branch.

In conclusion, I say that Long Branch isn't being overdeveloped. Long Branch is finally being developed. I would like to add that on the anniversary of the Constitution of the United States, I am glad to see that the Commission, as proposed, is a representation of all parties concerned, and not

just the environmentalists of the State of New Jersey. I encourage that all interests be represented, not just one group.

Thank you.

SENATOR PALLONE: What did you think about the Commission proposal in general, the way it was outlined by Brenda Davis?

MR. SICKLER: I am in favor of it. Personally, I think it is going to take a long time, from the varying points of view, for people-- I thought the environmentalists would be in favor of it, but, in general, my opinion is that they are against it. They are more concerned about riding the slow horse than getting on a new horse. I think equal representation and more representation at the local level, because each region has its own unique situation. All levels of government have recognized Long Branch and Asbury Park to be special considerations. I don't think you can make rules that don't take those things into consideration.

The avoidance of CAFRA's policies and the 24 units are very specific. I admit, as a developer, that they are. But, are they justified in avoiding over 24 units? Yes, they definitely are justified. I can tell, because I am still before CAFRA after over two years and \$80,000 -- still before CAFRA. If they can come up with a system that gives equal representation to all groups, which is the basis of our country -- representation for everybody -- and take in the regional considerations, and the State overall plan, I think it can work.

SENATOR PALLONE: You don't have any problem with the reduction in the threshold, as long as the process goes through the local--

MR. SICKLER: As long as they take in equal representation on that Commission, and as long as the local representation is there. I don't think you can take one part of it and say, "That's good," and eliminate the others. It is only good as long as you have the complete package.

SENATOR PALLONE: The other thing, too, which Brenda pointed out, is, even though-- This special consideration for Long Branch and for urban areas, as you know, is a very subjective thing, and very vague. One of the reasons I asked her how urban areas such as Long Branch would be different-- She was very specific, and she said, "You are still going to have the CAFRA regulation for one unit at the shore and for three units within 1000 feet of the next parallel road, even in the urban areas." The only difference in urban areas such as Long Branch is, beyond that area, you go up to 75, instead of 25. So, I don't know, it is just interesting to get your response. You don't have a problem with that, per se?

MR. SICKLER: A developer can't work in a time frame of years. It takes a developer longer to get an approval than it does to build the building.

SENATOR PALLONE: But what is to guarantee -- I am going to become devil's advocate -- that the process is going to be more streamlined?

MR. SICKLER: There is no guarantee. There is no guarantee in anything you change.

SENATOR PALLONE: See, the way I see it, on the one hand, you know, some people may say, "Oh, it is going to be streamlined because you won't have to go through Trenton." But, on the other hand, if it works out the way it seems to be proposed, that the initial process is on the local level, but then that can be appealed to a regional authority -- a regional council -- and then again to the Coastal Commission, which is like a two-step appeals process-- In the long run, it could actually take more time.

MR. SICKLER: That possibility surely exists. My concern about that aspect of the appeals process-- In my opinion, you are more or less just going to jump the regional end of it, and just go to the Commission. I can picture the two sides, A and B, not coming to an agreement, going to the

regional, and whoever is on the losing side, I can very well picture just saying, "Well, the heck with it. We will go on to the Commission." If they can expedite it and stick by policies that they form as a unit to set it up, that maybe this municipality is abusing what has been set up to be, then they have to stick with that all the way through. I also find it very difficult, and my hat is off to whoever is going to try to organize 126 municipalities. If you have two municipalities, you have room for argument. How they are ever, in practical terms, going to come to terms and enforce that only by the economic blackmail of not getting some kind of--

I think it is difficult. I think you might have to go beyond that and enforce it legally. I don't see enough strength in somebody saying, "Well, we are not going to give you any money." There are towns rich enough to say, "Hey, we don't need your money."

SENATOR PALLONE: That's true; that's very true.

MR. SICKLER: So I think the teeth have to be implemented to force these people, if that is the form they are going to use to do it.

SENATOR PALLONE: If the only impetus is money, some towns may just say, "Well, we don't want any shore protection money."

MR. SICKLER: You've seen it in a lot of other -- well, in the speed limit. There are states that say, "Hey, we don't care if the Federal government gives you the money for the highways."

SENATOR PALLONE: But then, according to Brenda Davis, in those towns that refuse to go along with it, they will still require a CAFRA permit through DEP, or through the Coastal Commission.

MR. SICKLER: Yes.

SENATOR PALLONE: The CAFRA threshold will be lower, and they will just apply it on a State level, which you may end up having in some of the towns.

MR. SICKLER: There are so many examples of CAFRA not working. Certainly it has worked in its intent in a number of issues. You can give examples on both sides of the fence. For instance, you have given a valid example of 24 units being built basically on a jetty. I am not in agreement with that. I think it is an abuse of its intent.

SENATOR PALLONE: I don't even know. Is that your project?

MR. SICKLER: No.

SENATOR PALLONE: No, it isn't, okay.

MR. SICKLER: It is the only project east of the first road. That is why when in your leaflet you bring up the idea of erosion and ocean pollution, well, my projects are anything west of the first road. I don't know how we have anything to do with erosion.

SENATOR PALLONE: You see, I think that projects like the one we were discussing -- which I mentioned before -- probably would be totally prohibited, because they would be on the beach.

MR. SICKLER: They should be.

SENATOR PALLONE: Yeah, but right now, they're not.

MR. SICKLER: But I can also add, nobody mentioned a very important item -- I think it was avoided all the way through -- and that is the timing on this. We're talking about different ideas, and I can see, potentially, years on this. You are going to bring it into the different bodies next week, or whatever, but you are still so far apart from the Governor's basic idea, and the different groups being represented. Somebody is going to have to grab that tiger by the tail, and say, "Listen, we heard everybody--" As you stated before, something you come up with that the developers are not necessarily happy with, environmentalists are not necessarily happy with, and that maybe the planners are confused or unhappy with-- But maybe then you will have something of substance



that represents all of the interested parties. If you only represent one interested party, no matter which one it is, it is unfair, just like before CAFRA was indoctrinated there was a free-for-all. That was unfair. It swung from my idea to the other end of the pendulum, and it became unfair by only having environmentalists on the CAFRA representation.

I think we have to get back to a middle pendulum, to where everyone is represented -- all interests -- be it economic or justice for everybody. I would like to see something of that equation, and as expeditiously as possible.

SENATOR PALLONE: Well, realistically, when the Governor came down to Asbury Park a couple of weeks ago -- or whenever it was -- he envisioned the summer and fall for discussion purposes, with not really any movement on the legislation until next year. I think that is pretty realistic, because as far as I know-- For example, in the Senate, we are only meeting two more times before the election, and probably won't even have committee days. So, I think what you are going to see are public hearings like this, until the end of this year, and movement on the legislation next year. I don't think it could happen sooner than that.

MR. SICKLER: I would also like to request, not only for myself, but for a number of other people in the audience-- There was only a limited number of those pamphlets handed out.

SENATOR PALLONE: Yeah. I guess Brenda didn't bring that many. I asked her to bring--

MR. SICKLER: I would like to see the city maybe receive some, so that anyone interested could read exactly what we are talking about.

SENATOR PALLONE: We didn't expect as many people today.

MR. SICKLER: It turned into quite a filibuster.

SENATOR PALLONE: Okay. Thanks a lot.

MR. SICKLER: Thank you.

SENATOR PALLONE: From the individuals who signed up before today, I still have Richard Corbett, from the New Jersey Association of Realtors. Do you want to come up, Richard? Then we will get to the two of you. (speaking to two members of the audience) He was here all morning.

R I C H A R D C O R B E T T: I learned a lot.

SENATOR PALLONE: You did? I did, too.

MR. CORBETT: On behalf of the 40,000 members of the New Jersey Association of Realtors, we share your concerns about the problems confronting coastal communities. The improvement of the quality of the shore area, that is, the goal of the Commission, will benefit our member Realtors.

However, whatever plan is implemented, we hope there will be compensation to property owners, if private property rights are diminished by the plan. Private property rights are constitutionally protected, and some recent United States Supreme Court cases have been instructive in defining these rights.

The New Jersey Association of Realtors is part of the National Association of Realtors. The National Association has done extensive research on private property rights, and as a Commission draws up its plans, we will be glad to provide whatever information and resources we can on this subject.

Thank you.

SENATOR PALLONE: That was brief. You had to stay here all morning for that?

MR. CORBETT: Well, one of my purposes was to come to testify, but also to find out what other people thought about the Commission report. I have read it several times, but it is far from clear to me exactly what is going to happen. I noticed that there were some references to private property on the beach preventing access to the beach. We are concerned that if there is any sort of taking, or any sort of easement required, the private property owners will be compensated. A

lot of people think in terms of Realtors that, "Well, they are just out to protect their commissions," but that is not true. Our Association has taken a public stance that we are in favor of protecting private property rights, and we get into it when we think they might be threatened.

SENATOR PALLONE: I certainly haven't heard anything that would imply that this legislation would change anything in terms of the way CAFRA normally proceeds. In other words, if you are making reference to beach access, whereby a lot of times CAFRA will require certain pathways, or access to the beach, I am assuming that that would continue, except that we would have a lower threshold. For example, right now, if you are over 25 units, you go to CAFRA. They require for, say, a condo of maybe 50 units or so-- They do require a pathway to the beach, or some other type of access. Whereas, right now, you go before the local planning board, and it is up to them if they want to require that. In Long Branch, we have been -- at least I have been trying to encourage that that take place.

So, to the extent that now everything is going to come under this purview -- under 25 units -- you know, up to three units within 1000 feet right on the ocean, down to one unit-- I assume that those types of requirements will be put in by local planning boards. One of the guidelines that the local planning board would have to abide by would be beach access. They would say, "Okay, you have to have a pathway; you have to have access." But, nothing beyond that. I don't think this is envisioned as--

MR. CORBETT: Well, I wasn't sure whether that was the case or not.

SENATOR PALLONE: But, to the extent that a lot of development which now does not come under CAFRA would come under CAFRA, presumably you would have a lot more beach access, and you would have some requirements for developments, even in some cases a single-family home -- that there would be some

sort of access path. That would have to be decided pursuant to the guidelines.

But, that is one of the things I like about CAFRA, and that, hopefully, we are going to continue, even though we lower the threshold. I guess you don't like to hear that.

MR. CORBETT: Well, it all depends.

SENATOR PALLONE: Yeah, it all depends on the situation.

MR. CORBETT: You're talking about a situation where a builder is going in and he is going to put in so many units, and the planning board requires him to allow access from those units to the beach?

SENATOR PALLONE: No. For example, we had, in Long Branch, a complex that was 24 units -- most of them are -- on the river. They wanted a street to be vacated. Some of the residents here now know about it, because they are the ones who demanded it. They came and said, "Look, just because this isn't under CAFRA, we still want an access path to the river. If we agree to vacate the public street, then we want the new street you are putting in, which has access to the condominiums, to be for public use, and we want a pathway from the end of that street down to the water, so people can walk down." That is something that CAFRA would normally require if you were more than 25 units, but it doesn't require because you don't come under CAFRA. Those types of things, theoretically, now the local planning boards would impose in different situations -- in different circumstances.

MR. CORBETT: And the imposition might be a reasonable requirement, or it may not be. I think there is a whole myriad set of facts whereby that could be debated.

SENATOR PALLONE: I am only pointing it out because you mentioned about the taking of public property. The only thing I see happening, you know, in terms of beach access, is the transferring of the types of beach access provisions that

are now required of the larger developers -- 25 units or above -- being transferred to smaller developments, because they are now coming under the CAFRA jurisdiction. If you were able to live with those requirements for the larger developer, I don't think you would have any problem living with them for the smaller guy, at this point. You don't have to answer that.

MR. CORBETT: I know.

SENATOR PALLONE: Okay. Thanks a lot. Councilman Andrew Manning. Am I allowed to say Mayor elect?

COUNCILMAN ANDREW MANNING: No, that's very premature.

SENATOR PALLONE: Oh, I'm sorry.

COUNCILMAN MANNING: Thank you, Senator, for allowing us to address you, although somewhat late perhaps. What we are personally concerned about, and perhaps I am redundant-- I understand that Councilman Furlong testified earlier today. I was not present; I had to leave for an appointment. But, one of the things that troubles me about this new concept concerning the Commission, is the lack of any knowledge, the lack of any information concerning reconstruction.

Now, Sea Bright, as we all know, is a very narrow peninsula. With the 1000-foot limit, it effectively eliminates Sea Bright from practically any construction whatsoever. A case in point: The Peninsula House, which we in Sea Bright consider to be somewhat of a historic site, albeit not named a historic site by the State, was destroyed by fire in October of 1986, not by the elements. The owner of the property sought to rebuild. He appeared before our Zoning and Planning Board and received permission to construct a 64-unit hotel, restaurant, cocktail lounge, and beach club. He presented an informal plan to the Director of the Division of Coastal Resources, Mr. John Weingart, and was turned down for the reconstruction of a hotel that has existed in our town for 105 years.

During the course of discussion concerning the reconstruction of the Peninsula House, it was stated publicly by the Director of the Division of Coastal Resources, that the State preferred to have a park -- a public park -- at that location, notwithstanding the fact that there is a public park to the north of us at Sandy Hook and a public park to the south of us here in Long Branch -- Seven Presidents Park.

When these two facts were brought out to him-- The reason I am digressing somewhat is, we are a little suspect of State agencies and bureaucrats.

SENATOR PALLONE: I think the example you are using is very important.

COUNCILMAN MANNING: Further discussions continued with DEP, specifically the Division of Coastal Resources, and it was then pointed out that Sea Bright has no accommodations for its many visitors and tourists who come to our town in the summer. Mr. Weingart, in a very cavalier public statement, suggested that any tourists or visitors to Sea Bright could take up residence at a hotel in Long Branch. He appeared then to me to be one of three things: a jester -- and I hope it was in jest; number two, a shill for the hotel chain -- the Hilton; or number three, just totally insensitive to the impact, both economically and socially, it would have on the Borough of Sea Bright. I might add, the reconstruction -- and I emphasize reconstruction -- of the Peninsula House means a \$14 million ratable to a municipality with a population of less than 1800. It means full- and part-time employment for approximately 100 people, both on- and off-season.

So, when we look at all of those aspects of our one example in Sea Bright, it troubles me -- it disturbs me -- about the future impacts on the municipality, its tax base, its social progress and development. No one in Sea Bright is overly happy with the multitude of condominiums we have, whether it be a brand-new condo resident, who thinks, "That's

it. I'm in. No more," or people who have lived in Sea Bright for a number of years.

The thing -- and this is digressing off the point considerably, but I have to mention it-- In our dealings with the State, we are faced with almost impossible tasks, and I am speaking economically. As I stated previously, we have a small population. We have a considerably smaller tax base than some of the urban areas which have been addressed. But, in spite of that, we are under the thumb, if you will, of a law called the New Jersey Education Act of 1975, commonly referred to as T&E. Under that law, which I personally consider to be immoral and oppressive, the Borough of Sea Bright sends to Shore Regional High School 35 students, at a cost of \$803,000 a year, which comes out to \$24,000 per student, per year, for a public high school education. You may say, "What does that have to do with the issue before us?" It has this to do with it: If we have to pay these inordinate amounts of tuition to educate our children, how can we do that without overburdening our taxpayers, when Mr. Weingart and the DEP refuse to allow the reconstruction of a hotel not destroyed by the elements, destroyed by a human, that has existed for 105 years?

We have another problem, and again this is all burdensome to the people -- the residents and taxpayers of Sea Bright. Our main street is a State highway -- Route 36. We are clogged on weekends. It has been an annual event in the summer. No one is overly concerned about it, it happens. But, with the addition and expansion of Sandy Hook Gateway National Park, and with the inception of the Seven Presidents Park in Long Branch, the impact on our traffic on a State highway on weekends is to the point of being almost unbearable. As you know, because I asked for your assistance, and you have been most gracious, we requested a State trooper on Saturdays and Sundays to help our local police, who are overburdened, to direct traffic on this State highway. Because of their

budgetary restrictions and personnel requirements, they had to turn us down. We asked for some assistance from Gateway National Park. Their budget -- the Department of the Interior -- has been cut. They can offer no assistance to us.

So, in essence, what we have is a proposal to form a Commission that will effectively eliminate any construction in Sea Bright, when you take it from 1000 feet west. We are now across the Shrewsbury River into the Borough of Rumson. We are one of the few municipalities out of the 126 that are faced with this problem, but to us it is a very serious one as a point of economics.

But, what disturbs me the most, is-- Is it reconstruction? Do we oppose that?

SENATOR PALLONE: Well, I want to ask you--

COUNCILMAN MANNING: If our police station burns down, can we build it up again?

SENATOR PALLONE: If you don't mind my interrupting, Andy, I wanted to get into that. Now, if you look at the CAFRA legislation that is on the books now-- Again, I am not a complete expert, but I read everything over again yesterday just to make sure I had all of this in my head to some extent. If you look at the CAFRA legislation now, and if you look at what the Governor is proposing, and what is going to be introduced next week, I don't think the statutes per se deal with that. I think the provisions that apply to that Peninsula House dealing with the reconstruction were pursuant to regulations that were promulgated by DEP. You and I both know that one of the biggest problems is, even though we pass the law, what happens later when the Department promulgates the regulations? Presumably, the Coastal Commission would promulgate regulations just the way DEP does now. Those regulations, if I am not mistaken-- Offhand, I don't remember what they say about reconstruction. But basically, if I remember the problem with the Peninsula House, it was their



opinion -- it was DEP's opinion -- pursuant to a preapplication conference-- In other words, basically they said, "No use bothering to apply, because as far as we are concerned, we don't want any development in that area between the water and Ocean Avenue in Sea Bright." The only way you are going to be able to do it is if you avoid CAFRA by building something that is less than 24 units, which is basically, I guess, what is being proposed now.

So, the danger is-- The way I see it, the danger from your perspective is, if the 24-unit threshold is lowered, CAFRA now, or possibly the Commission in the future, would say, "No way. We are not even going to consider anything in this area." Whether or not that is just something that particular individuals like John Weingart are saying, as opposed to something that would be put into the master plan, I don't know. I mean, presumably it would be in the master plan that is developed -- some areas where no development would be allowed. I don't know whether or not that would include, you know, Sea Bright east of Ocean Avenue. I don't have an answer.

COUNCILMAN MANNING: Well, Sea Bright east of Ocean Avenue is about 100 yards at any given point.

SENATOR PALLONE: No, I am just trying to say-- I guess what I am trying to say is, there is nothing in the legislation that addresses, to my knowledge, reconstruction, and there is nothing in the existing CAFRA laws that does. It is pursuant to regulation. So, the only thing we could do, if you want to address the reconstruction issue somehow in the statute, rather than wait to see what is promulgated pursuant to regulations--

COUNCILMAN MANNING: I would respectfully suggest that that area be considered by the Senate and by your Committee. I posed the question numerous times. I simply cannot understand the refusal of DEP to allow the reconstruction of an existing hotel for alleged environmental reasons, when they routinely,

and continuously, approve the applications to build hotels and casinos on an island off the coast of New Jersey called Atlantic City. I mean, one doesn't balance out with the other.

I was then told, "Well, that's a different situation. That is a social situation. It is an urban center that needs revitalization." Well, no one is opposed to that, but I don't think that the Borough of Sea Bright should be strangled to death, while, in turn, the State and its various agencies and bureaucrats are going out of their way to aid the urban areas.

SENATOR PALLONE: Well, if I remember correctly, when Brenda spoke this morning, she specifically asked whether this urban area exemption would be a total exemption or would just be for the 75 units. What she said was -- and I believe this is accurate -- with regard to the one unit or the commercial property directly on the ocean, and with regard to the three units within 1000 feet, that you would still come under CAFRA, even in the urban areas. It is only beyond the 1000 feet or the next parallel road that that threshold would be increased to 75 for the urban and growth areas.

So, presumably, you know, Atlantic City, Long Branch, the Urban Aid areas would still be -- you know, within 1000 feet -- would still have to proceed under CAFRA. The point you're making, which is, perhaps the legislation itself should address the reconstruction issue, is a good one. We'll have to look into that, because right now, at least from what I can understand from my own experience, having made calls to John Weingart's office and Sea Bright officials like yourself, back and forth on the Peninsula House property, it seems to be just an individual decision on the part of the Director; that he just didn't want to build east of Ocean Avenue in Sea Bright. I don't know if that was written anywhere. I don't have the impression that it was.

COUNCILMAN MANNING: No, it wasn't written. He stated it--

SENATOR PALLONE: He just said--

COUNCILMAN MANNING: --publicly.

SENATOR PALLONE: --"That is what I want to do."

COUNCILMAN MANNING: There was an informal hearing at his office. I am not here promoting the values or interests of the Peninsula House; I am here, hopefully, to defend the taxpayers in Sea Bright--

SENATOR PALLONE: No, I understand your point.

COUNCILMAN MANNING: --against an unbridled bureaucrat in Trenton.

SENATOR PALLONE: I think the bottom line is, there has to be some kind of statutory language, perhaps, that talks about reconstruction, and perhaps that talks about some of the other issues that have come up, like the situation with the cabanas, for example. You know, those are things that were never in the statute, and perhaps we have to look at those in more detail.

COUNCILMAN MANNING: Well, another thing-- I don't want to talk any longer. I know there are other people who want to address the Committee. But one of the things DEP lost sight of with the cabanas-- There was much talk about the Driftwood and the Edgewater and about the luxurious cabanas. They just overlooked the fact that we had ordinances in place that no one in any of those beach clubs, whether it be the Driftwood, the Edgewater, or any others, can stay there after 10 p.m., or midnight on Friday and Saturday nights. Notwithstanding that, Mr. Weingart continued to address the issue as if they were luxurious condominiums. They had no fire walls; they had inadequate electricity; no heat. When it was pointed out to him, as it was, unfortunately for the developer, through the Superior Court in Freehold, on to the Appellate Division, subsequently on to the Supreme Court, with great expense to the property owner, no expense to Mr. Weingart, who has hundreds of deputy AGs at his disposal-- It was pointed

out that, in effect, the construction of those cabanas -- luxurious as they are -- eliminated 430 lockers; eliminated traffic -- cut down on pedestrian traffic; and hopefully cut down on environmental impacts. All of those things were overlooked.

We are concerned, not about the totality of this Commission, nor the law that will enact the ability of this Commission to operate, but we are very concerned about the bureaucrats who are going to administer it, and promulgate rules and regulations that the legislators have no input into whatsoever. But it affects the people who have to govern and raise the money for small towns.

SENATOR PALLONE: I think that is a very legitimate concern, based on past experience. Thanks a lot.

COUNCILMAN MANNING: Thank you very much.

SENATOR PALLONE: This gentleman-- I forget your name.

FRED BEHRINGER: My name is Fred Behringer.

SENATOR PALLONE: Do you want to come up?

MS. CANE (Committee Aide): Fred, could you please spell your name for the hearing reporter?

MR. BEHRINGER: All right. It's Fred Behringer -- B-E-H-R-I-N-G-E-R. I live in Wall Township. I am a retired schoolteacher. I am not a bailiwick. There are four points I would like to bring out here.

One, I am concerned, really, with the Coastal Commission here. If it is going to be another layer of bureaucracy, I would definitely be against it. If it is going to be something that will coordinate all of the various government agencies, or at least take several of them and put them together, then I actually could be in favor of it.

At present, you have a crazy patchwork system whereby you see overlapping from local, State, and Federal laws. Not only that, but you have people in these various agencies fighting among themselves. To point this up, I come to my second point.

I feel the government should start taking some responsibility whereby they will let people know, when they buy a lot, whether they can build a house on that lot or not. In 1984, I bought a lot about 600 feet away from Barnegat Bay on a paved street, with water, sewer, all public utilities. While I had it under agreement of sale, I went to the town and asked if I could build a house and do everything. The engineer checked all of his local maps. I was familiar with the State DEP. I went to their field office in Toms River and did all of that. I was assured by everybody that everything was okay.

I started building my house. I had the outside of it finished, and the Army Corps of Engineers came along and said I had to remove all of my fill. It was a complete shock to me. I didn't even know the Army Corps was involved in something like this. I then went back to the State DEP and explained my situation. They said, "Well, no." In fact, they gave me a letter. They said, "No, it is not State wetland. You can do anything you want in there." I said, "Well, I've got this problem." They said, "Well, that's your problem." I went to the town, and they said, "Yeah, that's your problem."

So I got the CO on the house in September of that year, and I went back and forth with the Army Corps. Then, about nine months into it, the Army Corps wrote a letter to the State DEP. That would have been in September, 1986. I asked them for a CNZ consistency statement -- a little out of time frame. The State DEP wrote back in October of that year, reversed themselves, and said, "Yes, now it is in State wetlands, and we recommend denial of the after fact permit."

In December then, of last year, the Army Corps wrote me a letter and gave me 30 days to remove all of my fill, which will put me in violation of a number of agencies, and will render the house of no value. I will lose my CO on it, because it will have no place to park. I can't use the house. In the process, I had to obtain an attorney, and we are actually in

litigation right now, scheduled for court in Philadelphia on November 7.

I feel as though I have been caught up in this thing. I did everything the government required me to. If I take the fill out, I am going to be in violation of other government agencies. If I leave it there, I am in trouble. The Army Corps has filed a suit against me. They are charging me, right now, \$10,000 a day for every day the fill is there. I think it is ridiculous. Obviously, I can't pay it. I don't have that kind of money. This has been going on now for several months.

What I am trying to point out here is, I am not for or against this Commission. But, a poor individual like me -- I mean, not poor, but-- I got caught up in these things. I do everything government tells me to, and now what do I do? Maybe that's my problem; I don't know. As I say, we are in litigation. I am not sure how it is going to come out, at this point.

My third point is, I feel very strongly-- The State of New Jersey has now passed three laws. It passed the Pinelands Plan; it passed CAFRA; and then just very recently, it passed the Freshwater Protection Act. In each case, I think it is in violation of the Fourteenth Amendment. They have, in effect, rendered an individual's property of little or no value. You cannot use it as you want to use it. I think that is wrong. I think that if the State wants to pass these laws-- I wholeheartedly agree with them, but I think they should compensate the property owner. In many cases, they have wiped out people's life savings. This particular house I am talking about right here that I might lose, is part of my retirement. I built the house for my retirement, so I would have it. Now I can lose the whole thing, plus I still have to pay taxes on it, and I still have to pay the mortgage.

You know, it would be nice for those people in various parts of the State to come down here and use my property, and

not have to pay for it. I wonder how they would feel if I took their houses. With all due respect, Senator, and I appreciate all that you have done, and the other two gentlemen who were here-- I have lived many years in this State, in the shore area, and I enjoy and appreciate all that you have done. I mean that very seriously. But how would you feel if it were your house they were going to take?

SENATOR PALLONE: Let me say one thing about your particular instance. I would be very glad to look into it. I would hope that maybe tomorrow, or sometime next week, you could come over to my office and we could discuss it. I tried to follow all the details, and to some extent I did, but I think we would have to sit down -- you and I -- and go over it again. I would like to do that. I have your name and phone number. You can call me tomorrow or next week, or I will give you a call.

As far as the general principle you are discussing about the layers of bureaucracy and a new State agency, I understand perfectly what you are saying. That bothers me, as well. When I first heard about the idea of a new agency -- when the Governor proposed it in January -- I was concerned about that aspect. You know, we already have DEP; we already have all this regulatory and permit process. As the idea became fleshed out and we received more detail on it, it seemed to me to be something that was a good idea, if it could be controlled; if it could be dealt with in a proper way.

Basically, what we are going to be doing over the next six months, is just seeing whether or not this idea, in a sense, of a super agency can be implemented, without creating a tremendous amount of bureaucracy, and perhaps even cutting down on some of the bureaucracy. I just hope you understand that I, myself, and the other Senators, are basically very conscious of the fact that there is too much regulation. We see it at every level of government. I'm sure that once you and I go through

that -- your own particular instance -- I am just going to be totally disgusted with the whole procedure, because whether it is Motor Vehicle, or whatever it happens to be on a daily basis, there are just so many problems. We just have to deal with them, and try to come up with what we can, in the best fashion.

I want to thank you for coming today.

MR. BEHRINGER: Just one more quick point.

SENATOR PALLONE: Sure.

MR. BEHRINGER: The fourth and final point is -- and you have addressed it quite a bit here-- I really think the big issue in the State is land use. I feel very strongly about it. I feel there has been too much emphasis put on the wetlands within the State of New Jersey, and not enough on other areas of our State, such as our farmlands and our woodlands. They seem to have been sort of pushed aside. Personally, I feel they probably have more value and more weight even than our wetlands, especially from a water quality point of view, because that is really where your water becomes purified. It filters down through your woodlands and your farmlands.

SENATOR PALLONE: Sure.

MR. BEHRINGER: It does not filter down and become purified in any of your wetland areas. I am thinking really more of your salt water in the CAFRA area than the new Wetlands Act you just passed. But most of it is woodlands. I was born on a farm in Pennsylvania, and I know how water works. If you go into undisturbed areas-- I don't care how much rain you get, you don't get floods; you don't get washouts, because it soaks into the ground.

I would like to see possibly more emphasis put into those two areas, or other areas in addition to the wetlands, even though I agree with what you are doing along that line, too.



SENATOR PALLONE: Okay, thank you very much. I appreciate your coming down here.

Next we are going to have Linda Hasbrouck, Executive Director of Save Our Shores.

L I N D A H A S B R O U C K: Hello, my name is Linda Hasbrouck. I am the Director of Save Our Shores. I am, by profession and at heart, an environmentalist. We really have an area in the Jersey shore that we feel needs to be protected. Our concerns are that even though we are not for major amounts of progress, because it means a larger volume of people, at the same time you have to be careful what you are putting in the areas, what the ramifications are going to be, and the repercussions to the environmental aspects of the areas.

Save Our Shores is specifically concerned with the amount of pollutants that are in the water and what the adverse health effects are from those. I have been following for three weeks now, people sitting on the beaches having respiratory distress because of ozone problems. As of today, the count is 56 dead dolphins in the Atlantic City and South Jersey area. They have not come up this far. If there were more dolphins in this area, we would probably have them washing up on our shores, also.

Just as an aside, one thing that was a concern for me personally, and for our group-- There is an organization in South Jersey called the Marine Mammal Stranding Center, that wanted to find out why the dolphins were dying. But, for the lack of a few thousand dollars to do the autopsies, they were not able to. I personally called the Governor's office yesterday, as well as calling several Senators, including yourself, to discuss this issue. I would like to see a little more emphasis on the ocean and the problems. It is one thing to build condos, to build houses, and to bring people here, but if they can't swim in the water, they are not going to want to have a house. They are not going to want to buy a condo in this area.

We would like to see the focus-- Before you build along the shore, before you do anything else along the shore, make sure you have a healthy situation for the water and for the beaches, so people will want to come here, and will want to make this their home and their environment.

Thank you.

SENATOR PALLONE: Thanks, Linda. I know you already know, but perhaps because of all the discussion about land use and master planning and CAFRA today, a lot of people may not realize that that isn't really the major thrust, in a sense, of the whole New Jersey Coastal Commission. The concern for shore protection in dealing with ocean pollution, the advocacy role because of the idea of a Division of Public Advocacy to bring suit against New York and polluters-- All those things are certainly as important, perhaps even more important than the aspects we have discussed today. But the reason the hearing is focusing on the land-use aspects, is because I didn't feel that had been given sufficient focus, and that people were not aware of how the Commission was going to change CAFRA or deal with local zoning. That aspect of it had kind of been underplayed, and we wanted to bring all of that out today. We certainly have no intention of downplaying the other aspects, which are just as important.

MS. HASBROUCK: One concern, which we even discussed this morning at a meeting among ourselves, is that with the sewage treatment plant in Asbury Park, they are planning on putting the effluent pipe-- I heard 1800 feet off the shore would be where it would be discharging. In other states in the United States that have the effluent, it seems to be that it is going out further into the ocean. For Asbury specifically, the way the shoreline -- the configuration of the shoreline -- it is 1800 feet off of Asbury Park, but in line directly maybe 200 feet off of Deal, when you draw a straight line--

SENATOR PALLONE: Yeah, yeah.

MS. HASBROUCK: Obviously, the water is not solid and concrete and doesn't stay in one place. Whatever you put into one area will go into another. I would hope that with whatever building is done, the people are considering that whatever disposals there are, be they sewerage, or whatever-- We can even get into plastics at this point. Whatever people have finished using, in whatever form it is, hopefully it will not end up in the ocean. I think there should be a more strict regulation in looking at the effluent. If we are going to put it in the ocean, just how close is it going to come to our shores?

SENATOR PALLONE: Okay, thanks a lot.

MS. HASBROUCK: Thank you.

SENATOR PALLONE: That is something I will look into specifically.

MS. HASBROUCK: Okay, thanks.

SENATOR PALLONE: May I just see, from a show of hands, who would still like to speak? Just raise your hands. Okay, we will have Alice Jennings, then Howard Woolley, and then Catherine Dick. Alice Jennings, concerned citizen.

A L I C E J E N N I N G S: Yes. I am Alice Jennings. I live at 92 Atlantic Avenue, Long Branch. I have lived in Oceanport, and had businesses there. I have lived in Highlands, and been on the planning board there. I have lived in Sea Bright, Monmouth Beach, and now I reside back in Long Branch again.

I definitely feel there is a need, since the area has become so highly populated. The road situation, the transportation situation-- It has become very congested. Our jetties, our oceanfront, our river areas have to be maintained -- cleaned. I feel that possibly this Commission may be the answer. The builders -- as I was once a builder -- know it is very difficult to go from one organization to another to get permission to build. Being a catalyst, I think we have to get

something done more quickly for the builders and the residents of Long Branch and the area.

Thank you.

SENATOR PALLONE: Thanks a lot. Thank you for your concern, because I know you have been very much involved.

Next we will have Howard Woolley, who is the Chairman of the Long Branch Planning Board.

H O W A R D W O O L L E Y, J R.: Thank you, Senator. I am glad I missed the TV. It makes me a little nervous.

As a way of introduction, I served on the Planning Board for 13 years, and was a Councilman in the City of Long Branch for five years during that period of time. I maintain a business with my brother and my father, which has been in the city for 76 years.

The Commission that has been proposed, and which is being discussed here today-- Conceptually, I would have to concur, as I think many of the other speakers have. I think it is an excellent idea that the shore area will have input into the structuring of exactly how we will be governed. I, for one, along with Councilman Manning and some of the other speakers, am tired of being dictated to by Princeton residents as to how we should run the City of Long Branch.

The CAFRA threshold is an item that I would like to take up. I do have some contention with that, basically because it has been my experience, in the applications I have seen before the Long Branch Planning Board, that CAFRA, in Long Branch, has been less than effective. To put it kindly, my personal feeling is that in many cases, they have been totally useless. There is no communication I can see between that agency and our Board. We are criticized about our zoning ordinance, we are criticized about our master plan, but we never get specific recommendations. We get copies of denial letters. They will never sit down and work out whatever problems might exist.

If you look at some of the applications, which I know you plan to do in your role as a Councilman in the future, some very irrational plans have been brought into us, and when we have taken them up with the applicants-- It is not really a double veto thing, as was spoken about before. It is basically that we, as municipal planning officials, are veritable eunuchs.

SENATOR PALLONE: But, in other words, if I may interrupt you, they don't actually-- CAFRA doesn't really get input from the local planning officials at all, from the planning boards or departments?

MR. WOOLLEY: Not to my knowledge.

SENATOR PALLONE: So, in other words, you would have to, on your own initiative almost, you know, send them a statement, or whatever. They don't actually consult you.

MR. WOOLLEY: For example, the PALS Project, Jackson Woods, whatever you wish to call it. The plan that came in approved by CAFRA was the plan that you spoke in opposition to because of its proximity to Mrs. Jennings' property, and to some of the other residents of that area.

SENATOR PALLONE: But that hadn't been approved yet, had it?

MR. WOOLLEY: That had been approved. They had been through the CAFRA process. That plan also only had one means of access to and egress from 136 units. From a fire safety standpoint, it was totally wrong and contrary to any standards that we, as zoners, would like to see. So, we asked them--

SENATOR PALLONE: Yeah, but let me give you an example. With the property you are talking about, Mrs. Jennings and I received a document which was passed out at the time of the hearing. It was about a month ago. She was there; I could not attend that day. That document, to my understanding, was a preliminary document. They haven't actually given the CAFRA approval yet.

MR. WOOLLEY: No, but they have gotten their preliminary approval, and that is what they are coming in to us on.

SENATOR PALLONE: So, in other words, that document we received is kind of the preliminary approval. That is what you use as a basis for your decision at the Planning Board.

MR. WOOLLEY: Any preliminary approval they might receive from us then becomes subject to final approval by CAFRA. The final CAFRA approval--

SENATOR PALLONE: Why is it that-- I mean, this really goes to the heart, I think, of this whole process, because what we are talking about with the Commission, with this one-stop process, is hopefully avoiding these kinds of problems. What I'm saying is, right now, in effect, before the Long Branch Planning Board acts on a project that needs CAFRA approval, they get at least that preliminary approval from CAFRA, or do you sometimes act before--

MR. WOOLLEY: From a developer's, or an applicant's point of view, it would be foolish for him to come in and pay our application and review fees, if he had not some indication that his project would receive favorable consideration from CAFRA. He goes to CAFRA first.

SENATOR PALLONE: But at the same time, if you read that document, it kind of gives you the impression that they might not grant approval, unless a lot of different conditions are met.

MR. WOOLLEY: Well, they would have to have a pretty favorable opinion before they would come in and pay the review fees and apply to us.

SENATOR PALLONE: I am even more confused now, because when I looked at that document that was presented at the hearing-- You could almost get the impression from that document that unless a lot more was done, in terms of the amount of information that had to be provided, the delineation of wetlands, whatever, there wasn't going to be any approval.

VIRAL COPY - NOT FOR PUBLICATION

MR. WOOLLEY: No, that was not the impression I received, and that wasn't the representation of the developer or his attorney to the Board at that hearing.

SENATOR PALLONE: Well, anyway, go ahead. I don't mean to interrupt you.

MR. WOOLLEY: In one other area there -- you are familiar with the site -- the intermittent stream, which has been-- New Jersey Department of Transportation contractors dumped in it. CAFRA will not allow the applicant to clean up that site -- to clean that dumping out of there.

SENATOR PALLONE: At all, or at some future time?

MR. WOOLLEY: At any time. It has to remain that way. That is the representation to us by the applicant, and I have to rely on that, because it was under oath at a Planning Board hearing. We have had other applications come in that have fallen prey to the six-floor limit; most notably one that is under the name of High Horizons on Juline (phonetic spelling) and Atlantic. The nine-story building they had originally proposed had 45-foot planted areas around the border of the property. When CAFRA put the six-story limit on it, the building became shorter, wider, and it looks like an apartment wall. We now have a 10-foot planted buffer. We have lost the open space on that project, from a narrow, slightly taller tower, to a shorter, squatty, very unattractive, in my opinion, building. We have no right, or authority-- We have the right. We can deny them on aesthetics, but that is very shaky grounds. The applicant would like to build a more attractive building, but cannot do so.

SENATOR PALLONE: And yet, at the same time, CAFRA requires-- Supposedly, CAFRA requires that they take the aesthetics of it into consideration.

MR. WOOLLEY: Well, I don't know who looked at the aesthetics on this one, but I can get you the plans and show them to you. I don't think their definition of aesthetics and mine concur.

You and I both, and the rest of the residents of the city, I think, all read "Entertaining a Nation" when we were in elementary school -- that WPA project that was drafted in 1934. Well, if you go back in there, they pointed out that the two goals of the government of the city were to clean up the decrepit buildings on South Broadway and to complete Ocean Boulevard. That was drafted in 1934. Fifty-three years later, we've got the buildings demolished and a new hotel going up, and we've got Ocean Boulevard completed. The hotel could have been accomplished about the same time as the Boulevard. The two or three years that have been added on to that process are due solely to their wrestling back and forth with CAFRA. CAFRA has involved itself in design, building color, landscaping, things which I feel rightly belong in local control. I think that doesn't exist.

The promises and the representations today have been that that will be returned -- the authority will be returned to the local level. Having been born and raised in the shadow of Monmouth Park, I put a lot of reliance in something that all your touts will work on over there called "past performance." If past performance is any indication of what is going to happen, that will not be the case, and we will have further bureaucracy, and it will further impede a town like Long Branch, which sorely needs redevelopment. It is happening now. I think that if you drop this threshold from 24 to three units, you might as well just raise the interest rate five points, because you are going to do the same thing as far as any type of urban redevelopment goes in Long Branch or Asbury or any of the other towns that have the same type of problems. That is why I would urge you to fine-tune this legislation a little bit to take into account the specific problems that I know you, and specifically Senator Gagliano, share with us here in Long Branch.



SENATOR PALLONE: Well, do you think the idea of-- You basically obviously understand, you know, what has been put forth in terms of how the legislation is supposedly being drafted. We won't actually see it until next week, but the general idea is that we are going to take in more under CAFRA jurisdiction, lower the threshold, which will directly apply to Long Branch, but at the same time have the permitting process, in a sense, be administered locally.

MR. WOOLLEY: How about the regulations? Are they still going to be promulgated by the will of the bureaucrat in Trenton?

SENATOR PALLONE: I used the example before of a development that would be directly on the ocean; presumably, the guidelines in terms of siting certain areas that would either not be for development at all, or where development would be discouraged. The criteria that the local board is supposed to apply would be promulgated on the State level by the Commission, through the master plan or through regulation, whatever, but the local board would be at least the initial arbiter of whether or not a project should get a permit.

I would hope that that process would streamline things to some extent, but at the same time, at least in theory, the local board is going to be applying the same principles that CAFRA now applies on the State level. So, at least the characters -- the people applying the regulations are going to be different, but not the regulations.

MR. WOOLLEY: I am trying to understand what those principles are that we would be applying, because if they are CAFRA principles--

SENATOR PALLONE: Yeah, supposedly that is exactly it.

MR. WOOLLEY: --it is kind of like Monty Hall and spin the wheel and pick out your principle of the day, because they vary from application to application. They are not consistent.

SENATOR PALLONE: Yeah, but the only thing is, now you are going to be applying them, as opposed to someone who is in Trenton who is a project manager.

MR. WOOLLEY: As long as the local governmental people -- yourself as a Councilperson, myself as a planner, and the other individuals who are involved in those processes -- have the input into the creation of these principles, yes, I can see the benefits of it. But there is a little hesitancy on my part to, you know-- I sense a lot of a Big Brother type of an approach to this, and that is something I have had very poor experience with in the past, specifically with CAFRA.

I am just urging you to proceed cautiously.

SENATOR PALLONE: In other words, it is not the lowering of the threshold per se that is the problem. Rather, it is how the regulations are going to be promulgated and who is going to be administering them, in a sense.

MR. WOOLLEY: If the threshold were to be lowered tomorrow and CAFRA would be administering them as they are today, I would be vehemently opposed to it. Okay?

SENATOR PALLONE: Okay, I understand that.

MR. WOOLLEY: If the threshold is to be lowered and the principles that are to be applied are developed jointly by ourselves and the surrounding municipalities that would be affected by these principles, fine. I don't have any problem with that, as long as we have the input and the control over our destiny. I don't like someone from another section of the State telling us how we should develop a certain area in our city, when we have lived with it for our entire lives, and we have discussed it and studied it and worked on it. You know, that, to me, is a principle that I don't particularly like. They may have some input, they may have some good ideas. I am certainly willing to sit down and listen to them, but I don't like those people being the final people making the decisions about what happens in our town.

SENATOR PALLONE: Even if all your expectations bear fruit, you still have the phenomena of appeals to the Coastal Commission or to the regional council, too.

MR. WOOLLEY: There are appeals now, but as Mr. Manning pointed out, I think with the Driftwood situation, the appeals are very costly for any applicant now who wishes to contest what, in some cases, I feel are erroneous decisions by CAFRA.

SENATOR PALLONE: The question of how those appeals are going to be handled, and making it easier to take them, is another thing we have to look at, because if a citizen group, for example, or a group of citizens can't take an appeal because it becomes too costly, or a developer can't because it becomes too costly, then it is not worth even having. So, we have to look into that, as well.

MR. WOOLLEY: That is a valid concern. I don't have an answer for you on that one.

SENATOR PALLONE: All right. Thanks a lot.

MR. WOOLLEY: Thank you.

SENATOR PALLONE: Ms. Catherine Dick, a concerned citizen.

C A T H E R I N E D I C K: Right, and a property owner, too.

My name is Catherine Dick. I live at 5 Avenel Boulevard in Long Branch. As far as the wetlands are concerned, the wetlands help to absorb the excess water that collects in a certain area. To disturb that is to exacerbate the already flooding problem that I have in my area. North Long Branch is the lowest point, at sea level, in Long Branch. Where you are building a hotel, and down that way, you have a high buff you are sitting on. Over at our end of town, we are just about at sea level. When that ocean comes in and comes over the sea wall, that's it. Now that the new Ocean Boulevard's elevation is 12 foot, and the old Ocean Avenue is 11 foot, and they dug Avenel Boulevard out to 7.96, you have a

regular four foot of water collecting in front of my property in a heavy rain. If they are going to allow the wetlands to be covered, what else is that going to do to my property? I am having a structural engineer come in to see what I can do about my house, to see if it is getting ruined or what.

SENATOR PALLONE: You are concerned about the development at Jackson Woods. Is that mainly the problem?

MS. DICK: Sure, because that is helping to absorb the water, all that foliage over there, you know, the trees and all the grasses, and whatever they call that tall grass, and all. That helps to absorb the water, and hold the water. If you are going to cover that, it is going to compound the problem up there of the flooding. Okay, the wetlands, the woodlands-- Mother Nature has provided for different things to be taken care of. If the water filters down from the mountains, it purifies through the natural underground resources. But the way it is being developed now up there, it is really going to be a mess.

SENATOR PALLONE: I know that you have been to the different Planning Board meetings and Board of Adjustment meetings on different projects around where you are talking about.

MS. DICK: Then, you know, developers come in. They don't have enough land, and they want to squeeze whatever they want to put up on smaller lots, which is also going to make for less water absorption in the area. Look at how much land has been macadamized and built on since the highway was developed and opened, in my area alone.

SENATOR PALLONE: I am not trying to cut you short, but I think, you know, when you talk about specific problems, they have to be addressed as you have addressed them at the different Board meetings. But, in general--

MS. DICK: Also, you are talking about CAFRA, right?

SENATOR PALLONE: Yeah, I agree, but what we're saying--

MS. DICK: It all comes under CAFRA.

SENATOR PALLONE: I agree. In other words, hopefully with the changes that are being proposed under this Commission, we will have a larger amount of development that will be reviewed, either through the Coastal Commission or under CAFRA regulations.

MS. DICK: But I was under the same impression you were, that that PALS Project was still up for final approval.

SENATOR PALLONE: Oh, it is. What Mr. Woolley said-- I don't want you to get the wrong impression. What I understand from what he was saying is, before the Planning Board started its review of the Jackson Woods, or the PALS Project, they had some preliminary guidelines from CAFRA, but CAFRA has not finally reviewed the project. The hearing that you and Alice attended -- I think you were there -- was the formal public hearing on the issue. The document we received kind of outlined the preliminary approval, but there are a lot more things that have to be done before final approval is granted.

My own reading of that document seemed to indicate that if a significant number of things were not accomplished, maybe they wouldn't approve it. But I think that what Mr. Woolley is trying to say is, they at least gave the impression that if certain conditions are met they will approve the project, contrary to what Councilman Manning was saying about the Peninsula House, where they said, "Look, there is no way we are going to approve this." They just said, "You will have to do something else. You will have to go under CAFRA -- 24 units. There is no way we are going to approve it." They at least told them, "Look, we are likely to approve it, but you have to meet all these conditions." That does not mean those conditions have been met, and if they are not met, they will not approve it. So, it's a little vague, but I think that's what we were saying.

MS. DICK: Well, I just hope that everything works out to the benefit of us.

SENATOR PALLONE: Okay, thank you. Does anyone else wish to address the Committee? (no response)

Let me just thank all of you for coming. I know the afternoon session seems to be less interesting because a lot of the media are not here, but the bottom line is that this Committee is really paying a lot of attention to what has been said here and what will be written in the transcript. We also plan to have more hearings on this issue. Today we stressed the land use and master plan aspect, but there will be other opportunities to talk about the financing, which is something there is a lot of concern about -- how the Commission is going to be financed; whether there will be stable funding; whether bonding will be permitted; what types of general revenue sources are going to exist; and also the Commission's power with regard to enforcement. How will it play a public advocacy role, and to what extent will it be bringing suits? And, what kind of power will it have to bring enforcement action, as well as the whole question of the citizens' role? One of the things I think came up today is-- You know, we can talk a lot about the Commission's power, but what role do the citizens play in the whole process? How can we make it easier for citizen participation, hopefully at a low cost, wherever possible?

So, we are going to be continuing all of that discussion. I just want to thank everyone for coming. Thank you, Erica; thank you, Pat, and the reporter-- Your name is?

HEARING REPORTER: Anita.

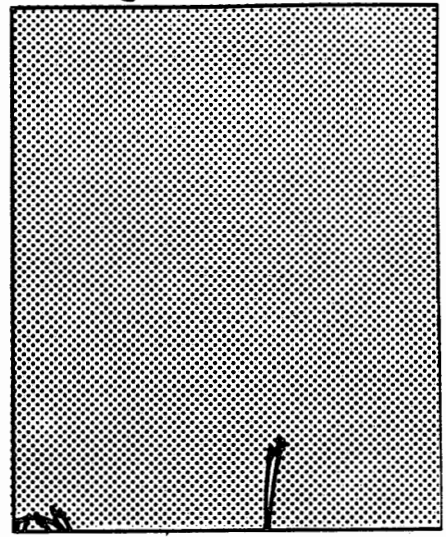
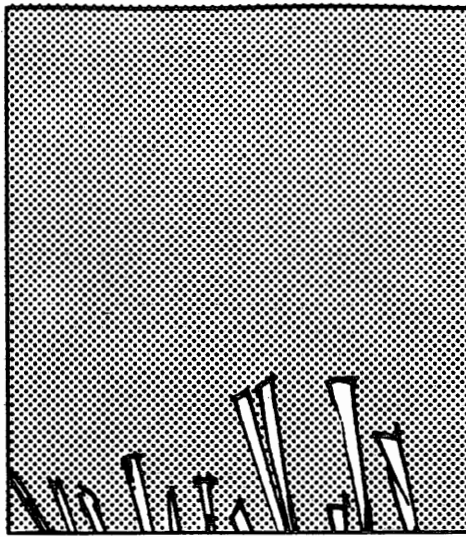
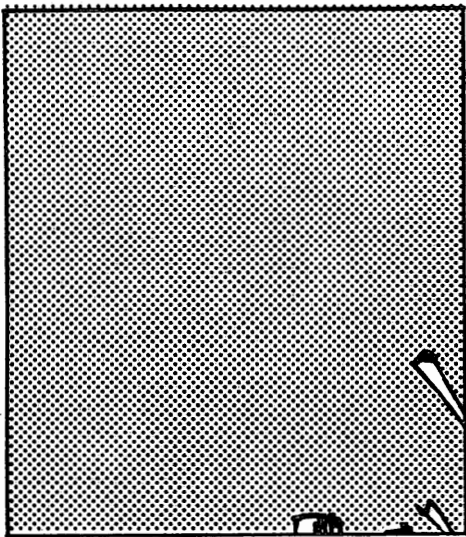
SENATOR PALLONE: Thank you, Anita. We will now close the hearing.

(HEARING CONCLUDED)

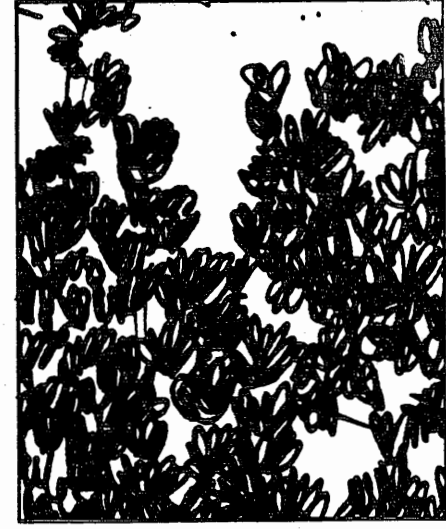
## **APPENDIX**







**A  
PROPOSAL  
FOR  
THE  
COAST**



**NEW JERSEY**

**COASTAL COMMISSION**

**JULY 1987**





STATE OF NEW JERSEY  
OFFICE OF THE GOVERNOR  
CN-001  
TRENTON  
08625

THOMAS H. KEAN  
GOVERNOR

June 30, 1987

Dear Friend of the Coast:

The ocean and shore and nearby coastal communities have long been an important part of New Jersey. In the 1800's, the Shore was the center of fashionable America. Presidents Grant, Arthur and Harrison spent summers there. Today, the shore is a vacation area for millions and the solid foundation on which rests our second largest industry -- tourism.

Unfortunately, the region is not without its problems. From litter on beaches to stormwater management inland, we are faced with potentially disastrous threats to the future of the coastal region and, consequently, to the future of our State.

We have spent the past several months reaching out to you, discussing in detail the problems confronted in different regions along the coast. We have talked to you about steps that must be taken to correct these problems. My proposal to you is the result of these many conversations -- the establishment of a New Jersey Coastal Commission. With comprehensive planning, regulatory and financing powers the Commission will bring regional management to our coastal area and accountability to the protection and improvement of this vital part of our State.

The process we have begun will continue in earnest. Our discussions and exchanges of information will occur in the halls of the Legislature and along the coast. I am asking you to participate, to work with us in crafting and bringing about this solution. Time is short.

Sincerely,

A handwritten signature in cursive script that reads "Tom Kean". The signature is written in dark ink and is positioned above the printed name and title.

Thomas H. Kean  
Governor

A PROPOSAL FOR THE COAST:

THE NEW JERSEY COASTAL COMMISSION

THOMAS H. KEAN, GOVERNOR

JULY, 1987



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## EXECUTIVE SUMMARY

In his January 1987 State-of-the-State message, Governor Thomas H. Kean announced a major new coastal initiative for New Jersey. In developing this specific proposal, an aggressive outreach effort has been conducted and aimed at mayors, other local officials, interest groups, and others along the New Jersey shore. The material contained herein describes the goals of a comprehensive coastal policy for New Jersey, problems confronting coastal communities as described by representatives of the area, and a proposed solution -- The New Jersey Coastal Commission.

### Goals

The principal goals of the New Jersey Coastal Commission are to preserve and enhance the environment of New Jersey's shore area and to maintain the long-term economic viability of the region. Achieving these goals will improve the quality of life for all New Jerseyans.

### Problems

The many municipalities spanning the eight counties which comprise the coastal zone are a diverse set -- each are confronted by circumstances particular to them. Regional differences are large. But despite the variety, shore leaders have identified the most important problems in the area. Issues of concern include water quality, shore protection, land use management, regulatory inefficiency, ocean disposal, beach quality, and financial needs.

### Solution

Coastal leaders recognize the importance of a coordinated, regional governmental approach to coastal management. Creation of a strong, central body is welcome provided sufficient safeguards are included to guarantee regional representation, local participation, and sufficient funding.

Briefly, the New Jersey Coastal Commission and its responsibilities are as follows:

o Structure

- Eleven members which will include municipal or county officials, representatives of environmental organizations, business interests, marine trades, and existing State agencies.
- Four permanent regional advisory councils, with chairpersons to serve as Commission members.
- Jurisdiction over the entire coastal region as defined in CAFRA.
- Offices in the coastal area.

o Planning

- The Commission will develop a comprehensive shore Master Plan with components covering shore protection, water quality, land use, financial management, areas of critical water supply, economic development, transportation, conservation of natural resources, and preservation of areas of unique, historic, cultural or recreational value.

o Implementation and Regulation

- The Commission's mandate is to streamline the present regulatory framework for shore activities.
- Permitting authority will be delegated to localities for implementation in conformance with the Master Plan. An appeal process to the Commission will be established.
- The appropriate Division of Coastal Resources personnel and functions will be moved from DEP to the Commission.

o     Financing

- There are three categories of expenditures: capital funding; aid to local governments; and funding for Commission activities.
- The Commission will be eligible to receive funds from any source allocated for shore purposes including existing and new sources of revenue. The Commission will be empowered to develop and recommend to the Legislature new sources of funding. Possible revenue sources include State appropriations and federal grants; contributions from authorities; realty transfer fees; impact fees or developer assessments; general obligation debt; or revenue bonds.

o     Advocacy

- The Commission will pursue an advocacy role in negotiations, discussions, and litigation on issues driven by forces outside the shore area but which clearly impact the region. This includes interstate disputes, interactions with federal agencies, pursuit of funding, and recommending marine science research.



**PROBLEMS CITED BY SHORE LEADERS**

THE UNIVERSITY OF CHICAGO

## WATER QUALITY

- o Nonpoint sources of pollution are largely uncontrolled due to insufficient stormwater mapping, planning and management. There are insufficient resources for enforcement of local health codes relating to septic systems and a lack of funding for system improvements and adoption of best management practices, such as more frequent street sweeping.
- o Coastal sewage treatment facilities sometimes fail to meet wastewater discharge standards due to overloading, poor operation or the need for system upgrading. There is no funding source which can favor shore-area projects. Capital upgrading is needed to prevent infiltration of sewage systems by high tides.
- o Ocean outfalls from industrial sources must be monitored to ensure compliance with standards and determine impacts on water quality.
- o Confusion exists over who is responsible for marina regulation. In some areas, there are violations of laws regarding the use of holding tanks on boats (e.g. direct discharges) resulting in degradation of bay water quality. Problems extend beyond marinas to houseboats as well.
- o Saltwater intrusion threatens many local water supplies, requiring costly development of alternative sources. A need exists for detailed maps of potable water supplies.
- o General water quality standards are adopted by the state consistent with goals and guidelines prescribed in the Clean Water Act. Monitoring and research is continuously needed to ensure that standards are correct and being met.
- o Water quality and its effects on the fishing industry require diligent monitoring and research.
- o Water quality and its effects on human health are of paramount concern. The existing water quality measurements relevant to public health recently have been questioned.
- o Wastewater discharges and garbage from New York pollute Raritan Bay and northern New Jersey waters.

## SHORE PROTECTION

- o Beach erosion is a serious problem for many coastal communities. Unprotected dunes and inappropriate land uses combine with natural forces to accelerate beach depletion.
- o Other coastal communities are experiencing problems caused by beach growth. Increases in beach size often result in clogging of outfalls and backup of sewers. In addition, a false sense of security is created during storms.
- o Coordination of local and county emergency management teams is needed.
- o Inlet maintenance is essential for maintaining safe and navigable waterways for both commercial and recreational boat users.
- o Back bay dredging is another often neglected component of shore management. Recent federal legislation authorizes large sums of money but only if states are willing to share the responsibility. Two principal obstacles are: first, scarcity of funding; and second, the need to designate disposal sites for dredge spoils.



## LAND USE

- o Already one of the most highly developed regions of the State, land use management problems are intensifying as development and redevelopment pressures build. The CAFRA loophole, restricting regulation to developments with 25 units or more, essentially leaves over half of shore development uncontrolled.
- o Local planning boards often lack the regulatory "tools or clout" to deal effectively with developers. Projects which have regional impacts are planned on a local basis.
- o The appropriate number of marina spaces is a point of contention in many towns. In some areas boaters complain of decreasing numbers of boat slips, while local residents complain of noise and pollution from existing marinas. Yet other areas are experiencing rapid development and a growing concentration of marinas.
- o Land values are escalating rapidly, frustrating efforts to acquire open space. In some cases, immediate action is needed to preserve the few remaining parcels of undeveloped land.
- o Aquifer recharge is impaired by inappropriate development practices.

## REGULATORY INEFFICIENCY

- o Dual control over land use (local ordinances and CAFRA) creates a confusing, frustrating and duplicative "double veto" for those who wish to undertake a wide variety of projects in the shore area.
- o State and federal agencies frequently do not coordinate their regulatory requirements, permit issuance deadlines, etc. and frequently do not provide sufficient public outreach to inform those who would undertake projects of the relevant permit requirements.
- o CAFRA regulatory decisions are sometimes slow and insensitive to local needs and problems. The permit process is often not coordinated with local government creating uncertainties in decisionmaking.
- o Many important shore issues -- e.g. land use, transportation, stormwater control -- have broad regional impacts but are not regulated on a regional basis.

## OCEAN DISPOSAL

- o Woodburning activities at sea include old dock and boat debris. Billowing plumes of smoke alarm beachgoers and stray wood is hazardous to both boaters and swimmers.
- o Sludge disposal at 12 miles (more than 4.5 million tons per year) has long been suspected of contributing adversely to water quality. Relocation out to 106 miles is scheduled for December 15, 1987. Enforcement will be critical so as to ensure that no illegal dumping occurs on route to the 106 mile site.
- o Dumping of dredge materials six miles off shore may introduce toxics and heavy metals to the marine environment. An alternative site at least 20 miles from shore must be found within three years, for disposal of contaminated dredge materials.
- o Proposals to permit ocean incineration of hazardous wastes have generated significant public concern over the health and environmental effects of such activities.

## BEACH QUALITY

- o Solid waste from the marine transfer operation at the Fresh Kills Landfill in Staten Island continues to wash onto New Jersey's shore.
- o Litter from beach users and floatables, especially plastics, from a variety of sources continue to foul our coastline.
- o Accessibility to the shoreline, both for swimmers and fishermen, is sometimes limited. This can be caused by limited parking facilities, difficult traffic conditions, private ownership of beach property, high entry fees, and/or the number of passes issued.

## FINANCIAL PROBLEMS

- o Underlying most of the shore problems is a lack of financial resources.
- o Funding must be derived from a consistent source. A predictable flow of revenue is vital to long range planning.
- o Money is needed for capital projects, local planning, implementation and enforcement of programs.
- o Preliminary revenue needs estimates include, at a minimum:

Wastewater and  
stormwater systems  
Marina facilities  
Transportation needs;  
especially parking \$20 million/year  
Open space/recreational  
land acquisition  
Economic development projects

Shore protection  
Inlet maintenance \$15 million/year  
Back bay dredging

Support for local  
stormwater/non-point  
source pollution planning \$ 2 million/year

Support for comprehensive  
regional land use planning \$ 2 million/year

Support for litter control \$ 1 million/year

- o Present estimates for the overall funding needs for shore problems are staggering. The State wastewater project priority list indicates that \$125 million is needed for the shore area. Sewer costs ineligible for federal funding are not even reflected in this estimate. Planning for stormwater and non-point source pollution management will cost \$7 million along the shore. Actual management of stormwater and non-point source pollution is estimated at as much as \$1 billion in the coastal region. Miscellaneous coastal zone management programs, at present, cost \$4 million/year.



**SOLUTION: THE NEW JERSEY COASTAL COMMISSION**





### PRINCIPAL GOALS

- o To preserve and enhance the environment of New Jersey's shore region.
- o To maintain the long-term economic viability of the shore region.
- o To provide a comprehensive approach to managing growth along the coast, noting regional differences and acting in close cooperation with local governments.
- o To protect the ocean's renewable resources by improving the quality of near coastal waters and coastal habitats.
- o To preserve and enhance the historic, cultural, and recreational aspects of our coastal region.
- o To improve the quality-of-life for all New Jerseyans through a continued commitment to the coast.
- o To develop the financial resources needed to meet these goals.

## STRUCTURE

- o Composition: Membership on the Commission must represent all important interests, in particular, local and county governments, business and environmental interests, and the development community.

The Commission will consist of 11 members, selected as follows:

- 4 Chairpersons of regional advisory councils which are made up of municipal or county officials or members of the general public representing different coastal regions will serve ex officio.
  - 5 members will be appointed by the Governor with the advice and consent of the Senate. They will be,
  - 1 representative of environmental organizations;
  - 1 representative of developers' interests along the coast;
  - 1 representative of the fishing industry;
  - 1 representative of the tourism industry; and
  - 1 member from the general public residing in the area.
  - In addition, the Commissioners of the Departments of Environmental Protection, and Commerce and Economic Development will serve ex officio.
- o Jurisdiction: The entire coastal region, as defined in CAFRA, will be included in agency planning, regulation and financing activities. Included in the CAFRA area, which comprises 18% of the State's land area, are 126 municipalities in eight counties (Cape May, Salem, Cumberland, Ocean, Atlantic, Burlington, Monmouth, and Middlesex).

- o Regional Accountability: Four permanent regional advisory councils will be created to provide input to the Commission by citizens and local officials. Members will be selected by county governments on a proportional basis. Each council will elect a chairperson who will automatically qualify to be a member of the Commission. These councils will perform numerous important functions. They will advise the Commission on development of the Master Plan (described below), on guidelines for local implementation of the Plan, on setting priorities for financing, and on the adoption of all regulations.

Balanced geographic distribution is paramount in the establishment of councils. Region 1 will consist of Middlesex and Monmouth Counties. Region 2 will consist of Ocean County. Region 3 will consist of Atlantic and Burlington Counties. Region 4 will consist of Cape May, Salem, and Cumberland Counties. Communities represented on the councils should reflect the diverse set of conditions along the shore. For example, coastal, back-bay and inland; developing and developed; and urban, suburban, and rural towns should be represented within the councils.

- o Local Access: The agency's main offices will be located at the shore; smaller regionally located offices also will be established.
- o Gubernatorial Oversight: The Governor will have the power to veto the minutes of the agency.
- o Legislative Oversight: By providing a share of the Commission's budget through general appropriations, legislative review will be assured during the annual State budget process. In addition, the Senate will provide advice and consent on the five public members appointed to the Commission by the Governor.

- o Public Input: The Commission will conduct an annual conference, open to the public, in order to:
  - review its activities over the preceding year;
  - solicit feedback on the effectiveness of Commission supported activities; and
  - provide working forums on separate, new or continuing regional problems which require Commission action.
- o The Commission will adopt guidelines for public participation beyond the annual conference in all Commission and local actions affecting the Shore.

## FUNCTIONS

### Financing

- o The Coastal Commission will oversee three major categories of expenditures:
  - capital financing;
  - aid to local governments (counties and municipalities) for planning and plan implementation expenses; and
  - funding for Commission activities.
- o Any revenues generated by the Commission would be used for projects that benefit the coastal area directly.
- o Capital projects which may be undertaken or assisted by the agency include:
  - wastewater treatment/collection;
  - open space/recreation land acquisition;
  - non-point source pollution/stormwater facilities;
  - beach erosion/shore protection;
  - beach growth;
  - alternative water supply projects;
  - inlet maintenance and dredging;
  - public marina facilities;
  - transportation facilities, especially satellite parking; and
  - economic development projects (for example, fisheries development).

- o Aid to local governments could include the following:
  - planning assistance;
  - support for water pollution control efforts (best management practices);
  - support for local water quality monitoring efforts;
  - support for local litter control efforts;
  - support for all other local implementation of the Master Plan required by the Commission; and
  - support for capital projects.
- o Commission activities will include day-to-day operations of the staff in the development, implementation, and oversight of a comprehensive Master Plan.
- o Some projects, such as wastewater treatment, will be funded through user fees. Others, such as open space acquisition and regional stormwater projects, will be supported by bonds to be repaid from revenues of the agency.
- o The Commission will perform a comprehensive review of the capital needs of coastal communities.

#### Revenue Sources

- o Clearly a variety of funding sources will be required to support the activities of the Commission.
- o The Commission will act as a conduit for all shore-related funding, including State and federal appropriations.

For example, the State appropriates approximately \$2 million/year for the CAFRA program which will be funneled through the Commission. A share of statewide litter control appropriations will likewise come through the Commission. \$20 million in State appropriations will be budgeted once the Commission is established.

The State at present receives \$2 million/year in federal CZMA grants and anticipates funding for non-point source pollution planning. The Commission will act as a strong advocate for additional federal funds and for directing an appropriate share of statewide federal appropriations to the coastal region.

- o The Commission will have the authority to develop new funding sources and make recommendations for these to the Legislature. Any new funding source must not burden year-round residents. There are numerous possibilities, for example:

- Senator Gormley has developed a proposal for establishing a Consolidated Regional Financing Authority. Under this model, contributions from authorities would be used to meet costly local needs of regional benefit.
- Senator Hurley and Assemblyman Collins have introduced legislation amending the purview of the Delaware River and Bay Authority to include economic development projects.
- The Gormley/Villane Natural Trust legislation will increase the realty transfer tax to fund shore protection projects at \$10-15 million annually.
- Impact fees or developer contributions could be used to lower the public share of capital costs related to development. Studies are underway to determine specific implementation mechanisms nationally and their applicability to New Jersey. Based upon a comprehensive review of the capital needs of the region, developers will be assessed a small percentage of the infrastructure costs affected by their projects.
- Revenue bonds backed by dedicated revenue or user fees would be issued to meet capital needs.
- State general obligation debt could provide an infusion of funds to be leveraged for the long term through no- or low-interest loans.

- o We anticipate that by including State appropriations and new revenue sources, supplemented with impact fees and project-specific user fees, approximately \$35-45 million annually will be generated for the coastal region. Leveraging through loans, meeting backlog and future capital needs through revenue bonds, and undertaking substantial pay-as-you-go programs all would be possible under this model.



## Planning

- o The Commission will develop a comprehensive shore Master Plan, with components covering:
  - shore protection;
  - water quality;
  - land use guidelines;
  - financial management;
  - transportation;
  - areas of critical water supply;
  - conservation of natural resources such as wetlands or other habitats;
  - areas of unique, historic, cultural or recreational value; and
  - economic development.
- o The legislation will close existing gaps in CAFRA jurisdiction. The 25-unit CAFRA limitation will be changed in accordance with amendments being developed by Assemblyman Villane. The Commission will require stringent review and controls over single dwelling units and all commercial projects directly on the coast, with lesser controls and review in a band extending 1000 feet upland from the coast, and relax current CAFRA policies in areas targeted for growth.
- o State and local actions will be coordinated through a single set of performance standards which will guide land use practices within the region. The standards will be developed with input from county and municipal planners, regional advisory councils and substantial public participation.
- o Local governments will be expected to revise their existing municipal plans and ordinances to conform to the Master Plan, and to implement those plans.
- o Development of the Master Plan will be closely coordinated with the efforts of the State

Planning Commission and the Pinelands Commission.

- o The Commission will review, update and implement the Shore Protection Master Plan.
- o The land use plan will include guidelines for housing, campgrounds, and commercial development; distribution of marina space; other recreational access points; and the coordination of open space acquisition and protection efforts.
- o The Commission will provide for local implementation of a land use control program. An appeals process will be established whereby local implementation actions can be referred back to the Commission.
- o The water quality plan will include regional approaches to stormwater and other non-point source pollution problems. An inventory of low cost local actions (best management practices, such as street sweeping, sewer cleaning, and mapping of stormwater drains) and a schedule for implementation of these as well as regional capital projects will be incorporated into the plan. A separate priority list will be developed for shore-area wastewater projects. The water quality plan will be developed in close coordination with areawide water quality management plans and the Statewide Water Quality Management Plan.
- o The financial component of the Master Plan will ensure equitable distribution of State and federal aid in accordance with regional priorities and provide for the development of model municipal shore-related budgets.
- o The transportation plan would recommend improvements, including parking facilities, bus routes or other methods of mass transit, road widening, and intersection improvements to ease congestion in crowded areas.
- o Other plan components will address the relationship between development and water supply, review economic development activities (e.g. fisheries, convention centers), address the need to conserve precious natural resources and habitats which are of critical commercial value to the fishing and tourism industry.

## Implementation and Regulation

- o The first priority of the Commission will be to streamline the present regulatory framework for shore activities.
- o By transferring from DEP those staff members involved in the implementation, within the coastal zone, of CAFRA, the Waterfront Development Act, and the Wetlands Act and combining this group within the Commission, a single regulatory path will be followed.
- o The DEP will continue significant shore functions through its Divisions of Water Resources; Fish, Game & Wildlife; and Parks & Forestry. However, a one-stop-shopping approach for all federal, state and local permits/approvals will be established within the Commission.
- o Regulatory responsiveness and clarity will be further enhanced through the existence of shore offices.
- o In order to ensure fair application of all regional plans and controls, the Commission will require local governments to adopt plans consistent with the Master Plan and to take all actions necessary to implement those plans.
- o The Commission would provide technical, planning, and financial assistance to local governments for the development of such plans, and would condition grant and loan awards upon successful implementation of the programs for which the financial assistance is intended.
- o The Commission would recommend changes to water quality standards and effluent limitations to DEP, which is charged with adopting such rules under federal law.
- o The Commission would adopt regional guidelines, modeled on a strengthened CAFRA program, which would form the basis for local land use control ordinances. These guidelines would recognize legitimate differences in project size and proximity to the shore in applying controls, rather than using arbitrary size and/or location criteria.

- o This approach will simplify the regulatory climate in the shore area, by placing land use decisionmaking in local hands, with oversight by and appeal to the regional advisory councils and the Commission. In doing so, the Commission will remove the current "double veto" situation created by joint local/CAFRA decisionmaking.
- o The Commission can, at its own volition, require review of any local government approval. Any applicant denied approval, or an objector to an approval, may also petition the Commission to review a decision. In addition, the Commission will employ an independent land use/environmental expert who will audit local governmental land use decisions for compliance with the coastal Master Plan. The auditor will make regular reports to the Commission advising it of deviations from the Plan and recommending corrective action.
- o To facilitate regional decisionmaking, first-time appeals will be heard by the regional advisory councils acting as dispute resolution boards. Absent successful resolution of any problems, the Commission will hear the appeal.
- o The Commission would adopt stormwater management and non-point source pollution guidelines and performance standards, including recommendations as to best management practices. This will include sanitary measures such as street sweeping, sewer cleaning, animal waste control, design of retention basins, etc. In recognition of the regional importance of non-point source pollution problems, eligibility for grants and loans would be conditioned upon local implementation of the guidelines.
- o The Commission will review the use of funds and shore-related revenues, to ensure that investment in the resource reflects local returns from it. The Commission will withhold a variety of State and federal funds (litter control, shore protection, dredging etc.) from municipalities which do not comply with guidelines. In other cases, regions and municipalities that comply with Commission guidelines, will be eligible to apply for increased financial assistance.

- o The Commission will adopt guidelines for inspection and cleanup of beaches and marinas. Incentive programs will be developed to facilitate litter cleanups. Volunteer programs for beach cleanup activities will also be encouraged utilizing successful models from other states such as Florida, Texas, and Massachusetts.

## Advocacy

- o The Commission will pursue an advocacy role in negotiations, discussions, and litigation on issues driven by forces outside the shore area but which clearly impact the region, e.g., Fresh Kills Landfill, Delaware territorial claims.
- o The Commission will advocate for strongest possible enforcement of ocean disposal activities (including transfer of disposal to the 106 mile site), and for federal funding of State oversight.
- o New disposal sites proposed by the federal government will undergo stringent review to determine their impacts on the shore region.
- o The Commission will interact with research institutions to identify gaps in marine science data applicable to New Jersey.
- o Health effects research and research into the effects of water quality on fish and shellfish, will be advocated by the Commission, to determine the relationship between pollution and effects on human health, and the impact on related industries.
- o The Commission will serve as an advocate for State and federal funds to be applied in the coastal region.

STATEMENT BY WILLIAM G. DRESSEL, JR.  
ASSISTANT EXECUTIVE DIRECTOR  
NEW JERSEY STATE LEAGUE OF MUNICIPALITIES  
BEFORE THE COUNTY AND MUNICIPAL GOVERNMENT COMMITTEE  
ON SENATE 3398, ON THE EXPANSION  
OF COUNTY PLANNING BOARD POWERS

Monday, June 15, 1987  
2:00 p.m., Room 408  
State House Annex

The League of Municipalities opposes Senate 3398 as presently drafted.

While we recognize the need for an area-wide coordinated approach to growth management, and while we agree that the County is the appropriate agency for taking that approach, we oppose the specific provisions set forth in S-3398 because it transfers an unnecessary degree of planning authority to the county level. This bill would mandate the adoption of County master plans and would require consistency of all elements of the municipal master plans with the County plan. It also requires review and certification of all development applications having a potential regional impact on the County.

The League has been actively involved in formulating a policy framework to serve as a basis of legislation which will address areawide growth pressures. We have advanced the following four propositions for achieving legislative relief in this area. They are:

1) The planning process, as it relates to regional growth development coordination, should begin on the municipal level and build up. The control and administration of land use shall remain at the municipal level. County master plans should, therefore, be formulated on the basis of the constituent municipal master plans and should reflect their provisions. To achieve this the committee has proposed a detailed 18 month process for achieving consistency between those elements of the municipal master plan and the County master plan necessary to achieve regional coordination of development. (A copy of our proposed timetable is attached).

2) The League believes that consistency between the County master plan and the municipal plan should involve only the four infrastructure areas of transportation, water, sewerage and drainage in contrast to S-3398 which would require consistency of all provisions of the plans. For conceptual purposes Infrastructure Development Plan (IDP).

3) The League's third tentative proposal calls for the creation of Land Use Arbitration Board (LUAB) which would resolve those inconsistencies between the county and municipal IDP's which were not resolved through the eighteen month cross acceptance mechanism. The committee feels that this third party approach is far better than allowing the county to unilaterally enforce consistency.

4) The Committee opposes any proposal requiring prior preliminary approval by the County Planning Board of "projects of regional significance." The Committee feels that, once consistency between county and municipal plans has been achieved through the process outlined above, prior approval by the county is unnecessary and inappropriate.

The Committee's posture attempts to preserve local planning authority in the face of strong support for strengthened county planning powers while addressing the clear need for a regional approach to growth coordination which exists in various areas of the state.

Although the regional growth coordination issue is most often perceived as centering around the relationship between counties and municipalities it should be kept in mind that a coordinated regional infrastructure approach will also address often expressed concerns by municipalities about infortractive demands on their own communities resulting from large development in neighboring municipalities over which they currently have no control whatsoever.

*(considered)*  
The League has sent these 4 propositions to our entire membership. We have received ~~a~~ *an* overwhelming degree of support for undertaking a legislative approach which embodies this kind of thinking.

We applaud your desire to address this timely issue and we look forward to working with you and your Committee on legislation which addresses this problem.





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JOHN E. TRAFFORD, *Executive Director*

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

March 13, 1987

To the Mayor and Member of the  
Governing Body:

A rapidly developing issue of major importance to municipalities around the State is the extent to which development growth pressures require a new area-wide coordinated planning approach. A range of proposals emanating from the Governor's office, legislators of both political parties and several regionally oriented coalitions have issued a strong call for greatly strengthened county planning powers to address the need. All of the proposals generally would mandate the adoption of county master plans and several would require consistency of all elements of the municipal master plans with the county plan. Others would require review and certification of all development applications having a potential regional impact on the county. The most recent proposal is the "Transplan" package of bills, one of which deals with County Planning powers. Each of these proposals, although differing in details, would result in a significant shift of planning powers away from municipalities to counties.

In recognition of the growing pressure for such changes, the League has created a blue ribbon committee to formulate a policy framework to serve as a basis for legislation which will address area-wide growth pressures in a responsive and responsible manner while preserving local planning prerogatives to as great a degree as possible. This fifteen member committee includes members of the League's Executive Board and Legislative Committee. The committee which is comprised primarily of elected governing officials also includes persons with municipal planning and engineering perspectives as well as individuals with a county perspective.

The committee is now in the process of analyzing A-3289 dealing with County planning which is part of the Transplan package. The committee has tentatively proposed an alternative approach to the regional planning objectives presently set forth in A-3289 which they feel will preserve local autonomy to a far greater degree than would result from this bill as currently drafted. The committee has presented testimony outlining our tentative position and that testimony is enclosed. The League's position is based on the following four propositions:

1. The planning process, as it relates to regional growth development coordination, should begin on the municipal level and build up. The control and administration of land use shall remain at the municipal level.

County master plans should, therefore, be formulated on the basis of the constituent municipal master plans and should reflect their provisions.



# New Jersey COASTAL COMMISSION Draft Proposal

June 30, 1987

GROWTH REGIONS OF COASTAL ZONE

Development Regions \* (Blue Shaded Areas)

\* in proposed bill

