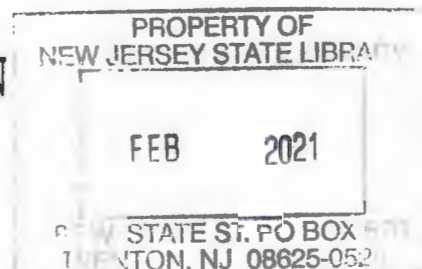


# Commission Meeting

of  
NEW JERSEY GENERAL AVIATION  
STUDY COMMISSION



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

**DATE:** September 26, 1995  
1:30 p.m.

## MEMBERS OF COMMISSION PRESENT:

John J. McNamara Jr. Esq., Chairman  
Frederick Telling, Ph.D., Vice-Chairman  
Senator William C. Haines  
Assemblyman Richard H. Bagger  
John S. Penn  
Linda Castner  
Peter S. Hines  
Suzanne Solberg Nagle



## ALSO PRESENT:

New Jersey State Library

Michael S. Hollan  
(representing Commissioner Gualberto Medina)

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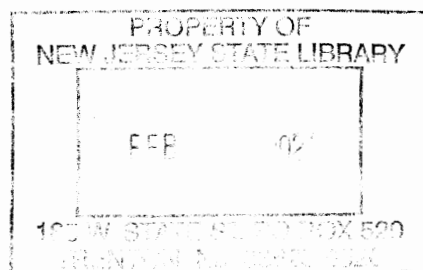
**Hearing Recorded and Transcribed by**  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625

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JOHN J. McNAMARA Jr., ESQ. (Chairman): Are we on the air? Are we registering?

HEARING REPORTER: Yes.

MR. McNAMARA: Should we do a mike test?

HEARING REPORTER: We already did one.

MR. McNAMARA: Okay.

I'm Jack McNamara. It is 1:38 on September 26. This is the September meeting of the New Jersey General Aviation Study Commission. I would like to call this meeting to order.

I would like to commence by calling the roll. Abe Abuchowski? (no response)

Assemblyman Bagger?

ASSEMBLYMAN BAGGER: Here.

MR. McNAMARA: Linda Castner?

MS. CASTNER: Here.

MR. McNAMARA: Ben DeCosta? Jack Elliott? Phil Engle? (no response)

Senator Haines?

SENATOR HAINES: Here.

MR. McNAMARA: Pete Hines?

MR. HINES: Here.

MR. McNAMARA: Mike Hollan?

MR. HOLLAN: Here.

MR. McNAMARA: Weslie Jost? (no response)

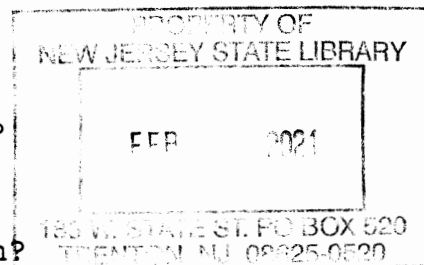
Jack McNamara is here.

Suzanne Nagle?

MS. CASTNER: She is here. She went out with Jack.

MR. McNAMARA: She's here? (affirmative response)

Joseph Odenheimer? (no response)



Jack Penn? Jack Penn is here, I know.

Fred Telling?

DR. TELLING: Here.

MR. McNAMARA: Henry Rowan? (no response)

All right, we have a quorum. Did everybody receive sufficient notice of this meeting? Any complaints about notice?

SENATOR HAINES: I didn't receive a notice. I just happened to talk to you, and you told me about the meeting. I have not received notices of these meetings.

MR. PENN: They're sent to the legislative office, Bill.

SENATOR HAINES: Well, they're not in the mail, Jack, I don't know. (laughter)

MR. PENN: Before you go today, we'll check the address again. But whatever we took out of the directory is where Theresa has been sending it.

SENATOR HAINES: The problem is, Jack, I don't even know what the address is because we're moving Monday.

MR. PENN: Okay. Do you want me to send it to the farm instead?

SENATOR HAINES: I'll have to get it to you.

MR. PENN: Do you want it to go to the farm instead? I'll send it to the farm if you want me to.

SENATOR HAINES: Well, we can have the meeting at the farm.

MR. PENN: Okay.

MR. McNAMARA: Fred, you didn't receive one? Mr. Vice-Chairman, did you not receive a notice?

DR. TELLING: Correct.

MR. McNAMARA: Okay, maybe we'll do something to straighten that out.

DR. TELLING: I mean, I had a notice of the date, but not the place or anything else. That's why I was trying to get in touch with you.

MR. McNAMARA: Right. Maybe we could--

MR. PENN: You got a letter, didn't you?

MS. CASTNER: Yes, but it's the same, it didn't say where it was or what time it was.

DR. TELLING: Right, where or when.

MR. McNAMARA: Of course, we know generally that we meet at 1:30 on the last Tuesday of each month. At least that is what we've been doing. We're going to be having interim hearings with, probably, a designated hearing committee as per our bylaws, such that we can conduct more hearings over the next several months.

But we'll try always to stick to the schedule of holding a meeting at 1:30 in the afternoon on the last Tuesday of the month. We hope that meeting will always be held in this hearing room. Nonetheless, I want you to get in touch with Theresa and get it straightened out.

We have a number of our Committee Chairman suffering a conflict today in that they are out in Las Vegas at the National Business Aircraft Association annual meeting. So we will not be having reports from the Municipal Relations Committee, the Airport Closures Committee.

I assume, Bill, there is no report in respect of the Airport Funding Committee? Hank Rowan called and said he wouldn't be able to be here.

SENATOR HAINES: No, we don't have a report.

MR. McNAMARA: The Reliever Airports Committee-- I'm going to ask Suzie if she will forestall her report until after we've received the testimony today. I know that her report is pretty much a collation of the questionnaires that have been resubmitted to her, to date. The resubmission is not complete, so it would only be an interim report. Finally, she'll be submitting her report as a written report.

I would ask, Suzie, that you would send that to us whenever you feel it is completed. Whenever you feel that you've gotten all the responses you're going to get and have them collated, just send that, mail that around-- Give that to Theresa and she'll send it around to the other members of the Commission.

On the Integration of Aviation in the State Transportation System Committee, handling that -- Chaired by Assemblyman Bagger, is there any report on that for today?

ASSEMBLYMAN BAGGER: Perhaps later in the meeting, Director Penn can give a report on the enactment of the Transportation Trust Fund and provisions therein relating to general aviation. I could say a word about the importance of the ballot question, the dedication of the gas tax.

MR. McNAMARA: In that event, we'll postpone that till after we've heard from our witnesses who are here.

Municipal Relations, Phil Engle is at NBAA; Airport Closures, Jack Elliott is at NBAA; and I think that concludes all the Committee reports.

We have with us today, AERO New Jersey, which is the association of airport owners and operators in the State of New

Jersey. Their President, Naomi Nierenberg, is here. I would like to ask her to come forward to give her testimony.

Any witness who comes forward to testify before this Commission is to be sworn in. The procedure of the Commission will be to hear his or her report and, thereafter, to answer such questions as any Commissioner would like to ask.

HEARING REPORTER: Excuse, Mr. Chairman, they have to sit at this table (indicating) or I won't pick them up for the recording.

MR. McNAMARA: All right.

J O H N L I N D E M A N N: I'm just used to sitting on the right in Legislatures.

MR. McNAMARA: Right table, wrong mike.

Ms. Nierenberg, do you swear that the testimony that you are about to give to this Commission is the truth under penalty of perjury?

N A O M I N I E R E N B E R G: Yes.

MR. McNAMARA: I see that John Lindemann is sitting next to you. Will he be giving testimony also?

MS. NIERENBERG: Yes, he will.

MR. McNAMARA: Mr. Lindemann, do you swear that the testimony you'll give before this Commission is the truth under penalty of perjury?

MR. LINDEMANN: Yes, I do.

MR. McNAMARA: Very well. The floor is yours. Please proceed as you will.

MS. NIERENBERG: I'm Naomi Nierenberg, President of AERO New Jersey. I want to thank you for the opportunity to



speak with and before you today. I speak for the organization rather than for Princeton Airport.

We all know that New Jersey's airports are in trouble. Our mutual goal is to try to find a way to reverse this situation. I'd like to give you some history of our organization and its purpose.

In the late '80s, as New Jersey's economic growth was soaring, the pressure upon the local airports was enormous from the neighbors, from the Realtors, from the government at every level, and from ourselves. A group of airport owners and operators met and formed New Jersey Association of Airport Owners and Operators, NJAAOO. The organization grew, but not as fast as the pace of the pressures cast upon them.

At one point, we lost six privately owned, public use airports in 18 months. Our monthly meetings became a game of "Can you top this?" But ours were not jokes. Our entry was who had the most and latest problems. We were at wits end, and we were preaching to the choir.

No one listened to us at any level of government. Decisions against us were fast and furious. Adverse legislation was wreaking havoc. There was no hope, especially in Trenton.

In an act of desperation, after the airport closings, we organized a march on Trenton. In 18 days from its inception, my Cochair from Allaire and I rallied the aviation community to picket the State House. Why not? We had nothing to lose. We carried signs shaped like tombstones with RIP and the many, many airport names which we had lost since the '60s. Our list included about 45 airports.

But we made one more sacrifice on that particular day: 75 percent of the airports put "Xs" on the runways and closed their operations. Remember, this means no revenue for a group trying to survive and no services to the public.

Our press was terrific. TV covered us there and at some of our facilities. The aviation community finally spoke out. We even got about a half hour with the Governor's aide to plead our case. So? Oh, yes, there was a Senate Transportation Committee hearing the following spring which was to be held in the morning in the chambers. It was so overflowing that they moved us into the auditorium, and we went on until way after 4:00. Again, so?

What did we want then? The Office of Aviation to be returned to the status of the Division of Aeronautics, tax relief -- nonrevenue producing land such as runways and taxiways should be exempt since we cannot restrict their usage, they should be treated as public rights-of-way -- preservation of the airports to assure that New Jersey has its vital links in the National Air Transportation System.

The then Air Safety and Hazardous Zoning Act should be enforced to its fullest. The State of New Jersey should acquire the clear zones. Anyone living within a three-mile radius shall be notified that they reside within the proximity of an airport. This should be written into the deeds.

The New Jersey Office of Aviation and DOT must be more responsive to the needs of the airports and its authority. Exempt airports from wetlands and treat airports like farms and golf courses.

Our return was minimal. Our influence in Trenton was nominal. Still, no one really cares--

MR. McNAMARA: I'd like that to stay on. (referring to microphone)

MR. LINDEMANN: Was that fine?

MS. NIERENBERG: Did you want that on? I'm sorry.

Still, no one really cares whether New Jersey's airports live or die. At least that's how we perceive it. We were and are fighting for the rules alone.

In the early '90s we tried a different tact. We changed our name to something less burdensome; hence, AERO New Jersey. We have an Executive Director, who has kept us abreast of legislation which might impact upon us. He does this for his love of aviation, as we really don't have funds. He and his staff do some of the everyday work, phone calls, letter writing, etc.

As airport ownership is not a nine to five job that you sit in an office with a multitude of staff, there is probably not one owner of a privately owned, public use airport who has not pumped gas during and after hours to accommodate a customer, plowed the snow, scrubbed the johns. We are a very hands-on industry because economics make it that way. Thus, serving on these committees requires precious time from our jobs and to have John Lindemann as our Executive Director has been a great relief.

What do we do as an organization? What we do is an organization need and want today to not only stem the tide but enhance the safety of the respective airports which we represent. Every other business is held in high esteem when it

expands, diversifies, improves, etc. When an airport attempts to build hangars, lengthen its runways not only for safety, but to provide services to a slightly larger class of aircraft which just might consume more fuel and, God forbid, make a little more money, you might as well been called subversive, because we dare not to have such thoughts. We have to couch our language and use catch phrases rather than state forthly our intentions because we might cause further upheaval with our neighbors.

We and you currently have a window of opportunity. Airports haven't closed in the past few years not because they don't want to, but because the demand for land and the economy has slowed down in New Jersey. No one is offering the lucrative dollars of the '80s, and you and I can hold on a little bit longer while this window of opportunity is there.

This morning, our organization met, and we came up with another list that we're presenting to you. Many of them are still the same issues, some of them have been expanded upon, but we are still here. John and I will go through that with you.

MR. LINDEMANN: Before I do, I would just like to provide an additional overview of where airports in New Jersey today stand. At the risk of oversimplifying the issue there are three different influences on the health and well are of aviation in our State.

One is what government does for it or to it as the case may be. Another is what the marketplace does: the industry itself and the users of the industry. The third is what happens locally in the host communities of the airports.

Now, government does things like provide AIP funding. Or at least we think they might continue to provide AIP funding, but that is uncertain. But they also force compliance of very costly regulations such as those dealing with the environment.

A newly invigorated industry plans to provide new aircraft. We've seen the new plant open to build Cessna 172s again out in Kansas. But whether or not a \$100,000 or \$120,000 aircraft is really going to invigorate the industry is yet to be seen.

Then, we have what happens locally. Well, I'm from New Jersey, and when I talk to aviation groups outside the State, I like to tell people that I'm from the most densely populated State in the nation and probably, also, the least tolerant of anything that people perceive to impact their quality of life.

We like to relive the colonial days here in New Jersey quite a bit, also: the Revolutionary War and our great history here. We've had the battles of Princeton, at least twice; the battles of Morristown, at least twice. We've got battles in places where they haven't fought them yet; places like Trinca, down at Allaire, and Lakehurst, and so forth.

Even people like U.S. Senator Lautenberg like to become part of the fray when they try to withhold funding in the Fiscal Year '96 Transportation Appropriations bill from one airport only -- one airport in the entire nation.

In addition to the day-to-day business problems and business challenges that airport owners face, they also face perceptions. What is an airport? Who uses it? How does it impact my life? These are all questions that far exceed just

the definition of an airport which is a departure point and an arrival point for aircraft. The perceptions often exceed the knowledge, and why not? Most of what people read and believe to be the facts are based on what people with a limited knowledge tell them. It is what reporters report in a news story. That perception is shaped by sources with little direct knowledge. The reporters themselves often have little direct knowledge of aviation and airport issues.

I said that New Jersey is the most densely populated State and is the least tolerant of anything that affects their quality of life. If you consider the list of facilities that are usually included in that you'll see why: chemical plants, solid waste disposal facilities, prisons, hospitals.

Now, all of those have unique impacts of their own. A chemical plant and a solid waste facility may have certain emissions associated with them. A prison has its own potential problems of escape. Hospitals -- I was involved in trying to site a psychiatric health care facility up in northern New Jersey at one time that didn't move forward because of what people thought was moving into their backyards.

Even though they all have their own unique impacts, they all have some sort of a public benefit. The one facility I didn't name in this list was airports, because that, too, has its own benefit -- unique benefit -- to the public good, as well as its own unique impacts.

Now, all those facilities also share a major common thread, and that is the negative perception that something will go wrong. It's Murphy's Law. Not only will something go wrong at that facility, it will be the worst possible thing. It's the

explosion at a chemical plant. It's an escaped convict from a prison, and unfortunately, it crashes at airports.

All this has created some terms that we're all pretty familiar with; one of those is NIMBY -- not in my backyard. Another of those is BANANA -- build absolutely nothing anywhere near anything. Some of those are relative only to politicians, which is NIMEY -- not in my election year -- and NIMTO -- not in my term of office.

But despite all of those perceived risks and despite other things that threaten airports, one of the greatest threats to aviation was the 1980's building boom. Farmland and open space turned into development. All of a sudden, we saw condos and \$400,000 and \$500,000 homes sitting where the downwind used to be -- in fact, where the downwind still is, unfortunately. You had a development move into one area of the State, and on the development map that was being used to solicit customers the logo of the development was over where the airport was supposed to be.

At another airport in this State, they receive regular phone calls -- it's the story told to me -- from Realtors wondering which runway is supposed to be the active runway for that day so they can show homes off another runway. Our new neighbors who have moved closer to airports moved in with a new attitude. We had hoped, in the aviation community, they might move in and repeat the litany of "to soar on the wings of eagles, touch the face of God," and all of those things. It was far from it. It was more like, "Who cares who was here first. We want you to close. You're too noisy. Or you can stay and

remain open, but please only do that on our terms and our terms are most likely 9 to 5 and maybe Saturdays but not Sundays."

That points to a serious land use planning problem around our airports that has existed for quite some time. It has contributed to the loss or helped contribute to the loss of an average of one airport per year over the last 20 years.

Vocal minorities have had the uncanny ability to attract attention to themselves and their cause. We've seen it time and time again for different facilities throughout the northeast -- the types that I mentioned earlier. The problems that arise-- These problems arise from misinformation, and the problems are devastating. The media starts reporting on something that seems to be kind of sexy and that is opposition to a facility. Then, the politicians -- the local politicians, in most cases -- are pressured into doing something, and that something usually isn't to the airport's benefit.

There was a story of a Congressman named, Congressman Bob McEwan, from California. Congressman McEwan was on recess at one point back in his district. He took his little son out to the local McDonald's. They visited the McDonald's, and he got a little kid's meal for his son. They sat down at the table, and Bob started eating his hamburger. He reached across the table to try to take one of his son's french fries. The son just backed off and pulled the french fries right back at him. Bob was a little bit shocked at that because he thought he had taught his son how to share.

Then, he thought about it a little bit longer, and he realized that his son had no idea where those french fries came from. He saw Bob walk into the McDonald's, put money on the



counter, and in return he got these french fries which were now being enjoyed by the son.

The son didn't realize that if Bob wanted to, he could bury his son in french fries just by walking over to the counter, putting more money on the counter, and coming back and doing that, or he didn't realize that he could also really take the french fries if he wanted to.

Now, what Bob thought about long and hard after that episode was, he really didn't care if he got a french fry from his son, but what he wanted from his son was a willingness to share the french fries.

What we would like in the aviation community is maybe a better willingness to accept the fact that most airports are beneficial to the public at large and to their local communities. We would like there to be maybe more of a willingness to be like eastern North Carolina. I would like to just read part of a letter to you that a businesswoman up in Blainstown received from the North Carolina East Economic Development Group.

"Dear Ms. Davidson (phonetic spelling),

"Are you tired of dealing with the high business costs, high taxes--

MR. McNAMARA: John.

MR. LINDEMANN: Yes, sir.

MR. McNAMARA: The name of that is the Eastern North Carolina--

MR. LINDEMANN: I've got part of a letterhead here. It was cut off on the fax, Mr. Chairman. It is North Carolina East.

MR. McNAMARA: North Carolina East -- is the Economic Development?

MR. LINDEMANN: In Greenville, North Carolina.

MR. McNAMARA: Thank you.

MR. LINDEMANN: Yes.

"Dear Ms. Davidson,

"Are you tired of dealing with high business costs, high taxes, and difficult working conditions? If so, consider eastern North Carolina, the better alternative for business and living. Thousands of people from New York, New Jersey, and Connecticut now call eastern North Carolina home. They've established business operations here and many plan to retire here.

"Affordable, quality housing, moderate year-round climate -- no snow last winter -- low taxes, and plenty of dependable, skilled, independent-thinking workers are just a few of the great incentives for locating in eastern North Carolina."

Now, most of those that we've heard so far are no different than any economic development group might send out, but this next paragraph, I think, is rather telling.

"Eastern North Carolina has a full range of developed industrial parks, buildings for sale or rent, government that supports industry, and many other incentives for economic growth. For example" -- and they've emphasized this in this paragraph -- "for example:

"Eastern North Carolina is home of the emerging Global Trans Park, a world-class industrial/aviation complex that will integrate just-in-time manufacturing technologies, high-speed air transportation, and advanced telecommunications."

All of that leads us, as an organization, to look at our own State government and our own economic development authorities and wonder where they've been in terms of pitching New Jersey and its aviation potential.

We've got 50 -- or just over 50 -- public use airports in this State. Not all of them would fit into a global trans park, obviously, and because they're landlocked by development that has encroached upon their facilities over the last decade, many of them can't be developed. But there is still an opportunity out there if we move forward and recognize that opportunity and try and push it today.

Naomi mentioned that we met earlier this morning as an organization. The reason we did that was to follow up on a meeting that we had over the summer to talk about some of the issues that are important to our airport members, some of whom are here today, Mr. Chairman, and would like to testify after we've completed our testimony.

Basically, they can be boiled down into maybe three different categories. One category that seemed to be of overwhelming importance to our membership is taxes. I know Mrs. Nierenberg mentioned during her remarks that programs similar to farmland preservation and programs similar to farmland tax assessment would be very near and dear to many of our members hearts.

Another category is the environment, and on that we've got, really, three subcategories. One is wetlands and how they're dealt with in airports right now; environmental regulations and their costs, and how, perhaps, the State could better help airports comply with some costly Federal

regulations, in many cases, through some sort of revolving loan fund or something along those lines. Third -- which just shows some contrariness, I guess -- is storm water and storm water runoff and how that was dealt with.

Unfortunately, general aviation, I guess, didn't have as strong a lobby down in Washington during deliberations for the Clean Water Act, and while gas stations were exempted from storm water runoff regulations, airports -- which are, in many cases, little more than big gas stations that provide fuel to a different type of vehicle -- were required to comply with storm water runoff regulations.

The third category or third topic, really, is government. Again, it's the lack of business use or lack of recognition of business use that airports have in this State or should have in this State. It's also a matter of intraagency conflicts that-- When you take agencies like the DEP, the DOT, the Department of Commerce, and others, it doesn't also quite seem to us, as operators, that one hand knows what the other is doing.

Those are the three categories we would like to talk about today. There are other issues within them. With respect to specifics, I think we would like to flesh that out with the Committee itself and, from our end of the table, at this point, deal with those general topics.

MR. McNAMARA: Are you going to proceed to talk about those topics or do you want us to ask you about them?

MR. LINDEMANN: I think if we proceeded a little bit more with a question and answer, that might help both sides come

to a more -- a better agreement on what might be able to be done.

MR. McNAMARA: Okay. I think that being the case, what we'll do as a form of progression here is we'll just start on the right and work around to the left -- and I'll go last -- allowing members of the Commission to ask whatever questions they would like to ask initially, and no one is foreclosed from coming back around a second time and asking any additional questions.

Linda, do you have anything that you would like to--  
Oh, Jack, I'm sorry.

MR. PENN: That's all right. It's fine to start with Linda. I think, Mr. Chairman, it would be better to start with Linda. I've been taking some notes here. A number of things that were touched on today are programs that we're presently working on. I'm happy to see that we're going to have the support -- when these programs come forth -- from AERO New Jersey and the airport groups.

When you talk about the wetlands, we're trying to come up with a general permit at this time for airports. We're fairly close to coming up with an agreement with the DEP. Unfortunately, as John mentioned, the interaction between departments is something that a lot of us would like to see happen. We work rather well with the Department of Commerce. We've worked on some joint things together, and those have worked out.

We're trying to come up with-- We've had a number of meetings, in-house, with the DEP, trying to structure some sort of an arrangement with them. I think we brought that to the

forefront when we dealt with the Morristown situation, and they saw that we did have authority to issue something to be done in the name of safety. We were able to do that in both Morristown and/or in Sussex County.

I agree with you about the storm water thing. When you say "gas station" that is something I've been preaching for some time; that we should have the same category as a gas station instead of having to be rated as an industrial complex. That is the way we are, and that is why we're treated and why we're subject to ECRA and other things that gas stations and junk yards have been exempted from -- and truck terminals.

So those are things that-- I guess I'm making a speech more than I am asking any questions, but these are very important points -- all three categories are very important points that have been brought out.

I could ask a number of questions on a number of them, as to how they would like to see them addressed. For instance, when you talk about the tax question, how would you perceive something like that, that we could address--

MR. LINDEMANN: I perceive it to be addressed the same way the New Jersey farming community had it addressed back in the 1960s. You know, at that time there was a recognition on the part of Senator Dumont and others at the time that we were losing too damn much farmland at the time. The rate was astronomical. I know Senator Haines can speak to that issue.

The Farmland Tax Assessment Program seems to be what keeps New Jersey farms in business these days. I just completed a program, in fact, for the New Jersey Farm Bureau where we developed public information pieces on that, and they consider

that to be one of the saving graces to New Jersey's farming community.

In a lot of cases, some of our airports are farms or were farms at one time. It was no mistake that some of these runways grew up just outside of town in land that was actively farmed. To treat them in a manner in which farms are treated would be appropriate.

When you consider that a farm's -- that on a per dollar basis in taxes a farm takes maybe 33 cents or so in return for local services, and a housing development or a developed property takes about \$1.45 from every dollar it pays in taxes, airports would probably pan out to be about the same. When you consider that vast wide open space that doesn't demand schools for children or new roads or police protection or fire protection or sewers or anything like that, it's a net gain for a community, not a net loss. So we would like to pursue that and try and see how that can be pursued through the Legislature.

I know that at the time the Farmland Tax Assessment was put into place, that was based on a constitutional amendment that had to be voted on by the people of New Jersey. I don't know that airports would fare quite as well if put to that test, because we're talking about 50 airports scattered throughout the State and not 1000s and 1000s and 1000s of acres of farmland that people have quite a different perception of, unless they just moved next door in a new development and have to smell manure all the time.

So that is where we would look to your Commission and leaders in the Legislature to help us figure out how best to get the Farmland Tax Assessment applied to an airport. The same

holds true for farmland preservation. With the Farmland Preservation Program, the local community plays a major role in that as to whether or not they even want to participate or have that farm participate as a preserved piece of real estate. Here, too, airports might not fare as well on the old public acceptance route. But, again, we would look for maybe some creative ways to add, if not that program, at least something similar that would provide some tax relief to airports in New Jersey, especially in view of the between 60 and 70 percent of the airports -- the public use airports -- are privately owned and not municipal or county owned

MS. NIERENBERG: Another portion of that, if we couldn't get either of those, is at least exempt or make a lower tax rate for the runways and taxiways and the lands that are required by the FAA where you cannot park any planes or you cannot produce any revenue. So we would like to see revenue producing -- nonrevenue producing lands-- At least give us some abatement on that on our tax burden.

MR. LINDEMANN: I know that Charley Searock is here from South Jersey Regional, and he'll probably bring up the issue of transfer of development rights, as well, which may help relieve some of the problem.

MR. McNAMARA: Let's just focus on this tax question for a minute.

Linda, do you have any questions just on that issue?

MS. CASTNER: Have you done any kind of survey that shows the total dollars that have been collected from the airports in any number of years that go to the State -- in what categories they fall in? There is a huge difference between



what Morristown would pay and what Alexandria pays, I am assuming, but I don't know that.

MR. McNAMARA: You probably pay more.

MS. CASTNER: No, we have farmland assessment.

MR. McNAMARA: Let me point out to everybody, if you push the little button on your mike, you'll turn on the speaker, and then, you can be heard throughout the room.

MS. NIERENBERG: But some airports don't have sufficient land to get the farmland-- If you have sufficient acreage, you can at least appropriate some of the land for farmland and get the assessment. But some airports don't even have that extra acreage.

MS. CASTNER: I think that would be an interesting fact to help in shaping some type of legislation, because you want to know how many groups does this effect. Out of the 52 airports, how many of them are receiving benefit and maybe by what percentage? So if you want to make some comparisons to the farming industry -- I don't think we're going to see a whole lot of neighbors real happy that the airport might be getting a tax break.

MR. LINDEMANN: That is an important consideration, Linda, and it's one that we've thought of, too.

Again, it goes back to looking at how the farms have dealt with this. The trade-off is, to take a facility like Naomi's or take a facility like Suzie's and turn it into even two-acre zoning -- in the case of a larger airport like Suzie's -- that adds significant burdens to the local community. I think, especially in some of the western counties -- Hunterdon, Somerset, and Warren -- where there has been outrageous growth

in the past couple of years, they're only now realizing that, "Hey, we've got to school these kids and taxes are going up to pay for that."

MS. CASTNER: I think that kind of chart would be very empowering. If you showed a little airport there, and then, listed the tax dollars on here that you would be saving or giving them benefit to put back into the airport as an operation, and then, divided it into two-acre zoning, three-acre zoning and looked at how that made the scale charge--

MS. NIERENBERG: I did prepare that one for my local testimony, and it flew in one ear and out the other. Obviously, we were an extremely beneficial asset. We don't require-- Our particular local airport doesn't have any of our employees live in the community because they can't afford to. So we don't send any children to our local schools. We do spend a lot of money in the community. The tax-plus side far exceeded the services that the township provided for us. We do get an occasional police-- Fire is voluntary. We have sewers. We don't have water, and that's it.

MS. CASTNER: But are you saying that kind of chart didn't help them?

MS. NIERENBERG: I will save that for my testimony. No, it didn't help with the local community. Unfortunately, we still have this burden of being an airport. Give us any other title and fortunately-- I think even a landfill sometimes would be easier to live with than being an airport, if the host community is not user-friendly.

MR. McNAMARA: Now, let me just interrupt here for a second.

John, you had indicated that you had a study that you had just done that indicated that a residential unit took back \$1.45 on a dollar and farmland takes back about 33 cents on the dollar. Are you going to submit that report as an exhibit with your testimony today?

MR. LINDEMANN: I don't have that report in my office or here at this point. I can get those numbers for you through the Rutgers Agricultural School, Cook College.

MR. McNAMARA: Well, I think as supplementary testimony you should submit that as an exhibit which we will append to the record of your testimony.

I'm sorry, I didn't mean to interrupt, Linda, but I thought that was where you were going.

MS. CASTNER: Yes, because I--

MS. NIERENBERG: Could I add one word? On the land that is used for runways and taxiways and that in-between area, we are paying commercial rates on that, and that is a pretty hefty local property rate even though there is nothing that you can do with that land.

MS. CASTNER: Is there a way, John, to add that cluster housing component to this?

MR. LINDEMANN: Well, my remarks were based on information provided by Dr. Soji Ajolana (phonetic spelling) from Cook College. I don't have the spelling of his name, unfortunately.

MR. McNAMARA: Do you have his title for the record?

MR. LINDEMANN: No, sir, I don't. But I can get access to at least the base information from that report, and working with the New Jersey Farm Bureau, perhaps we can get that

applied somehow to airports. Because it really is a standard equation that he prepared that can be used statewide as an average. It showed what the cost of schooling a child would be in an average New Jersey community and other costs, added them all together, and he came out with those hard numbers.

MR. McNAMARA: Was this a study that was commissioned by AERO New Jersey or by your office?

MR. LINDEMANN: No, sir, no.

MR. McNAMARA: Is this a study that was done by Cook College for its own edification?

MR. LINDEMANN: It was done by Cook College, and it was used by the New Jersey Farm Bureau.

MR. McNAMARA: I see.

MR. LINDEMANN: And the information was used recently in a public document by the Farm Bureau.

MR. McNAMARA: So the information was developed completely extrinsic of any airport consideration?

MR. LINDEMANN: Absolutely, and the purpose in raising that information is simply on an acre-for-acre comparison between residential development and an open space such as an airport which operates in similar ways to a farm.

MR. McNAMARA: Thank you.

Ms. Nagle.

MS. NAGLE: I just wanted to say that, John, you said 50 airports, but it would just be about, roughly, 35 airports that would be effected with this. Since there are roughly 35 -- that is, 70 percent, I think of the airports in New Jersey -- that would be privately owned that would be seeking tax relief.

When we did this survey, all of the privately owned airports were looking for property -- just about all of them were looking for property tax relief, and they were also looking for a program similar to what we talked about with the farmland preservation, only make it airport preservation, where you deed restrict the airport to airport operation and get paid up to 60 percent or 70 percent of the value of the property.

That is the disadvantage of privately owned facilities. They have not only the investment and the land, but then, they have to make the investments in any improvements and the personnel to man the facility. Whereas, the municipally owned, they just have to-- First of all, they don't have to pay taxes except on the revenue producing part, and they just have to pay for the personnel. I think they even get the runways plowed and everything.

So we're really at a harsh disadvantage financially trying to compete with the publicly owned airports. So it would be nice if the State saw the value of airports just like they did with farms and try and help airports put some money in their pocket, and then, maybe a lot of these airports wouldn't turn over for other purposes.

MR. McNAMARA: Do you have a question?

MS. NAGLE: No.

MR. McNAMARA: Dr. Telling.

DR. TELLING: Well, thank you very much. I may have one that doesn't work, in which case it's no problem. (referring to microphone)

First of all, on behalf of the Commission, I would like to reinforce the extent to which AERO and each of you, both

individually and collectively, have to be congratulated on your focus and perseverance throughout a period that has placed all of the airports in New Jersey, as you have indicated, under extraordinary pressure.

While past governmental activity may have suggested a far lower level of concern than I think many of us on this Commission feel is appropriate, I would suggest that the Commission itself is a strong representation of the fact that there are individuals in both the Senate and the Assembly that care considerably about the nature of the land, its allocation, and its preservation applied to continuing New Jersey's extraordinarily strong tradition of aviation.

As some of you may know, I've been an aircraft owner since 1978, and being an aircraft owner is relatively useless if we have no place to land, no place to be serviced, and no place, basically, to enjoy our interest, our stock-in-trade with others of like mind.

As a representative of the Pfizer Corporation, our aircraft are based in Trenton, although we are headquartered in New York City. We have found that aviation, both business and general aviation in its broadest sense, is essential to the conduct of commerce on a global scale.

By way of specifics with regard to this tax issue, while the Commission has not made any final determination, it was an early source of discussion. I think you can sense from the kinds of questions that have existed here, it's something we're very concerned about.

Mr. Lindemann, you touched very specifically on a point that is a problem, I believe, which is the farmland

exemption did, in fact, require a constitutional amendment. The political viability of that amendment for airports given, as you, I think, aptly described the situation, is probably not adequate or high.

One of the things that we have been exploring, and I would like to ask some questions on is, it is, as I understand -- and I'm only a student of this topic myself, now, as a result of my involvement with the Commission -- the requirement, essentially, that all land be taxed fairly and equitably. So let me turn my attention to that.

I'm under the impression that there is considerable variation in both the methodology used and, in some sense, the application of that methodology airport to airport. So the first question is: To what extent do you know whether that is the case? And a case can be made that we, in fact, already have a problem with an unreasonable application of regulations for assessment purposes that are applied to airports at the moment.

MS. NIERENBERG: Are you saying one airport to another?

DR. TELLING: For airports, one airport to another, privately owned, publicly used.

MS. NIERENBERG: I'm not familiar that there is an inequity, except that if the airport were large, they would be entitled to use some of the land as farmland. But I'm not are of it. All I know is that at every meeting we have had the membership comes and says the property taxes are extremely high, and that is a burden for operating -- for operations.

MR. McNAMARA: Ms. Nierenberg, publically owned airports such as Morristown, Trenton, etc., these airports are not paying taxes, are they?

MS. NIERENBERG: No, but they usually have other fees that they have to -- like flowage fees on the fuel that they have to give. I know Morristown has to give to the municipality, and it's not a low amount. So usually they get revenues in lieu of.

MR. McNAMARA: They are not paying real estate taxes, though. They are only paying taxes based on some aspect of doing business, and that is a disparity at least between publicly owned airports and privately owned airports. Is that correct?

MS. NIERENBERG: Well, there are lots of disparities between publicly and privately owned. That's only one of them.

MR. McNAMARA: Is that what you're addressing?

DR. TELLING: No. I was going to follow up on that, but I was addressing, first, the focus on privately owned, publicly used airports. That is an important follow up point, but as we touched on it, there are many disparities there, and I don't think any of the current owners, necessarily, want to turn them over even if there was a public hue and cry to do so, and I'm not certain that there is.

Well, if I can try and add-- To the extent that-- I don't know if this creates any competitive issues, but have people compared notes or is this just an impression that essentially each of you as representatives of private airports feel that the application of assessment regs are appropriately applied at the moment to each of you, and there are no



inequities? I mean is there a perception or has this been looked at?

MS. NIERENBERG: I don't think I have sufficient base to argue the point. It is something that has been verbalized since we have been organized. I think if you went to any meeting 20 years ago, that was the only thing that airports were looking for -- was tax relief. I think the multitude of other problems have grown over the years -- environmental, government regulations, and all. But 20 years ago, all you heard was, "We want tax relief." So it has to have been there-- I doubt that it's just perceived, but I don't have the documentation. I guess we could get it for you if necessary.

DR. TELLING: Well, my only reason for the inquiry is, if it doesn't create competitive problems and AERO were interested in studying it -- at least on behalf of myself, as a Commissioner, I would be interested in knowing. It was one potential opportunity to explore whether or not there could be a legislative clarification which could provide evaluation methodology appropriate to airports and stay, hopefully, within a framework that wouldn't require a constitutional amendment. If we can't work within the current law, and we don't think we can get a constitutional amendment, then this issue becomes dead in the water. So I'm asking only to try and find a way around it.

MS. NIERENBERG: I think each airport could probably come up with their percentage. I remember doing it at another airport we were located prior to our current location. I came up with the number of acres that were, because of the government -- the FAA -- saying that you had to have 200-foot either side

of the runway, plus the acreage of the runway, plus the acreage of the taxiway, and on either side of the taxiway-- At the previous airport where I had operated, the airport was about 120 acres. It was 26 acres of land that was nonuseable. At the time, I went to Senator Bateman and tried to explore it with him. Obviously, we haven't gotten too far. He talked about constitutional amendments.

I just wonder whether there, because it is nonuseable land, that there shouldn't be some kind of criteria within the State. I can assure you that our local tax assessors are not going to pursue that.

DR. TELLING: Is there a study at least of the members of AERO that gives a breakdown airport by airport of the total acreage, the amount that is "nonuseable" and the amount that is revenue producing -- whatever the appropriate categorization would be?

MS. NIERENBERG: AERO New Jersey has not done such a study.

DR. TELLING: Would it be possibly for AERO to consider doing it? Alternatively, Jack, and potentially, the Commission could look at doing it.

MS. NIERENBERG: I wonder whether Jack's office might have some of that information.

MR. PENN: I don't know that we have it, but we could collect the data. As you know, we're doing a study right now, which is the economic impact study and part of an economic impact study discusses what the taxes-- It takes the tax question into consideration. The thing is, is that each

municipality in which airports are located has their own rate, and that rate is what determines what your taxes may be.

For instance, in Montgomery, where you're located, your tax rate might be \$1.40 or \$1.50 and you might go up to Greenwood Lake where it might be \$1.05 of assessed valuation. Then, they apply the school aid formula to come up with a supposed equalization. However, you'll find from airport to airport there is a big difference.

Mr. Chairman, Dr. Telling, if you'll bear with me a minute. We had talked about the fact -- and I don't know how it would be done -- that on most of the publicly owned airports such as Trenton, which Pete could talk to, the actual runways, taxiways, and the terminal building used specifically for the airport are tax exempt. Whereas the revenue producing parts of it pay their percentage of taxes.

This is something that our Commission, with Senator Haines and Assemblyman Bagger, has talked about: if we could arrive at something that we would look at for the privately owned, public use airports. The theory being that there are about 25 miles of paved runway in the State of New Jersey which are public use and are for anybody's use at all and, therefore, should be treated the same as that road that is out in front of here called State Street, which is really not assessed.

Actually, I think that is our best bet to try to sell this concept. So that's a little bit different than trying to include us under the farmland assessment. I think we should look at another avenue. When something is public use and is open to anybody's use, then I think we have to approach it from that angle.

This is what we've been discussing. We know it would take some sort of legislation, whether it would be a constitutional amendment, I don't know, but we have been in discussion about it.

SENATOR HAINES: Mr. Chairman.

MR. McNAMARA: Senator Haines.

SENATOR HAINES: Along this line, I think what we could do without a constitutional amendment -- and you have to get this passed by OLS -- I think what we could do is say that assessment on the airport will be based on revenue and that only those areas on the airport that are creating revenue can be assessed. That would have to be a law, but I think that could be done.

In other words, what you do is you change the assessment from the basis of value because some of these airports are very, very valuable. What you do is you assess based on the revenue. Now, I think on some rental units this is done to a certain extent. But we would change the basis of assessment on the airport. I think this could be done -- and I'm no lawyer -- but this seems to be the method by which we could change this thing.

The other aspect of it is, is that as I see it -- and having many airports in my area closed -- the sale of the development rights and/or TDR or both are very, very important for airports. It's not only the land on which the airport is operated on, it's the safety zones on either end of the runways, and some of the areas around the airport that are terribly important. Because, if you have a good airport -- maybe a 4000-foot runway -- and they start building houses at the end of

the runway, your time is limited. This is generally what has happened in the areas that are close to where I live. I think that the whole concept of TDR -- maybe TDR is the way to approach it -- can be handled under current law without a constitutional amendment.

So I think that aspect of it is something that we ought to promote, but I don't know that we need additional legislation for it. The TDR is being used in Lumberton right now and seems to be successful from what I read in the paper. I'm just an observer on the outside on this thing, but they seem to be working out a TDR there.

MR. McNAMARA: As a point of information a TDR is a Transfer of Development Rights.

SENATOR HAINES: Right. You could, for instance, in your safety zone, use some of that safety zone for a golf course or a driving range or many other purposes. It doesn't have to be taken out of use. Certainly, it could be used for cornfield or pretty near any agriculture use, but not housing. It could be actually used in some commercial uses such as a parking lot for a commercial use of some kind.

But I think these are things that can be worked out within the present law without a constitutional amendment.

MR. McNAMARA: Just a further point of information: Am I correct in believing that for a runway, which is to be used for the Federal Aviation Administration or be certified by the Federal Aviation Administration as a precision approach runway, you must reserve an amount of land on either side of the center line of that runway that would run out 750 feet on either side of the center line?

MS. NIERENBERG: No, 200 feet. There has to be 200 feet between the runway and taxiway.

MR. McNAMARA: Yes, but don't you have to make-- The taxiway way can be in this area, but under the provisions of Advisory Circular 5300 -- I believe it's 5300 -- don't you have to maintain 750 feet of clear area? You couldn't have a building, a revenue producing structure within 750 feet of center line?

MS. NIERENBERG: There is a gradient. I'm not familiar with the exact of it.

MR. McNAMARA: If that is the case -- I believe it is the case -- and the minimum runway which you could have as a precision approach runway is 4000 feet -- and I understand that that would be available for certification by the Federal Aviation Administration only with a waiver, because they normally require 5000 feet -- maintaining a piece of land 1500 feet wide -- it would be 750 on either side -- and 4000 feet long, you would be talking about approximately 125 acres of land that would be dedicated to nothing other than a runway.

MS. NIERENBERG: Well, you could park planes there.

MR. McNAMARA: You can park planes there, and you could have your taxiway there.

MS. NIERENBERG: The taxiway-- You still have to have another 200 feet from the taxiway.

MR. McNAMARA: Another 200 feet, but that taxiway can be within the 750-foot setback

MR. PENN: Yes.

MR. McNAMARA: Okay. This is a point made only for information such that, one, the members of the Commission can

see that-- If you're talking about dedicating a piece of land to a precision approach runway, you're not dedicating a piece of land that is 200 feet wide and 4000 or 5000 feet long -- which might be 10 or 12 acres -- you're actually dedicating something in the nature of 125 acres.

Further, it would seem to me that not knowing what the future needs for your airport would be, you would be maintaining a certain amount of land in reserve for future runways, future taxiways, future parking areas, or future public use areas as the demand for your services grew. That land, I think-- Would you consider that land ought to be deemed land being dedicated to public use as much as your runways and taxiways are today?

MS. NIERENBERG: I have to look at it from both sides. Obviously, the best--

MR. McNAMARA: No, you only have to look at it from your side. We're going to have the other side come in.

MS. NIERENBERG: As an airport owner, obviously, I would want the maximum. But I don't think-- I think that's not as critical as the land that I cannot use.

MR. McNAMARA: Okay, thank you.

Dr. Telling, had you finished?

DR. TELLING: That completes mine, I appreciate it. I would ask if AERO can consider whether they might wish to undertake a study which given, as the Chairman has pointed out, some appropriate or potentially refined definitions of what should constitute revenue and nonrevenue producing -- if a study could be available on this regard, it would be helpful. Alternatively, perhaps the Division office could explore it.

Thank you.

MR. McNAMARA: Assemblyman Bagger.

ASSEMBLYMAN BAGGER: Thank you, Mr. Chairman. I'll be brief.

I just want to thank you for your testimony today and the testimony yet to come, which I think really sets out a road map or an agenda for this Commission in terms of the public policy areas that are creating impediments that the State needs to address.

To follow up on Dr. Telling's remarks in the area of property taxation, I would recommend that this Commission get the very best tax advice that we can to develop a proposal that would provide for uniform taxation in accordance with the State Constitution but at the lowest level permissible short of an amendment to the constitution.

I think the source of Dr. Telling's questions, in part, came from previous discussions among the Commission members that there is great discretion afforded municipal tax assessors in New Jersey, and they use three principal bases of assessing for property taxation: income approach, replacement approach, and the comparable approach.

There can be a substantial difference in terms of assessing based upon revenues versus comparables under current zoning, which would be, if it's acre zoning or two-acre zoning or whatever it would be, it's substantially high value to the land.

The form of taxation without requiring a change to the constitution that would result in the lowest tax burden -- it might be possible for the Legislature to provide guidance by

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statute if that's what it takes for a uniform approach to be followed by tax assessors.

Thank you.

MR. McNAMARA: Senator Haines, did you have more you wanted to question them on?

SENATOR HAINES: Just one other thing. Oftentimes, we in the Legislature take designs from other states. If you have what other states have done to solve this problem, maybe we can use it.

I got some legislation passed that would allow the Department of Transportation to buy up to 1000 feet on either side of the road if they're purchasing new property -- to buy the development rights here. Because what is happening in many cases, you build a road, and then, people build houses right next to it. Then, you have to put up sound walls that cost more than the road did in the first place.

Massachusetts had some legislation that worked very well that permitted them to buy additional development rights from the ground adjacent to an area that they were purchasing to widen a road. Sometimes you can pick up these ideas from other states.

I sponsored the Jersey Fresh legislation, initially, and I got that from Massachusetts, too. They had done it before. So I think sometimes you can pick this kind of thing up, and because it has gone through the procedure of the Legislature in another state, some of the bad things are worked out of it or some of the things that are controversial as far as legislation is concerned, and it's a little easier to get it passed here.

MS. NIERENBERG: I do know that in speaking to some airport -- privately owned, public use airports in other states, taxes is not their issue. I don't know how, necessarily, they've been accommodated.

SENATOR HAINES: Well, we've got the worst property taxes in the nation. We know that, and it is a bigger problem here for farmers, for airport owners, and for everybody than it is in many other states. Delaware, for instance, the property tax on anything -- whether it's a house or a farm -- is about a quarter of what it is here.

Boy, I'll tell you, if I could figure out -- and I think most of us in the Legislature -- a way to reduce property tax, it would be wonderful. But we've tried and every time we have a new tax, we spend the money instead of reducing property tax. It's a shame, but we just haven't been able to solve that problem over a period of the whole bunch of years that I've been watching it.

MR. LINDEMANN: Just for the Commission's information, one of our members Bob Michaud, who is with one of the engineering consulting firms now, will testify at a future meeting -- a future Commission meeting -- and he used to run the New York State Aviation Program. That I'm sure will be helpful. It always gives us a different viewpoint as well, and I'm sure it will be helpful to the Commission.

MR. McNAMARA: Those bills from Massachusetts, Senator, were those Kennedy bills up there? (laughter)

SENATOR HAINES: I'll tell you what, they had to be Democratic bills because I don't think they ever elected a Republican up there until they elected this new governor, and

he's kind of strange. (laughter) But sometimes the Democrats come up with good ideas, too. I hate to admit that.

MR. LINDEMANN: Especially if it was to call Massachusetts vegetables "Jersey Fresh," right?

MR. McNAMARA: Thank you, Senator.

Mr. Hines

MR. HINES: Thank you.

Thank you both for coming today. I enjoyed your testimony. It sort of brought back memories. Several comments and then a couple of questions--

Regarding the tax issue: As you can tell by the Commission here, we like to (indiscernible) up front here. But we want very much to come up with some kind of a tax program. We would like to be able to recommend that. I think we're all agreed on that.

But I want to correct one perception, possibly, and that is that public airports don't pay property taxes. I had to make this statement before, make this speech before to the group here, and I'll make it to you as well. The tenants on public airports do pay taxes.

MR. McNAMARA: Are they property taxes?

MR. HINES: Absolutely, sir.

MR. McNAMARA: They're property taxes?

MR. HINES: Property taxes.

MR. McNAMARA: And they're paid under--

MR. HINES: Real estates taxes, all your improvements, and all the other goodies that go with it including sanitation, sewage, and everything else we have to pay even though we don't get any benefits from the local community -- none whatsoever.

MR. McNAMARA: Is that on the entire airport on your--

MR. HINES: Just on your leasehold area improvements on it.

MR. McNAMARA: Okay.

MR. HINES: Okay.

Now, in addition to that, we do have lease p  
The tenants of public airports do have to make lease p  
They do have flowage fees to pay to help support the air  
maintain the airport. For many tenants at various a  
they do have to pay a gross receipts fee.

So what I'm driving at here is it's maybe not  
say that public airports don't pay any taxes. Maybe it  
your position more if you say we would like to be put  
same basis -- somewhat the same basis -- as other  
public use airports, public owned airports; that is,  
only pay on your revenue producing area, as you ha  
bringing out here. I think that point should continu  
made, because it possibly has -- I think it has a lot of

Whether or not the local communities then  
require something more than that to support the tax bas  
they need, I don't know. But maybe the other things tha  
airport tenants pay-- Maybe there are some concess:  
might want to -- some airport owners and local commun  
make and offer, for the time being anyway.

The question was asked here -- on another  
here-- I think Dr. Telling was asking about variat  
community as to how the airports are taxed. I guess  
would like to follow up on is:

You mentioned, Naomi, that you're taxed as a commercial operation, not light industry or anything else. There are these different tax rates.

MS. NIERENBERG: Oh, I know there are different categories.

MR. HINES: Yet they tax you as a commercial. I wonder what some of the other airport owners would indicate to us how they're taxed -- on what level -- commercial, light industry, heavy industry, manufacturing, or what?

MS. NIERENBERG: I think what happens is, with the Safety Act of '83, we became an airport zone in zoning. But if the airport were to close, the underlying zoning of whatever was there is what your airport would become -- would revert to. Our airport is in a commercial zone. So if the airport ever closed, we would become commercial and that's the tax rate. I really am not that significantly informed on the tax laws of New Jersey, but maybe if you're in a farm area that's what it would revert to.

MR. McNAMARA: Point of information: Is there a distinction for, say, if you're going to be assessed on a dollar's worth of real estate, do you pay a different tax as a resident than you do as a light industry or as a commercial enterprise?

MS. NIERENBERG: Yes, absolutely.

MR. McNAMARA: There are different rates, and is it correct -- is what you're saying, Ms. Nierenberg, is that there is not a tax rate yet assessed for the aviation zone or the airport zone?

MS. NIERENBERG: There is no special tax for that.

MR. McNAMARA: Okay, and your experience is, personally, that you're taxed as what, commercial?

MS. NIERENBERG: Commercial, which is the highest rate in our town.

MR. PENN: Mr. Chairman?

MR. McNAMARA: Yes.

MR. PENN: Mr. Chairman, if I might. Usually commercial is taxed on the income stream.

MR. McNAMARA: Not on real estate valuation?

MR. PENN: Usually they take the income stream and develop the value based on the income stream in assessing. In other words, you would take a building, if it produced "X" number of dollars, then, you would capitalize that, and that would come up with your value. That's how they arrive at your value. I don't think, though, that they're applying that method at the airports. But that's how you actually would arrive at it.

ASSEMBLYMAN BAGGER: Mr. Chairman, just so everybody is clear, the State Constitution requires that within a community the same tax rate, in terms of cents per \$1000 of valuation, be applied to all property. The issue is how the tax assessor determines what the value of the property is against which that uniform tax rate is applied. There are different mechanisms, and those businesses are valued at the income approach which winds up being less than replacement or comparable development under the zoning, which is why there have been so many tax appeals lately and successfully against municipalities.

MR. McNAMARA: Is that by way of saying that a tax assessor, when he is assessing the value of a piece of land, can in one instance look at what he believes the market value of the land is, in another instance look at the gross income the land generates, and in a third instance the net income?

ASSEMBLYMAN BAGGER: Income versus value, and that can be widely different if your land were developed for single family housing and it has a very, very high value, but the income is lower.

SENATOR HAINES: This is the unfairness of the whole system. That's the problem here. I can see it very clearly. What we're actually forcing these people to do that have privately owned airports is to go bankrupt and sell them. The bankruptcy is, oftentimes, caused by an inappropriate property tax rate that is based on an ever increasing value that has nothing to do with the current operation.

In other words, most airports in the State are in nice areas where you could put housing in, or you could put a commercial operation in, or something else. What's happening is the tax assessor looks at it and says, "Hey, I could put 300 single family homes here, and the single family home lots are selling for \$50,000 an acre." So you come up with a huge value that they ask the operator to pay which has nothing to do with the amount of money they're taking in, in rentals, gas sales, and so forth and so on.

So if we could pass legislation to require the assessor to do the valuation based on income for airports, I think this would go a long way in terms of saving airports from destruction. I think many airports have gone down -- I know the

ones in my area have because they were forced to sell, and then, they built houses on them. By doing this they, in fact, create a serious problem for the township, because the airport didn't require any services and the houses require new schools, and so forth and so on. We would be doing the towns a favor, I think, Mr. Chairman.

MR. McNAMARA: Is there any kind of a legislative requirement currently in effect for these tax assessors to assess at the highest and best use? Is that how they get to the different methods of valuation?

Assemblyman Bagger, do you know?

ASSEMBLYMAN BAGGER: I don't know. I think that is why we need some real solid tax advice.

MR. McNAMARA: Commissioner Penn?

MR. PENN: The assessors, most of them are bound by what-- They publish a manual; it's a tax assessor's manual in the State of New Jersey. Most of them are bound by that.

MR. McNAMARA: Division of Revenue?

MR. PENN: Well, again, as Assemblyman Bagger said, there are three methods they use to arrive at the value. Which one they want to apply is often left to the discretion of the assessor. The assessor has a great deal of discretion and a great deal of power.

As you know, on a tax appeal, your first appeal is to the assessor. The second is to the tax board. The third is to the State. Then, you get into determining which value you use. Now, most assessors that I know, if your property and so forth is zoned commercial -- is used as a commercial use -- they apply



the income value. But that's not true in a lot of places. A lot of them turn around and try to use the market approach.

A prime example of an assessor losing a tax appeal was when AT&T built their headquarters in Basking Ridge. They went up there and the tax assessor determined, looking at the building, that it had a value of about \$450 million, and he therefore put an assessment on it. They won the appeal based on comparable rents in the area.

Regardless of what it cost them to build it, if it cost them five times that, it had nothing to do with the value of it. The value was in what it produced because it was a commercial property, and it determined that office space in that area was renting for between \$18 and \$20 a square foot net. Therefore, when that went to court, they applied that value to it in determining. It's a famous tax appeal that has been argued over and over again. So what they're saying is, is that what you paid for something really has nothing to do with the value when it's commercial, it's what it actually produces.

That is why most assessors, where there is commercial property involved, look at the income statement. Now, oftentimes, you will find that business owners are reluctant in some sense to produce those figures. If they don't produce them, then the assessor has the right to go in and determine the value based on his own -- on comparables.

MR. McNAMARA: What is the third method of valuation? There is market value, gross income stream--

MR. PENN: Income, market, and replacement.

MS. NIERENBERG: Mr. McNamara, just as a further--

MR. McNAMARA: Now, we would like to hear from the witness. (laughter)

MS. NIERENBERG: Another complicating caveat that can get thrown into this: our particular airport became a reliever, and we were able to get a reduction in taxes because that limited the use of the airport. We had to keep it as an airport for 20 years, and through tax appeals we did get a reduction.

MR. McNAMARA: Did you have to follow an appeal process for that?

MS. NIERENBERG: Oh, yes.

MR. McNAMARA: Was that expensive?

MS. NIERENBERG: Oh, yes. Is a lawyer ever not expensive? (laughter)

MR. McNAMARA: Mr. Hines, does that complete your--

MR. HINES: I have one more question just to get it off of taxes. We're going to get you down to a zero tax base here before too long.

MS. NIERENBERG: Thank you.

MR. HINES: You mentioned that the second item you wanted to discuss was storm water runoff. I remember those regulations. They're horrendous regulations. I don't see how anybody can understand what the heck they're trying to tell you to do. But let me ask you this, what would you-- In your case, let us know what you estimate the cost would be to put this into effect in your operation there, or have you done it already?

MS. NIERENBERG: We were very fortunate. Because of some prior pollution problems before we purchased the airport, we had an awful lot of that in place. So our processing was not

as difficult as many airports. We have an underground for washing airplanes and all those kinds of things were in place.

MR. HINES: Yes, collector tanks and what have you.

MS. NIERENBERG: Most airports are not in that position. Our permit fee wasn't-- It was a horrendous volume of things to go through, and we did have to have a professional. We were advised to get a professional.

MR. HINES: I would suspect that a number of smaller, privately owned airports having to do that would take a long hard look at it and see whether or not they wanted to go forward.

MR. LINDEMANN: Even one of the initial reactions, or the initial reaction to our members was the \$500 permit fee. That, right out of the box, was bad enough to make some of them not want to file. Beyond that, you've got the horror stories of monitoring -- quarterly monitoring -- and so forth. And there is no way that a small, privately owned airport could absorb those costs.

MR. HINES: Has there been a deadline set for that? They kept postponing the deadline on putting this in.

MS. NIERENBERG: It's been--

MR. HINES: Extended?

MS. NIERENBERG: No. It is effective.

MR. HINES: It's in effect now. Okay.

MR. McNAMARA: You don't have the number of what that \$500 represented as a percentage of average net revenue for privately held airports?

MS. NIERENBERG: I didn't really choose to get into with some airports because some airports are choosing to--

MR. McNAMARA: Yes, I can understand that that would be confidential information.

MS. NIERENBERG: Yes, and I don't want to get anybody into trouble. We've got enough troubles.

MR. McNAMARA: Yes, I understand. Especially, when you're an association of businesses that are in competition with each other, I can understand that that would be held confidential.

MR. PENN: Mr. Chairman, we've opposed this-- As a Division, we've opposed the runoff. We're still trying to work with the DEP on it. We think that what they're doing is they're failing to recognize the public use aspect again. They don't run anything on your roads out here. We're nothing but roads. They haven't been able to recognize that and that is our argument with them. So we've opposed that.

We're also opposed to -- when you're talking about regulations -- fire inspections by Community Affairs. We do a fire inspection -- all our inspections -- yet there is a duplication in there where Community Affairs goes around and charges them for another fire inspection. So there are-- It's a very good point, which was brought up by AERO New Jersey, the overlapping of the regulations between the agencies.

I am working now with Harriet Derman to try and resolve this situation of the fire inspections, because it is redundant. We're already doing it in our inspections, and then, they have somebody else, who doesn't even know anything about airports, going back and doing it again. It just doesn't make any sense.

So that's a good point, and it's something that we're following up on. I'm glad that you brought up the duplication of--

MR. McNAMARA: Is that not a federally mandated program?

MR. PENN: No, it's not. It's a State program.

MR. McNAMARA: But does not our Department of Environmental Protection have to enforce a Federal Storm Water Runoff Act?

MR. LINDEMANN: It's my understanding it's under the Clean Water Act that the storm water falls.

MR. McNAMARA: The Clean Water Act which is a Federal Act.

MR. LINDEMANN: Yes. But Commissioner Penn reminded me of kind of a funny story as we were going through this whole process of trying to get ourselves exempted from the process. They went through and they said, "Well, look here is an airport that is exempt here." They went through and explained to us how the whole system of compliance is based on SIC code, and the SIC code for most airports is a transportation SIC code, except for one airport located in the State of New Jersey whose SIC code is an educational facility because it had a flight training school. And they were exempted based on that.

MR. McNAMARA: So, again, that is a law that is not equally enforced. It's just a question of what SIC code you elected as an airport. I imagine you could elect an aviation SIC code. You could elect an SIC code similar to a fueling depot or gas station, or you could elect an SIC code as an

educational facility -- all of which you are -- and in two out of three, you wouldn't be subject to the regulations.

MR. LINDEMANN: Well, throw in maybe gift shop for some of those airports, as well. Sure, it's ambiguous the way it's laid out.

MR. McNAMARA: I understand.

Thank you.

Mr. Hollan?

MR. HOLLAN: Yes, just two quick questions: Number one, I would like to echo Senator Haines' request for examples of what other states are doing. I know that many other states don't have the same property tax situation as New Jersey, but they may contain seeds for some other solutions we may need down the line.

Number two, I would like to know if you have information on the number of businesses that use your airports. Who they are, how often they use them, what they use them for; something along that line. That might be of interest to the Department of Commerce.

MR. LINDEMANN: Yes, that would be of interest to a lot of people. Some of that information is available and other parts of it are proprietary, based on the competitive nature of our association and, frankly, based on the fact that some companies and corporations don't like people to know who uses their airports or that they use airports to begin with.

But, of course, we'll pull together as much of that information as we possibly can.

MR. PENN: May I comment on that please? We're doing an economic impact study in the State right now -- and we have

had very good response from the people using the airports -- the enhanced income and the induced income that we have not just for people at the airport, but what it brings into the community. With this program, we're also showing what other land is available around the airports for future development.

So this is in place, and our consultant has visited each and every one of these airports a number of times, has interviewed a lot of the owners, a lot of the operators, and a lot of the people who come in and out of the airport. As Dr. Telling mentioned, the Pfizer base at Trenton -- that is a good source of income for that particular area, and it's part of the study which we've developed.

Every airport is going to get a copy of what exactly for their airport-- Then, we're going to have an overall report of the entire income: where it comes from and not just what that particular airport does in dollars, but what it brings into the community beyond that. That is going to be available to all the airports.

And of course, we've worked with some people from your department on it, and we will have that all available. I think that would really cover what Mr. Hollan asked for, because we're fairly close to the completion of this study at this time.

MR. LINDEMANN: Let me raise two other issues that might help answer some of the questions that are raised with respect to other states. We've got plenty of anecdotal evidence of what happens in other states.

I know Rudy Chalow from Rudy's Airport is sitting back here chomping at the bit, probably, to tell you about an airport

that he went to that was classified as a sports recreational facility and was taxed as such.

What I might recommend is that we work through two national organizations to try and get a compilation of information. One of those organizations would be NASAO, the National Association of State Aviation Officials, and perhaps the legislators could help us work through NCSL to see what types of state legislation has been out there -- the National Conference of State Legislatures -- to see what types of legislation has been passed that affects airports and aviation facilities.

MR. McNAMARA: Is that a conference to which one could direct an inquiry to that effect: what kind of legislation have you drafted to give assistance, relief, or encouragement to privately owned, publically used airports and publically owned, publically used airports?

MR. LINDEMANN: NCSL would be the only group that I would know of that might have some sort of compilation like that. Maybe Assemblyman Bagger knows of others, but that is one source of where legislators from any state who are members can go for ideas.

ASSEMBLYMAN BAGGER: I'll be happy to check that out for our next meeting.

MR. McNAMARA: To do that, would you like them to provide you with a list of inquiries that they would like to see addressed to the NCSL?

ASSEMBLYMAN BAGGER: Yes, I would be happy to talk to you about that, John, and I'll certainly be in touch with them and the other groups that represent state governments and state



legislators to see whether they have model legislation or examples of things passed in other states.

MR. PENN: Mr. Chairman, I'm a member of NASAO, and I just came back from a four-day conference of NASAO. The information that-- All that information is available.

MR. McNAMARA: Then, Jack, for NASAO, could we ask you to work with John? Do they have some kind of clerical staff to which that question can be addressed?

MR. PENN: Yes, we have a staff.

MR. McNAMARA: Then, Mr. Lindemann, if you would then--

MR. PENN: We have a staff. We have a lobbyist.

MR. McNAMARA: You draft a list of inquiries that you think would be helpful to this Commission, and for those that you would like to have go to NCSL, address that to Assemblyman Bagger, and those for NASAO to Commissioner Penn.

MR. LINDEMANN: I'd be glad to. For starters, we can just throw out all the antiaviation legislation and just work with the pro.

MS. NIERENBERG: In my recollection, I kept on hearing about Virginia being a model state. Wisconsin has some excellent legislation. Pennsylvania is a whole lot better than New Jersey. Virginia and Wisconsin, they do a lot with the zoning and disclosure. Those always stood out.

MR. McNAMARA: Before I ask any questions--

MR. PENN: Mr. Chairman, may I just bring one--

MR. McNAMARA: Commissioner Penn.

MR. PENN: Naomi raised an interesting point in one thing. If we go back to the taxes, all the states are taxed

differently; therefore, a lot of these states don't have any problem with the taxes. Our biggest problem is the manner in which we fund education, which is the reason why our taxes are so high. About 75 percent to 80 percent of every dollar that goes into our education system -- and I guess Michigan took that head-on and relieved -- dropped -- their property taxes by about 70 percent by changing the method by which they fund education. Until we take that on -- head-on -- I don't think there is going to be an awful lot of property tax relief. But I know that it is something that is constantly looked at.

MR. McNAMARA: Before I ask any questions, I just would like to point out to all the airport owners present and to you, Ms. Nierenberg, in your capacity as being the head of AERO New Jersey, that there are several questionnaires that are directed to the airport owners in this season.

It just happens to be that the economic study that Jack Penn referred to earlier, which is a child of the New Jersey Aviation Advisory Council, is circulating its questionnaires to airport owners at this time. The conclusions of that study are very important to this Commission and, I guess in that sense, could be considered questionnaires for our benefit.

In addition, there are two questionnaires that are being circulated from this Commission to the airport owners: one from the Reliever Airport Subcommittee, and one from the Airport Funding Subcommittee. I can't overemphasize how important it is that those questionnaires be completed and resubmitted to this Commission as quickly as possible. We are charged with the

responsibility of drafting and recommending legislation if, indeed, we deem that to be appropriate.

Without the input that you can give us with those questionnaires, whatever we might draft or whatever we recommend will have to be done without the benefit of those items or those considerations being incorporated in our considerations. So please tell all these airport owners to get those questionnaires completed and back to us.

There were a couple of items to which you referred during your direct testimony. One, of course, was the letter from east North Carolina, and the other I'll point out as I go along if I can recollect what it was, but it seemed it would be an important exhibit to attach.

I encourage the airport owners who are here to testify or who may come at future times to testify to bring with them and enter into our record any exhibit that can be validly entered into the record.

By validly entered, I mean, if there is a good foundation for its presentation, i.e., meaning that you can identify what the item is and how it was developed, how it was handled as it was brought to this Commission -- which in the case of a newspaper article would simply be, "This is a New York Times article of a certain date, which I saw and I brought with me." Anything that is an exhibit that you would like to have attached to the record, I encourage you to bring those exhibits.

Ms. Nierenberg, you had mentioned that you picketed the State House on a particular date. I remember that, but I've forgotten what the date is, could you--

MS. NIERENBERG: It was October. We're really trying to pull our hairs trying to figure out the date. Unfortunately, I was not in the office all last week. I have in my archives, I can get-- I can probably get that date. It's either '87 or '88.

MR. McNAMARA: And of the matters that you addressed to the Senate -- was it the Senate Transportation Committee?

MS. NIERENBERG: That eventually came the following spring.

MR. McNAMARA: Of those matters, how many of them do you feel have been adequately addressed and redressed?

MS. NIERENBERG: Many of them are still alive and well, unfortunately. The Office of Aviation has been restored to the Division of Aeronautics, tax relief still remains there, preservation; well, I guess we're on hold. So we're treading water as far as the preservation of what airports we have right now -- several are up for sale.

The Air Safety and Hazardous Zoning Act -- currently, the Safety Act -- enforced to the fullest; we're asking for that still. Many airports still are conditional use where they should be permitted use, and we would like the DOT to assert its authority.

We talked about that the State should acquire the clear zones. Anyone living within three miles -- again, we mentioned that today and I had just, coincidentally, found this information-- Anyone living within three miles of an airport should have a deed restriction. If you live in the safety zone, it's there now, but the safety zone is a very nominal amount of area around an airport.

MR. McNAMARA: That is the deed restriction of notice in the event -- for the purpose of notice that you're in an airport area, so the next purchaser can't allege that he or she didn't know?

MS. NIERENBERG: That's correct, and real estate disclosure, too.

SENATOR HAINES: Mr. Chairman, may I just talk about this a little bit. I just got on the Transportation Committee in the Senate when some of this was passed -- and the Airport Safety Zone Act was passed. But one of the things that has happened since then is the courts have invalidated it in certain instances. It hasn't worked as well as it should have.

What we think is the solution to this is the purchase TDR and purchase of development rights in these safety zones, because the courts have said that in certain cases that you can't arbitrarily take development rights away from people. This is why we need the airport safety zones to be areas where we buy the development rights if we possibly can.

So these are some of the problems we've got with trying to do exactly what you folks asked for in the first place. You pass legislation and it's only as good as what the courts will uphold. In certain cases it has helped, I think, hasn't it? But in certain cases, the courts have said, "No, you've gone too far." That is my interpretation of what has happened here, and I think I'm right.

MS. NIERENBERG: I think-- Statewide, I think, the communities are aware of the safety zone now, and I think that impact has finally hit home. Most of them, I believe, are complying, but--

MR. PENN: Yes, 83 percent. I think we only have four airports in the State and one of them is in final drafting to be done. Also, we did win in the Supreme Court with the Patzau case, which upheld the airport safety thing--

Bill, I may not have advised you of that, but we did win that case before the Supreme Court. So they have upheld the legality of the Zoning Act statewide.

SENATOR HAINES: Okay, well, I know there has been some complaints about it.

MR. PENN: There were a number of appeals on it, but the last one they refused to hear -- I think that was the Richardson (phonetic spelling) appeal and that was the last one. They refused to hear that case. We're full speed ahead on enforcing it. We have two municipalities that are-- We'll probably end up in court with them, it looks like, because they haven't enacted. But it looks like the rest of them-- We'll be down to just two of them that are finally not in compliance.

SENATOR HAINES: But, Jack, you're way ahead of me on this. But I did--

MR. PENN: I didn't you advise you of it. I apologize, because I know where you were coming from.

SENATOR HAINES: No, we did hear quite a bit of flak on some of this -- that they were not going to be upheld, so that is good news.

The other thing that you brought up was the wetlands. I have an agricultural meeting I have to go to. I just want to state that some of us -- Jack Penn, myself, and many others -- when we initially passed the wetlands bill, we passed it with a provision that any -- and I think I'm right in the words here --

lineal tract such as an airport runway, such as a road, such as transmission lines, would be exempt from the Wetlands Act.

Unfortunately, the governor -- Governor Tom Kean -- conditionally vetoed it and put that back in so that they were not exempt. This is one thing that I would like to see. I think the safety of individuals is more important than a tiny piece of wetlands.

For instance, we have an airport in Hammonton, and we can't extend the runways because there are some wetlands there. I think this is something that we eventually have to approach. I think nationally there has been some -- they've alleviated some of these wetlands regulations.

Certainly, when you're building a road-- You can't build a road anywhere in this State and not destroy a little bit of wetlands here and there. So I think we should be on the same -- I say "we," the airports, should be in the same position as road builders.

When it's a safety factor, airports should be allowed to destroy small pieces of wetlands because you can't just, in many cases, relocate the whole runway, relocate the airport. When it's a safety factor, they be allowed to do this if it's the only course of action to do the proper job, to be a reliever airport, or to have the 4000 or 5000 feet that are necessary. Because, certainly, a longer runway is much safer, and this is something I think we need to work on, too.

MR. LINDEMANN: Well, at the risk of pushing our luck, we wouldn't even mind seeing that perhaps expanded another step. We've got a first-class corporate aviation facility located in New Jersey that is maxed out in its ability to expand for

corporate purposes. It's got wetlands located on its property, and there is just no where else that it can go.

MR. McNAMARA: What is that facility?

MR. LINDEMANN: Morristown Airport.

MS. NIERENBERG: The other side of that is also the manipulation of the host community when they are antiairport and how they manipulate the use of the wetland and the endangered species to hold you up from any progress, years and years of going through totally unnecessary-- How they can call in Federal agencies-- It's something that has become overwhelming for certain airports -- harassment, whatever you want to call it, but it costs dollars and hours and time.

SENATOR HAINES: Well, Bob Shinn -- who is now Commissioner of the DEP -- and I fought for two years to get an interchange on the Turnpike at Exit 7. People were getting killed there because there wasn't enough backup space to get to the toll booths. It took us two years of fighting. We did destroy a couple of acres of wetlands. I think with Shinn up there it may be slightly easier.

Certainly, he has a lot of staff people who don't agree with him, but I think it's time we tackled some of these problems even though they are very, very difficult problems. Certainly, people's safety is more important than a little bit of wetlands as far as I'm concerned.

MR. McNAMARA: A further point-- The other item that I had encouraged you to use as an exhibit was your study -- or whose ever study it was -- of the comparables, the contributions out of the tax dollars by a residence versus a farm.



You had mentioned a certain Mr. Michaud -- Bob Michaud. You were going to call him to come in and testify?

MR. LINDEMANN: Yes. Bob is here with us today, but he is not prepared to testify. He'll be in touch with the Commission.

MR. McNAMARA: He's going to follow on after you, is he?

MR. LINDEMANN: Correct.

MR. McNAMARA: Good. I have only two questions--

MR. LINDEMANN: Mr. McNamara, he'll follow on at a late date.

MR. McNAMARA: Oh, not today?

MR. LINDEMANN: Correct.

MR. McNAMARA: Okay. Do you have an idea when he is going to come?

MR. LINDEMANN: The next meeting, next month?

MR. McNAMARA: Next month. All right. Would you please call my office and confirm that so we make sure we don't have an overburdened schedule?

MR. LINDEMANN: Sure.

MR. McNAMARA: I have two questions I would like to address to you, Mr. Lindemann. You had said that a great deal of the perception of an airport's impact on a community is formed by the media. Do you feel that there is any need in the State of New Jersey for any public relations or advertising support of the aviation industry for educational purposes?

MR. LINDEMANN: I don't know that advertising would be quite as effective, because if you look at the State there is only a small segment -- a small number of communities are

actually impacted. That is where the biggest problem lies; the closer that you are to the airport, the greater the problem.

But there certainly needs to be a greater public relations effort within those communities. I think, as Commissioner Penn mentioned earlier, that economic study will serve a great purpose toward that.

However, when something does happen at an airport there is-- Just as a reporter would do for anything that happens within a community, they're not experts on things; they go out, and they try to report the news, and they also interview the squeakiest wheel. And in many cases, the squeakiest wheel happens to be an airport opponent when something happens at an airport.

MR. McNAMARA: Do you think it would be helpful to have press releases that could go to the media from our office, our Division of Aeronautics?

MR. LINDEMANN: I think that might serve a purpose, but I think also that the more pressure that is brought to bear from the very top reaches of government, including the Department of Commerce, in recognition of airports' contributions to our quality of life in New Jersey would be equally important. You know, we always feel sort of like the--

I don't run an airport. I'm only serving at the pleasure of the airport owners here. But the stories that I hear seem to indicate that there is just not enough positive emphasis placed on airports' role and the transportation infrastructure in the State of New Jersey, plain and simple.

MR. McNAMARA: How do you think the Department of Commerce could put that into effect?

MR. LINDEMANN: Again, I think once the economic information is made available that they would start to include that in their economic development materials and a good word here and there wouldn't hurt.

MR. McNAMARA: All right.

MR. LINDEMANN: I think it might be important that they be educated first of the benefits of aviation in this State. I'm not convinced that they -- that the people within that Department are up to speed on that.

MR. McNAMARA: Finally, you had made the comment that municipalities have, in some cases, said to their airports, "We don't care who was here first. You can either leave or stay on our terms." Have you had any municipality address to any airport the terms upon which it should operate? Have they tried to specify anything with respect to aircraft operations or airport operations?

MR. LINDEMANN: The answer to that is, "Yes."

MR. McNAMARA: Could you give us specifics, please?

MR. LINDEMANN: I'd let Naomi give some specifics even though the hearing today isn't about Princeton. She could certainly speak to one or two of those.

MR. McNAMARA: So Ms. Nierenberg's answer, now, will be with respect to Princeton Airport?

MR. LINDEMANN: With respect to your question, yes.

MR. McNAMARA: Are there other airports about which you know?

MR. LINDEMANN: Yes, and some of those are here to testify today.

MR. McNAMARA: Okay. And those that are not, do you know the names of those airports and those municipalities?

MR. LINDEMANN: No, I don't.

MS. NIERENBERG: I know Lincoln Park--

MR. McNAMARA: Ms. Nierenberg.

MS. NIERENBERG: Lincoln Park is not here today. I know he's had difficulty with his communities. I think he's in either two or three communities -- his airport -- and he's had a lot of difficulty in operations hours.

Morristown, I think they have restrictions on hours of operation because of those communities.

Did you want me to address the difficulty?

MR. McNAMARA: Yes, please do. Be as specific as you can and as thorough as you can for the edification of this Commission.

MS. NIERENBERG: In the heat of our difficulties with the community-- The community, when they were passing the compliance with the Air Safety Act -- the zoning -- they included a laundry list of activities which Princeton Airport would be forbidden to have, and that became part of their zoning ordinance.

Rapid refueling: rapid refueling is a method of providing fuel for jet helicopters while the turbine engines are running. It is a procedure used in all Port Authority airports. It's used on aircraft carriers. My research on it, to NTSB; there has never been an injury or an accident with rapid refueling, and Princeton Airport had chosen to provide rapid refueling for turbine helicopters.

MR. McNAMARA: This is a prescription that was included in a zoning ordinance of Montgomery Township?

MS. NIERENBERG: This all became part of the zoning ordinance in compliance with the Safety Act.

MR. McNAMARA: Of Montgomery Township?

MS. NIERENBERG: Montgomery Township from Princeton Airport. It went on-- As I say, it had all kinds of other activities which we were forbidden to do, and it was only after a very prolonged lawsuit that we prevailed in court. And it caused the Township-- And I'll go into that under a different day -- used over \$600,000 of taxpayers' funds to fight us.

MR. McNAMARA: And that was just on the rapid refueling?

MS. NIERENBERG: No, that was on the total ordinance.

MR. McNAMARA: What other prescriptions were in the total ordinance?

MS. NIERENBERG: There were all kinds of-- What they had had is a study commission to find out how Princeton Airport worked. When they found out what we made money at, those were the areas they targeted to stop us from making money. They banned the helicopter school. They just--

MR. McNAMARA: They banned helicopter training?

MS. NIERENBERG: Yes.

MR. McNAMARA: By ordinance?

MS. NIERENBERG: Yes.

MR. McNAMARA: This was in the ordinance adopted under the Act that was renamed to be the Airport Safety Zoning Act is that correct?

MS. NIERENBERG: That's correct. We won that case in 19 -- two years ago, September -- 1993. It is still on appeal.

MR. McNAMARA: Are you conducting helicopter training operations at this time?

MS. NIERENBERG: Yes, we are.

MR. McNAMARA: What other prescriptions?

MS. NIERENBERG: You're catching me off guard cause I'm not prepared to discuss-- I think we weren't allowed to sell aircraft insurance. We weren't allowed to-- The flight school they did not ban. Aircraft sales, I think that was possibly on the list.

MR. McNAMARA: Were there any records that were required to be kept?

MS. NIERENBERG: Oh, yes. That was a separate ordinance. They wanted us to have a log of every airplane -- aircraft -- that landed and took off, the destination. Initially, they wanted the pilot. They wanted this to be public access. We fought that one, too.

MR. McNAMARA: What's the difficulty with maintaining that kind of a record for the municipality?

MS. NIERENBERG: I would have had to install a very high point of view -- vantage point. I would have had to hire people round-the-clock. Your publicly owned, public use airports that have towers keep that information only for the purposes of instrument flight plans and for landing fees. They do not keep this for any kind of log for the neighbors to be able to go and say, "Aircraft such and such took off at such and such a time and flew over my house illegally." And that was

their sole purpose, to find what they perceived to be low-flying planes.

MR. McNAMARA: Ms. Nierenberg, when you return to testify, can you testify with respect to the Princeton Airport, specifically? Will you come with all of those so we can make them part of our considerations?

MS. NIERENBERG: Certainly.

MR. McNAMARA: Now, if there are any other-- We somewhat limited our questions the first time around to the issue of taxation, and then, got over to the issue of environmental protection as we went around. In fairness to any Commissioner who hasn't asked every question that he or she would like to ask, I'd like to just open up the floor to questions at random.

We'll start over here. Jack, do you have any more?

MR. PENN: No.

MR. McNAMARA: Linda?

MS. CASTNER: No.

MR. McNAMARA: Ms. Nagle.

MS. NAGLE: I just want to add-- You're talking about airports that have specific problems with ordinances that are a detriment to their airport operation, and on the survey, Morristown said that Hanover Township has the tree preservation ordinance, which, I guess, inhibits their growth and development. Atlantic City, Bader Field, said that Atlantic City has restricted airplanes that come in to only aircraft that are designated category A. So that limits who can use the airport.

MR. McNAMARA: Is that Atlantic City or Bader Field?

MS. NAGLE: Bader. I have no other questions.

MR. McNAMARA: Dr. Telling.

DR. TELLING: Are there any other areas of regulation or ordinance that haven't been mentioned to date that you would like us to know about that either hinder your development or realization of full value of the airport, or are there any things positive going on that, in fact, are helping?

MS. NIERENBERG: Yes, there's some positive things. We're excited about what's happening in the Department of Transportation, Division of Aeronautics. We're excited about-- We would have preferred the one cent a gallon tax, but the Trust Fund certainly is an enhancement to some airports.

Our concern is, we live from year to year and we can't plan. If we start project "A" today and we get approval and we get some funding on that project -- or maybe the study funding -- we can't plan for next year, next year, and next year because we don't know how the funding is going to be. Because, as this funding will be an annual thing and how it's disbursed will be an annual thing, we, neither from the State or Federal level, know what kind of funds we can expect for a completion of a project from beginning to end. That makes it very difficult for planning, and that was expressed from the members in this morning.

MR. LINDEMANN: Just one other point, Commissioner, is what Commissioner Penn mentioned earlier about the Morristown incident with his dealings with the DEP and so forth; that truly is a success story where the DOT was able to override or overrule the DEP based on an emergent situation and public safety.



and so forth. But it really shouldn't have to get to that point. In my view, it shouldn't have to get to that point.

There shouldn't have been cause for the Commissioner of the DOT to go and claim that it was his emergency -- within his emergency powers -- to overrule the DEP Commissioner on an issue such as putting a fence in a wetland area to prevent access to the runway areas by deer and so forth. I don't know how we'll resolve that, that intraagency -- or interagency, rather, discrepancies and so forth. But I think that the DOT is the licensing agency of airports, and we certainly look to them to help us get through some of this.

DR. TELLING: That's an excellent point, and I think, as you've heard, under Director Penn there is no question that it is being looked at to try and assess what ways he can move to try and resolve these issues.

If I can ask one last question: As you pointed out, we do have a perhaps brief window of opportunity as the economic growth rates -- which we all hope will be restored, on the one hand, for the greater prosperity of New Jersey citizens-- At their current level, it has taken some of the pressure off economically, alternative uses for your facilities. But what is the current status and activity of airports, of your facilities in general? Is it improving? Is it just merely stabilized? Is there any trend in general that you can discuss?

MS. NIERENBERG: Economically, I think the industry is treading water or possible sinking. Availability of aircraft-- We're using older and older aircraft. Aircraft insurance is going up again -- I just got a -- probably 15 percent this next year.

Cessna Aircraft Company is going to be manufacturing. John was a little bit on the low side, I think they're talking of \$140,000 for a training airplane. I, as an FBO -- fixed base operator -- wonder how many I can afford to put on my flight line and get that. The number of student starts, nationwide and New Jersey, is down.

To be in aviation you have to be an optimist. I can't imagine the United States living without general aviation. I can't imagine New Jersey being without airports and the people who are aviators and enjoy the aviation industry whether for business or pleasure. It's going to be there. It's taken a different form.

I think across the board, I think airport operators and owners are working harder for, perhaps, a little bit less. I think it's flight instructing-- From every level, I think it's been more difficult. But I don't know whether that's unique to aviation or just business in general.

I think the airport has to be a more sophisticated business person, and that has been very difficult for some airport owners. The ones you see today are very much here because they are aware. We have had a very difficult time as an organization to get some of the other airports involved. I don't know whether it's dissatisfaction of government, dissatisfaction of Trenton, whatever, but we can't get them to be part of the organization to help lobby for the things that directly concern them. And if I can't, certainly how are you going to get that?

I brought you some brochures today that we did about a year and a half ago, just to put out the little airports and

what's available at the various facilities. And it was difficult. I can't tell you how many times my staff phoned and phoned just to get check marks. And if it means that you're going to have sit down and write out another survey, and if you have had a difficult time or are disenchanted with government, why bother, and it goes in the round file.

There is a lot of frustration in this industry because we've gotten hit broadside from every angle, and those that stay in it are in it really for a love. It has to get better. I have to believe that.

You have to diversify. I have chosen to diversify. I have different kinds of services, and I think I've gotten to be a much better business person over the years. It's not as simple, it's not as much fun as it used to be, because you didn't have to work quite at the same frenetic pace.

MR. LINDEMANN: I'm sorry Senator Haines left because he would appreciate the answer when asked what the two best years in farming were; 20 years ago and next year. (laughter)

DR. TELLING: Right. Thank you very much.

MR. McNAMARA: Assemblyman Bagger, have you any other questions in any area?

ASSEMBLYMAN BAGGER: No.

MR. McNAMARA: Mr. Hines?

MR. HINES: No.

MR. McNAMARA: Mr. Hollan?

MR. HOLLAN: No.

MR. McNAMARA: Just one final question from me: We were talking about-- You had said the DOT is the airport licensing agency. There has been some discussion of the DOT

becoming the sole regulator of airports for all purposes. If it were the sole regulator -- and by that I mean entirely -- such that if an airport wanted to develop a longer runway, put in a taxiway, or build a hanger, its application would go to the DOT rather than to the local municipality.

If the local municipality wanted to impose some regulation upon the airport, such as keeping the records that you had spoken about earlier, Ms. Nierenberg, or other reasonable records, or even if they wanted unreasonable records, their application would be made to the same agency.

Would your organization be in favor of that type of an arrangement, creating that kind of a forum?

MS. NIERENBERG: I can't imagine that they wouldn't want something like that. I think we in the past have requested it as individuals. I'm not sure that the organization formally ever did. But if you could deal with somebody at DOT who understands what an overrun is and what a run-up zone is and why you need those kind of things -- because when you're dealing with a local municipality, you go to a local zoning board, they haven't the slightest idea of what you're talking about.

I can remember them wanting me to put shrubs and trees next to a flight school building -- not compatible and they couldn't understand why. Then, you have to go -- You have to educate them. So part of your testimony before any of these boards is educating them, first, what your project is, and why you can't do all the nonsense kind of things. I say nonsense, but maybe they're really sincere in their efforts. But it's extremely difficult when you're constantly going back and you're taking an attorney and it's postponed and all.

If it could go through one route and that one route would be the DOT -- and they gave you permission to build hangars or a runway, and if there were anything to do with wetlands and all and it all was there -- holy crow, I can't imagine. That would be Santa Claus' gift.

MR. McNAMARA: Thank you. I think that concludes the questioning of AERO New Jersey. I would like to ask, perhaps, either one of you to stay at your post and introduce to us such other witnesses as are here as airport owners to give testimony today.

MR. LINDEMANN: Sure.

MR. McNAMARA: Let me ask this: Is a Mr. Alex Davidson (phonetic spelling) here?

MR. LINDEMANN: He might have gone down to feed a meter -- I hope that's all he did -- and then he'll return. In the meantime, Mr. Searock from South Jersey Regional--

MR. McNAMARA: All right. Let us then recognize Mr. Searock. We are hoping to hear from Mr. Davidson also today, in addition to whomever else would like to testify.

Mr. Searock, would you state your name and address for the record?

C H A R L E S     J.     S E A R O C K     J R.: Sure. My name is Charles Searock. I'm the Executive Vice President of Aviation Industrial Realty Corporation. We own the South Jersey Regional Airport.

MR. McNAMARA: Do you swear that the testimony you are about to give will be true and correct subject to the penalty of perjury?

MR. SEAROCK: I do.

MR. McNAMARA: Proceed.

MR. SEAROCK: Okay. I was asked to say just a few words about the TDR process, but there are a couple of other things that came up during the discussion -- one which I may be able to shed just a tad of light on. It has to do with the taxation issue.

South Jersey Regional Airport is taxed as an airport because it is its best and highest use. That is true because it has taken grant money, and you heard Ms. Nierenberg mention that toward the end of her testimony. If you've taken grant money from either the Federal Aviation Administration or the State, then your airport is required to remain an airport for anywhere from 10 years to in perpetuity. Therefore, you can make a case with the local tax assessor that that is as good as that piece of land can be used. And in our case, it made a significant difference in the taxation level.

For instance, an adjacent industrial property was taxed at one rate -- and it's a simple 30,000-square-foot light industrial building -- and the airport, which is 120 acres right next to it, is taxed at only about a third more than that building. So there is a significant difference. So it's somewhere between farmland and industrial land. I would propose that you pursue that. Now, that doesn't apply for every airport because not all airports have chosen to participate in grant programs, but there may be a way to make that work. But there are alternatives--

The last question that you asked about, "Should the State be the governing body for airports," I think is a solution that we would all like to leap on, but I'm afraid that at the

same time you could create a lot of animosity with the local folks, and you must have draw, every airport must live there. You can't pick up and move after you've upset everyone that you're dealing with on a daily basis. So I'd be very careful about that one. I think there are lots of pros and cons to that one. It's going to take a great deal of study before that turns out to be anything that we can use, I think, with any real confidence.

Transfer of development rights is now law in the Township of Lumberton. It took three and a half years to do that. The transfer of development rights is used as a planning process. It was something that Commissioner Shinn started -- I think, at least was one of the original thinkers -- as a farmland preservation effort. What it essentially did was say to the New Jersey farmer, "You need not sell your farm to a developer, and you need not have to build houses on it. You can sell that developer your right to build houses on it."

So as an example, let's say the farm off the end of our runway was 100 acres, in Lumberton two things happened: that piece of the farm that is outside the air safety zone, he could build two houses on each acre -- excuse me, one house on two acres. For the land that's inside the safety zone, it's one house on three acres. That's what the Air Safety Act requires.

The point at which it becomes valuable to an airport is, you can buy that land, the farmer can buy the land, or if he possesses the land, he can then take his development rights -- the rights that he has to build those houses -- and sell them to a developer. The developer then takes those rights in the form of credits and builds those same houses some place else.

Let me back up and say that as a development -- as a planning tool it gives the township the opportunity to do what all of us do in business. We build a new building, we say, "Okay, the rest rooms are going to go here. The offices are going to go here. The production effort, shipping, receiving-- Lay it all out."

What Lumberton Township did was the very same thing with their township. They said, "Okay, the airport is here, it's not going any place. Now, this is where the industrial zone is. This is where we want the farms because this is where the view shed is. This is where the downtown is. This area over here is the area we're going to build houses. Over here is the strip malls and they're going to stay there. So this is where we want to build houses. This is what we want to preserve as farmland. So you farmers that are in this area, you are eligible to sell your development rights should you so choose" -- it's a voluntary program.

Then if they choose to do that, of course, they put their credits in a bank and they sell them to the developer as the developer comes along. The developer buys those credits, takes them to the receiving area, builds the houses. The township has now dictated where houses get built, where the airport is, where the greenlands are, where the golf course gets built, and all those kinds of things become a magnificent planning tool for the community.

How does that help airports? When the township knows it has an airport and it still has the option to preserve that airport -- Hammonton might be a good example, Hammonton is still relatively rural -- it can say now, "Okay, let's think about



this transfer of development rights thing, and here's the airport, we know the airport is going to stay there. It has grant money. It's going to stay there in perpetuity. Let's make sure it stays. Let's start considering it an economic asset instead of an economic liability and plan on it being there. In turn, because it's going to be there, build an industry base around it," which is what Lumberton is doing.

From an adversarial relationship two years ago to last night when I sat in as a member of the Economic Development Committee of the community, that's where the airport has gone, simply by participating in this planning process and helping the community establish where it needs to go and how to control its future. So it won't work everywhere all the time for every airport, but it is a tool that's now in the kit bag that's no longer experimental and that we can now watch to see how it can help airports.

Any questions?

MR. McNAMARA: Questions, again, going from right to left.

MS. CASTNER: No.

MS. NAGLE: Mr. Searock, I happen to have your survey here, so now that you're here I can ask a couple of questions. One thing that you possibly could elaborate with some actual dollar numbers-- We had asked in the survey if it was a great financial hardship to come up with the 5 percent, and you mentioned, "Sometimes, yes and sometimes, no, because of the other expenses that are involved -- legal and engineering." If you have some dollar numbers I think that would be of interest to the Commission. It sounds like it's cheap when you talk 5

percent. But I know from our own experience, when you add in all the other expenses, it was a lot more than 5 percent.

MR. SEAROCK: Sure.

MR. McNAMARA: Please lay a foundation for this. This is not anything that has been testified to so far.

Ms. Nagle, explain the nature of what is being asked, please.

MS. NAGLE: Okay. In the survey that was sent to all the airports in New Jersey, to which Mr. Searock responded, we were talking about AIP funding or the State grant funding -- well, the AIP funding -- the privately owned reliever airport would have to pay 5 percent, the State would match 5 percent, and the Federal funds would be 90 percent.

In Mr. Searock's response, he mentioned that there were a lot of start-up costs that exceed the 5 percent. So even though, in effect, you're supposed to be paying 5 percent, you're actually paying a lot more, and I would like him to elaborate on that if he feels he can.

MR. SEAROCK: Sure. Mr. Penn can certainly back this up because he's helping us try to come up with those funds -- additional funds.

But any time you enter into a five-year program, airport layout plan, an ALP Master Plan, you expect that there are things that you'll have to do ahead of time. I'll use in the way of an explanation a specific example:

The front of our airport is a two-lane county road. As a condition to allowing the airport to expand -- I want more ramp in and a storm water drainage system, those sorts of things -- the county and the township required that the airport widen

that road for deceleration lanes and build an access road and landscape the front and all those sorts of things. That was not a very big project. It was about \$120,000 project to do.

Now, when you apply for the grant, typically, that's essentially what they look at. They look at the cost of doing the project. But before you get to the point where you can apply for the grant, you must have had to coordinated with legal, with an engineering firm, with some preliminary design work, at least, maybe a 33 percent design. So you've incurred some expenses up front that you may not even be eligible to be reimbursed for.

So not all airports are real anxious to run in and participate in grant programs without some assurance that they, indeed, will not only be reimbursed their 5 percent, but should the costs exceed the 5 percent, that they'd be eligible for reimbursement beyond their 5 percent contribution. Does that make sense?

They're willing to put up their 5 percent, but if their expenses happen to be 12 percent of the project, who's going to pay the 7 percent delta. And oftentimes, you're eligible for that, but you must have had to spend that already before you get reimbursed. So you may be 12 or 15 percent into the project costwise before you get anything back.

MR. McNAMARA: You seem to be talking-- I know that engineering is included in these programs. So what you're talking about primarily is legal expenses?

MR. SEAROCK: Primarily legal, there may be many administrative expenses, permits, bonding. Many of those kinds of things you have to do--

For instance, the case I--

MR. McNAMARA: When you say administrative expenses, do you mean your internal costs in running your office?

MR. SEAROCK: Yes, there are those. There are--

MR. McNAMARA: You want to be reimbursed them?

MR. SEAROCK: Sure, wouldn't that be part of your 5 percent?

MR. McNAMARA: Go ahead, I'm just asking.

MR. SEAROCK: No, not reimbursed, but it is part of your 5 percent. You are credited with your 5 percent.

MR. McNAMARA: I see. In other words, you want to be given credit for that.

MR. SEAROCK: Right, and you are.

MR. McNAMARA: I understand.

MR. SEAROCK: You do have to make the payroll every week. So those costs that go out and people are working on this project--

MS. NAGLE: Mr. Searock, I understood you to say that you have to do some preliminary engineering work. So let's say you've spent \$5000 on preliminary engineering work, and then, you went to Commissioner Penn and said, "We would like to do this project and here is a rough idea of what we want to do." Are you eligible for getting paid now for this money that you did for engineering, even though you hadn't received the grant?

MR. SEAROCK: No, only if it exceeded your 5 percent. If that \$5000 could ultimately be considered part of your 5 percent, then you won't get reimbursed. If, however, you can make a case after the fact that shows that your costs were

greater than your 5 percent share of the total project, then you have an opportunity to get reimbursed.

The point is that it's difficult for many of the smaller airports to enter into these kinds of ventures even for a small project, much less a multimillion dollar project because of the up-front costs that are associated with it.

Let's take the case of a land purchase that the airport just went through. The airport just purchased \$10.5 million worth of land in order to accommodate its expansion. Then, we ultimately sell all that off. Well, 5 percent of \$10.5 million is a lot of money. Our fair share of that is over \$500,000. Actually, it's much more than that, because we ended up buying some of the land ourselves. Just the percentage of the grant money, which was somewhere in the \$5 million area, is \$250,000. Most airports can't do that. Most small, private airports can't do that.

So even though it's a great program, I think there needs to be lots of latitude in it. And if there is an opportunity to save an airport and buy the lands off the ends of the runway and it runs into those kinds of dollars, then there needs to be the flexibility in the system to help them do that, and not expect that they're going to be able to come up with \$250,000 at the outset.

MR. McNAMARA: Dr. Telling.

DR. TELLING: Beyond the question of what counts and when it gets reimbursed is the problem, as I understand it, then, as much a one of timing, and if that's the case, would potentially the availability of low-cost loans help this? What other solutions might be available?

MR. SEAROCK: I noticed-- We didn't talk about low-cost loans, but that was an issue that was discussed at a previous meeting for the AERO New Jersey group. I think it would help. I think the availability of it would help.

Right now, about the only thing that's available to most airports is the Economic Development Authority loans, EDA loans. Those are very difficult to come by. And for the most part, airports, although we value them, banks do not. So you may have a lot of land and you may think it's valuable, but as far as the banks are concerned, it's worthless, because it doesn't produce the income stream it takes to service the loan.

DR. TELLING: Well, back to an earlier point--

MR. SEAROCK: So even though the Realtor will tell you it's worth \$5 million, it doesn't produce money to pay off the loan. So even with EDA backing, you have a difficult time getting bank loans to do any work on an airport.

MR. McNAMARA: Assemblyman Bagger.

ASSEMBLYMAN BAGGER: Thank you for discussing the issues of TDRs. That is something I'm interested in looking into further. It's a very useful land use planning tool, and until this afternoon, I had never thought of the use of TDRs in connection with airports. So that's some real food for thought there.

MR. SEAROCK: I wasn't-- I should have come with some drawings perhaps. Perhaps, you'll entertain that next time. As a minimum, I will provide for the record the TDR ordinance. And if you all get a copy of that it may be interesting reading. It has maps it in. It shows how the airport is laid out -- how the

municipality has laid it out. One of the reasons it helped work was because the grant money was there to help the airport.

But really what it ended up in being was that the grant money was there to help the municipality. They were the ultimate beneficiaries of the grant dollars because it allowed the land to be bought by the airport cheaper, which, in turn, allowed the airport to deed back to the community the land that they needed to do a municipal golf course. So it was a mutually back-scratching effort.

So, now, we got the land around the airport all sewn up so people can't build houses off the ends of runways. The township got land dedicated to them for a golf course, and the two of us worked together to bring in a developer to sell off the rest of the land. So if everything works out we'll break even, but the airport will have been protected, and because it's protected, it now becomes a viable business investment. Up to that point, it was a crapshoot.

Airports don't make money. You won't find many entrepreneurs going around buying airports. It's kind of like Ms. Nierenberg said, you've got to want to do this, one. If you can, if you do have the opportunity, like South Jersey has because of its location and the movement of Philadelphia to that area, to build a corporate airport, then, perhaps, in the long run you can see some profit out of that. But it will be long-term, it won't be short-term.

ASSEMBLYMAN BAGGER: I can see and understand the value of transfer development rights in an area that is not yet fully developed where it helps close the barn door while the horse is still there. A lot of our general aviation airports,

or some of them at least, in terms of the adjacent development, the horse has already left the barn.

Is there a use for TDR there with the airfield property itself, in terms of helping to relieve some of the financial pressures or development pressures?

MR. SEAROCK: I don't know that TDR would be the tool for that. I think, perhaps, allowing the airport to sell its development rights, like the farmland preservation kind of thing-- I don't know. I don't have a feel for that.

MR. McNAMARA: Would you compare TDRs and farmland preservation for us?

MR. SEAROCK: TDR started out as a--

MR. McNAMARA: And especially from the point of view of the airport owner who wants to maximize his return from the effort.

MR. SEAROCK: Okay. All airports start out in farmland. So the best thing that can happen for an airport is for it to remain farmland. So a farmland preservation effort is, obviously, to their benefit -- to the airport's benefit, clearly. Any time the farmer--

MR. McNAMARA: How does that work?

MR. SEAROCK: Because you have clear zones. You don't have obstructions. You don't have buildings. So if we can keep the farmland in farmland or open space, as a minimum -- you have nothing that breaks the horizon -- then it obviously accrues benefit to the airport.

When TDRs came along--



MR. McNAMARA: Just a second, but is there a program to purchase development rights that is called the Farmland Preservation Program?

MR. SEAROCK: There are different kinds. My understanding of Farmland Preservation Programs-- There are several different kinds--

MR. McNAMARA: Is there, Assemblyman Bagger?

ASSEMBLYMAN BAGGER: There are State and there are county programs where they purchase the development rights from farmers in order to keep land in agricultural uses.

MR. McNAMARA: And do they pay the full value of the development or is there a percentage of the value?

ASSEMBLYMAN BAGGER: They either buy the development rights for a period of years or, I think, in perpetuity. There are different types of programs, but it is public funds going to farmers in order to buy development rights.

MR. McNAMARA: And the concept is to pay full value for the development rights, taking into consideration that the farmer retains title to his land which, now, he can only use as farmland?

ASSEMBLYMAN BAGGER: That's correct.

MR. SEAROCK: That's correct. And that's also true in the case of TDR. The difference is that in TDR, the credits are marketplace driven, so his value is marketplace driven. So he may own 50 credits, let's say, because he owns 100 acres of property. What he gets for those credits is a function of competition; how many credits are wanted by the builders.

There was a great deal of effort to make sure that there were more credits available than there were the ability to

absorb in the receiving area. Maybe 1000 credits out there in the sending area, but the townships say, "We're only going to build 550 houses." So immediately, you have chilled the market for the credits. However, they are still there and they become competitive.

But because it's voluntary, many of the farmers probably won't participate in the first place. So there has to be that delta there so you can adjust it. So they compete for it. We think the credits are going to run somewhere around \$10,000, \$12,000, \$15,000 a credit. So the farmer is probably going to do okay, and he can stay on his property forever, and it's deeded farmland forever.

MR. McNAMARA: How does \$15,000 per credit compare to the profit -- to the value per acre? That would be-- If it were a credit -- a credit, as you said before, would be two acres. What's the price per acre? What's the market value per acre in that area?

MR. SEAROCK: About \$6000 to \$7000 an acre with the credits in them. But here's the point--

MR. McNAMARA: So it's comparable, actually, to the full price of the land.

MR. SEAROCK: Pretty close.

MR. McNAMARA: And sometimes in excess of it?

MR. SEAROCK: I would say he's going to do better with TDR than he would have if he had stayed with two-acre lots. Because two-acre lots are only two-acre lots when they have a frontage or something like that. There's a lot of farmers around here who have farmland 3000 yards off the road.

MR. McNAMARA: And will have development costs if they have to go back there and provide frontage.

MR. SEAROCK: Exactly. But he's going to sell that two-acre -- those credits off those two acres for the same price he's going to sell the credits off the front two acres. He's going to get the same price.

Now, they did have a matrix -- development matrix -- that said, "This land is wetland. You can't build on it, ergo, it's not right to give you a credit for every two acres." So maybe he gets credit for every 10 acres or 12 acres or 50 acres -- it's the outside. Prime land is a credit for every two acres.

So every piece -- every farm has a varying number of credits, but he's always going to--

MR. McNAMARA: And the price per credit is one he negotiates with the developer?

MR. SEAROCK: I think the price is what he negotiates with the developer, but it will be, for the most part, marketplace driven because he'll be competing with other people who own the credits.

MR. McNAMARA: I understand. Thank you.

Mr. Hines.

MR. HINES: Mr. Searock, you expressed some concern about the State usurping authority from the local governing body. Did I understand you correctly?

MR. SEAROCK: Yes. I'm new to New Jersey, and I've come to find out that local rule is a pretty important, highly coveted option. I've come to work closely with the local municipality, and I've come to find out that, yes, you can get

around them, but you still have to deal with them, and you still have to live there.

If you think you're not going to be-- I don't want to go so far as to say even, but they can make it-- You can be a symbiotic relationship and you can get things done together, or you can be an adversarial relationship and you have to make sure you have every permit, all the time, make sure your taxes are in on time every time, or you're going to find yourself harassed.

MR. HINES: I would agree home rule prevails here in the State. But I'm just wondering then, when you made that comment, whether or not some local politician wouldn't like to be taken off the hook if the State did take over more authority. In fact, I'll also add to that that I would think that many of the smaller airports -- privately owned airports -- would do better with State authority.

I want, if I can, to relay one experience I had in going head-to-head with a local governing body. I was confronted with legal counsel. He warned me. He said, "Don't take this to litigation. Remember one thing, it doesn't cost us any money. It doesn't cost us anything." Meaning that the local governing body is playing with taxpayers' money, and you're playing with your private money.

MR. SEAROCK: That's right. It's not-- I think it's just better to work together.

MR. HINES: What you established there is outstanding. I don't think it's very common.

MR. SEAROCK: Well, it doesn't happen in a week. It takes years to do that.

MR. HINES: Yes.

MR. SEAROCK: And the township has to recognize--

MR. McNAMARA: Do you have more questions?

MR. HINES: No, that's it.

MR. SEAROCK: I think as a parting comment: the township must recognize that the airport is an asset to the community. You just have to keep working that, working that, working that and, then, prove it, and it can be.

MR. McNAMARA: How do you do that?

MR. SEAROCK: Well, in our case, it was a matter of being able -- being a position -- granted, it may be the only time, the only place it will ever happen-- But being in a position to pick up the property, get some grant money to help us buy it, be able to turn that grant money into a benefit for the community in the form of a golf course, for instance, and then, also having the money and participating in the process so that they could establish a Master Planning Program in a process. And that all worked out.

It took people who said -- as recently as two and a half years ago -- "That airport will expand over my dead body" -- this is the mayor at that time who is now the Planning Board Chairman, who is now the biggest supporter of the airport. Why? Because we drank Scotch together? No. Because there was a benefit in there for his community.

MR. McNAMARA: When I asked you--

MR. SEAROCK: And I think in some cases, if you look at it in a grander scale, you can find that benefit, take it to the community, sell it to them, and get them on your side. In a lot of cases, that may be too late. I understand that.

MR. McNAMARA: Now, I just have two questions: Mr. Searock, with respect to the way the Aviation Program in the State of New Jersey is working today, relative to your airport, how do you see that it could be improved? -- just in outline form.

MR. SEAROCK: Good question. I think, first of all, it would be wrong for me not to recognize that there has been a significant change in the operation of the Department of Aviation with Mr. Penn aboard. What I'm concerned about now, though, is that he has a staff up and running, he's got confidence in them, they're doing well, but they were running a \$700,000 budget a year ago; now, they're running a \$13.5 million budget.

If I could do anything for him, I would lobby long and hard to make sure that his staff is trained and augmented so that to make sure that that money is spent wisely. He'll spend it wisely, but he's going to have to work real hard to do that with the staff he has now, I think.

So, how can I help him? I'd say make sure he gets the staff he needs.

MR. McNAMARA: I'm not limiting this question to your concept of how he should run his office. What I want to know is what you think -- in the best of all possible worlds -- what would be the best service or the best accommodation the State of New Jersey could make to your airport? What's your wish list?

MR. SEAROCK: My wish list is that the State of New Jersey recognize that airports are part of the national transportation system. They are not a hobby. They are a

business. They have a right to be where they are. They need to be supported as such.

His 25 miles of runway is 25 miles of highway.

MR. LINDEMANN: Thirty-three.

MR. SEAROCK: Thirty-three miles. There is absolutely no reason why they should be discriminated against as they are today.

The State of Ohio saw fit, not too many years ago, to build a first-class county airport in every county of the state whether they wanted it or not. Why? Because it became an economic draw -- business, industrial draw. I think New Jersey, too long, has set the airports aside as something that they really didn't want to get involved in. Perhaps there was not the outcry from the airport owners to say, "Hey. Hey, look at me. We're here. We exist. We're a business. We think we can help." There is no reason why the airports should not be considered an economic asset for the State.

There are-- I like to deal in examples. There is a company right now that wants to locate at our airport. It's from Montreal. It's Pelican Aircraft (phonetic spelling). They make ultralights. They're trying very hard to relocate. There's no place, really, to go in New Jersey to say, "Hey, go get Pelican, bring them down here. Help us get the township to develop the tax package. What kind of tax relief do you have? Whose going to help them with their relocation costs? Whose going to guarantee them a training program?"

Where is all that stuff? It's very difficult to find. It may be out there some place, but it's difficult to find. Go to the county, you know what the county says they got for you?

EDA. Well, what the hell is EDA? I just told you, EDA doesn't work at airports. "How many jobs is he going to create?" I don't know, it's an aviation industry; a half a dozen. "Well, that's not enough to"--

MR. McNAMARA: That's not an appropriate EDA application anyway, is it? What you're really saying is the State of New Jersey needs a State Department or an Ambassador to go to other states, sister states, or other countries and invite businesses to come here and do business here, much the way that eastern North Carolina program is operating in North Carolina.

MR. SEAROCK: That's right.

MR. LINDEMANN: I think that exists to a certain extent in the State, but I don't think it's airport-friendly.

MR. McNAMARA: What agency is it?

MR. LINDEMANN: I think it's either through Commerce -- through Mr. Medina's office -- or through the Secretary of State's Office.

MR. McNAMARA: Okay.

MR. SEAROCK: I guess what we need is for people to recognize that general aviation is a business, just like petrochemicals is a business, just like wood is a business, just like anything else and it should be--

MR. LINDEMANN: Or to recognize that the airport down the road is as meaningful to that potential relocation as the 10,000 or 50,000 square-foot warehouse down the road.

MR. McNAMARA: Okay. Is there anything else on your wish list?

MR. SEAROCK: One quick example, again: A young man who is becoming successful in business -- he designs interiors



of supermarkets. Somebody's got to do that, right? He happens to do it very well, so his business is growing and growing. He walks into the airport about a year ago and he says, "My business is growing. I have business in Richmond, Virginia and-- I happen to be lucky, I live in central New Jersey. I need an airplane."

So he goes out -- I fly him out -- he buys an airplane. He's never even flown one. He goes out and buys the airplane and said, "Okay, now someone teach me how to fly this airplane." He did. He is now getting ready to graduate to a twin engine airplane, and he's buying a building on the airport. That's what it's all about.

MR. McNAMARA: Are there many companies that are housed -- or housing aircraft at your airport?

MR. SEAROCK: There are 175 airplanes at our airport; 65 percent of those airplanes are registered to companies.

MR. McNAMARA: And do you know-- Do you have any idea what the number of employees is that those companies employ, or the gross expenditures of those companies in the State of New Jersey?

MR. SEAROCK: No, but that's all part of the economic impact statement that Jack is talking about.

MR. McNAMARA: Thank you.

If there are no other questions, we'll dismiss this witness.

MS. CASTNER: May I just say one thing, because I passed the first time around?

MR. McNAMARA: Go ahead. Please do.

MS. CASTNER: I think the one thing that Mr. Searock said that we have not touched on today -- that I don't want us to pass over lightly -- is that there is a delicate balance between your neighbor who is on the planning board or the township committee and your relationship with a governing agency that is trying to help you make your business be perceived as a real business and not a nuisance in your township.

He really hit on the things that I would have liked to have said as eloquently. I think that really is important; that we should not dismiss, in any recommendations that we make, that we are forcing or trying override the local rule that we know is a big thing in New Jersey, but that we are a business, and we are trying to make it a business that people recognize as good for everyone in this State. I really think he said that very, very well.

MR. McNAMARA: One question I meant to ask was: In the State of Ohio, where they did build the first-class county airport in each county whether they wanted it or not to attract businesses, did that program work?

MR. SEAROCK: I don't know. I'm sorry, I don't know. I'm sure we can find out fairly quickly. I suspect it did in some cases, in other cases not. But they sure made aviation a hell of a lot safer in Ohio than it is in New Jersey.

MR. McNAMARA: Okay. If you can provide us with any information to that effect, we'd appreciate. We would like that to be part of our record.

By the way, when I had asked that question with respect to having a DOT agency or forum, it was not for the purpose of supplanting -- I didn't have any concept of

supplanting the mechanism of home rule. That's not part of that concept.

The problem that the municipalities are faced with when they have airports in them is that they are trying-- Obviously, as Ms. Nierenberg testified, they are trying somehow to regulate these airports because they perceive that to be good for the municipality and good for the community, and they run into areas where they can't regulate. They're preempted in their regulation of airports by agencies of the State government and agencies of the Federal government.

I didn't say that that would be a wailing wall to which airport owners could come and seek redress. That's an honest to God forum where anyone can go and get resolution to a dispute that would be -- at least to the extent that it's regulated by the State. It's not for the purpose of supplanting home rule. It's for the purpose of giving municipalities a forum, as well as giving the airport owners a forum.

MR. SEAROCK: If that's the case, then I took it out of context. Because I do know that there are people who believe that they should report to no one other than the State if they're an airport, who would like to see all of their actions be directed at the Office of Aviation. It wasn't my idea. 've heard this idea.

So I would-- I think that we'd have great difficulty with that. There are people who need the help of the State and I think if there is a role for the State to play -- and I think Mr. Penn has got this under control-- Where does somebody like Bill Weasner who runs Twin Pines Airport all by himself and who just was hit with a triple tax increase -- they triple his

taxes-- He's going to close. He's just going to have to close, unless he gets some kind of-- Where does he turn? The only place he can turn is to Jack Penn and his folks.

Where does somebody who has applied for the storm water runoff-- The application was rather lengthy. It took me a little while and I know how to fill out paperwork. It took me a little while to do that. Now, who do they turn to for help?

Fortunately, the Office of Aviation had already envisioned those kinds of things and set up a process with the DEP to limit the numbers of days that that application can sit there waiting. I think it was 60 days. If they didn't act on it in 60 days you were granted the permit. That's wonderful. Now, you don't wait for your-- Turns out, I don't think we still have our permit - which is over two years. But the fact that they had to act on it and they had to do something with it forces the issue. I think the State has a great role to play in that, and it's going to help--

We're not typical any longer. South Jersey is not typical, it's moving along. But there is a lot of Rudy Chalows and Bill Weasners around who want to keep their airports and who we want to help -- who need help, if it's just filling out the application for the wetlands, for the storm water runoff. That's the kind of thing that they can help with.

MR. McNAMARA: Is Mr. Weasner here?

MR. LINDEMANN: No.

MR. SEAROCK: He was, he's left.

MR. McNAMARA: What's wrong with tripling the taxes at an airport?

MR. SEAROCK: Well, he can't pay the taxes. He can't pay it.

MR. McNAMARA: Well, I understand that. But what's wrong with it? I mean is there something that is improper? I assume that's based on a valid assessment and application of tax rates?

MR. SEAROCK: Well, I guess it depends on how you perceive the value of airports and whether you want airports to be part of a transportation system or not. If it doesn't matter to you whether small airports survive, as well as larger airports, then sit down and draw up a priority list, and let's do a little triage. Then, you can figure out where to put the money, and you can let the Bill Weasners fall by the wayside. But do we owe them that kind of treatment or not? I mean, that's something that I think you need to deliberate. Yes, you can spend--

MR. McNAMARA: Is there a suggestion--

MR. SEAROCK: I can develop a system for you that will help you spend the money efficiently. But is that the right way to do it? Is that the effective way to do it? I don't know.

MR. McNAMARA: Is there a suggestion that those taxes were raised by the municipality as a means of closing his airport?

MR. SEAROCK: I have no idea. I don't know.

MR. McNAMARA: Okay.

MR. SEAROCK: Only that he is now confronted with a problem he can't handle.

MR. McNAMARA: Dr. Telling.

DR. TELLING: Mr. Chairman, if I could just raise one point. I think what has been discussed here, and it was raised earlier, is very important -- an almost case study -- of what we would like the public to better understand about both the role of aviation -- the way it can work with a local community and use programs to develop wisely for everyone's benefit.

While, on the one hand, I was pleased a couple of weeks back to see New York Times' coverage of an aviation issue, the image still that was conveyed -- while it was still user-friendly -- was one that was fundamentally frivolous, and that, unfortunately, is the impression that people have.

To the extent, Jack, that your office or in any other way, if you were willing-- I mean, I would love to see some day and time in the next few months or in the life of this Commission some case study of development of land, economics, and good policy.

I would love to see an equivalent article written in The New York Times that uses what you've done as a case study and makes many of the points we'd like to see. I think that is what you had in mind, if I'm not mistaken, when you said publicity, or not so much advertising, but we have to change, in a sense, the New Jersey citizen's impression of what aviation is, of what airports are. I think everything you brought this afternoon is a wonderful model. So if you would be willing, perhaps we can work together.

MR. SEAROCK: Sure. It would be my pleasure.

MR. McNAMARA: Are there any other questions?

MR. SEAROCK: May I add one more thing?

MR. McNAMARA: You certainly may.

MR. SEAROCK: It just occurred to me based on what you said -- and I'm sorry I'm taking this long.

MR. McNAMARA: You take all the time you want.

MR. SEAROCK: Chambers of Commerce, I've come to find out, don't know anything about airports. They all have a transportation committee, but none of them-- I challenge you to go find an aviation subcommittee that talks to the Chamber of Commerce about the value of their airport and what the membership in the Chamber ought to be doing about their airport not only to support it, but to save it or enhance it or whatever.

So the Chamber needs to be-- The many Chambers need to be worked into this somehow.

DR. TELLING: Mr. Chairman, before I had the opportunity to relocate, some 18 years ago, to New Jersey, I grew up in upstate New York, which, like Ohio, long ago establish a policy based around community/county airports.

I think another issue comes out of this, that I had not really focused on, is the extent to which the role and the relationship really is one of the things which puts the airport and airport considerations into the woof and weave of the local community, whether it's local rule, local government, local mind-set.

To a certain extent, New Jersey has been blessed by what had been an abundance of airports -- essentially, using private funds and capital to keep them -- and I'm afraid just missed sight of what the treasure was and has allowed it to be squandered.

I think when we look at the issue of municipality and what it means, it's not just one of taxation. It really goes to the question of what priority does it have basically in local government or government at all?

MR. McNAMARA: Well, Jack.

MR. PENN: Just two things I just want to follow up on. One, as Charley Searock mentioned, that they are selling some of their transfer development rights and any money that they derive at all, that money has to go into a special fund and only can be used back for development on that airport. So I want to make it clear that there is no gain at all for their company or for-- This money is earmarked just for that development and that use. So I want that to be perfectly clear.

In other words, the way he made the statement, it sounded like we do this, we sell it, we take the money back. But the money doesn't really come back. It goes into an account. It's overseen, and on projects that we approve for the airport, the money is then allowed to be used that way and that way only.

MR. McNAMARA: Is that right?

MR. SEAROCK: Yes, the--

MR. McNAMARA: What you're saying is, is when an airport owner-- You are the airport owner, aren't you, of South Jersey Regional?

MR. SEAROCK: Right.

MR. McNAMARA: When you sell your-- When you enter in a TDR transaction, you don't get any remuneration for--

MR. PENN: No, it's where his money came from to acquire the land.



MR. McNAMARA: Oh, that's right. It's State money in the first place.

MR. PENN: We, along with the AIP money--

MR. McNAMARA: That would be different, if it were--

MR. PENN: If the money were-- For instance, if Linda or Suzie wanted to sell, part of that money can go in their pocket.

MR. McNAMARA: Okay.

MR. PENN: But if we give them the money to acquire the land, that would be different.

Another thing that I just want to mention is -- Charley raised a point about the Chamber of Commerce -- I'd like to note that the Somerset County Chamber of Commerce has just opened -- their transportation thing has just opened up and the thing is going to deal just with aviation. They've asked us to participate in it, and we are doing it. They've finally recognized that aviation is part of the business community. It's a first as far as we know in the State.

Those are just the two comments, at this time, that I wanted to make.

MR. McNAMARA: Thank you very much.

Mr. Searock, there are many things about your operation that we learned today that are innovative, exemplary, and commendable. Your financing scheme to put your airport together and to develop it, the program you have to establish good relations with your community, and your program to encourage industry into the area -- or your plans, at least, to have that program -- I personally find all commendable.

I thank you very much for coming today to testify. We hope, if we need it, we can ask you to return and answer further questions for us. We would remind you that if you have any evidence whatsoever of the results of the program in Ohio, we would like to have that.

Thank you very much. At this time you're dismissed.

MR. SEAROCK: Thank you.

MR. McNAMARA: Is Mr. Davidson here?

MR. LINDEMANN: No, and it always feels so good to listen to Charley talk, but it's always so tragic to hear Alex talk. I wish he was here, but I believe he left for the day. His story is completely 180 degrees, both in terms of his project and how it's proceeding and the reaction that his local community has had toward him, as opposed to Charley's. Alex has sought the help and assistance of the community and that hasn't been forthcoming, so it's a different story. I hope that Alex will be here in the future to talk about that. I think it would be very important as this group continues its deliberations.

There was one other of our members who did express a desire to say a few words today, and that's Rudy Chalow from Rudy's Airport.

I don't know if you want to say a few words, Rudy?

MR. McNAMARA: If you would, please come forward.

MR. LINDEMANN: Rudy has a long-standing history in the aviation community at his strip down in South Jersey.

MR. McNAMARA: Would you state your name for the record, please.

R U D Y   C H A L O W: My name is Rudy Chalow. I own and operate Rudy's Airport.

MR. McNAMARA: How do you spell your last name?

MR. CHALOW: C-H-A-L-O-W.

MR. McNAMARA: Have you gotten that for the record?

(affirmative response)

And it's Rudy's Airport?

MR. CHALOW: Correct.

MR. McNAMARA: In what town?

MR. CHALOW: Vineland, New Jersey. It's assessed at Vineland, Cumberland County. However, we have a mailing address in Newfield, New Jersey, Gloucester County.

MR. McNAMARA: Thank you. Thank you very much.

Mr. Chalow, do you swear that the evidence that you're about to give to this Commission is true and correct under the penalty of perjury.

MR. CHALOW: I do.

MR. McNAMARA: Thank you, sir. Proceed.

MR. CHALOW: I'd like to comment on Mr. Haines' statement. He made a couple statements -- he's not here now, but for the audience -- about Massachusetts. He referred to a couple regulations they have or something up there.

I had a recent experience -- a landing at an airport in Massachusetts. I looked around and the first thing I thought, "Boy, how much taxes would they pay here if this was in New Jersey?" So I talked to the proprietor and I asked him, "How are the taxes?" He says, "Not bad." Then, he also commented that airports in Massachusetts are taxed as the same as public sports parks. I never followed that up any more, but I just thought I'd pass it along because--

Being the owner and operator of an airport and the developer of one, the taxes is what drives you out of the ball game. In our case, we started an airport. We had a lot of enthusiasm. We got some property with tax liens, cleared it up, and now the taxes is going up and up all the time.

MR. McNAMARA: Is that your major problem at Rudy's, increasing taxation?

MR. CHALOW: It's a problem, but my concern would be mostly if the heirs come along and they looked at the taxes and things like that, they wouldn't think much of me maintaining it as an airport. I think this happens to many other airports.

The State has to do something to classify the airports, encourage the community to have an airport -- or something like that -- so that in the passing of a person, the heirs or other people would be encouraged to continue it as an airport because the community-- It's an asset to the community to have an airport.

We have people in Nebraska, they pick up the airport manual -- "There's an airport in Vineland" -- and they can go to Vineland just like that. I think that's quite an asset. Most of the people in the town don't know that, though.

MR. McNAMARA: When you say the State must classify airports, do you mean classify them as a benefit to the community and encourage communities to--

MR. CHALOW: Somehow-- Yes, to encourage the community. What I mean by somehow classifying the airport so that it would encourage people to continue it as so.

Really, you take the runway we have, we pay taxes on that just as if it was a commercial piece of property or

whatever it is, yet it's available to the public just like a road would be. So I'm just offering that as a suggestion.

MR. McNAMARA: Are you the sole owner of Rudy's Airport.

MR. CHALOW: I am the sole owner with my wife.

MR. McNAMARA: Are there any questions of Mr. Chalow?  
Ms. Nagle.

MS. NAGLE: Yes. In your response with the questionnaire, you mentioned that you had a problem with obstructions on one of your runways due to highway Route 55. I think the Commission would be interested in hearing that, because maybe that possibly something that we can address. Obstructions are very dangerous for anyone who is using your facility.

MR. CHALOW: Yes. It just-- I can point out some time these regulations and complications, how they're very complicated. We took-- To develop the airport, we bought a number of pieces of property that had tax liens -- this is in 1950.

MR. McNAMARA: How many acres are there at Rudy's?

MR. CHALOW: Total, now, is about 200 acres.

MR. McNAMARA: Thank you.

MR. CHALOW: We put in a runway -- an east/west runway -- on property that we did own awaiting the time to get the tax liens cleared up, because our plans were for a north/south 5000-foot runway. It took about 10 years to get this tax lien cleared up. A month after we got it cleared up, the State highway come in and condemned the property for Route 55, which they put at the end of the runway.

They took two acres of property at the end of the runway, and they gave us \$300 for the two acres. At that time, the tax assessor was assessing us \$750 for each acre. So I'm just giving you the difference there.

MR. McNAMARA: This was in 1950? When did Route 55 go in?

MR. CHALOW: Oh, about maybe 1970, something like that.

MR. McNAMARA: 1970. Do you have a 5000-foot north/south runway?

MR. CHALOW: Negative, because they cut the property in half.

MR. McNAMARA: And your runway today is?

MR. CHALOW: We cannot extend it any more. We don't have any-- They destroyed our whole ball game by cutting that property in half.

MR. McNAMARA: And for the record, how long is your main runway now?

MR. CHALOW: Twenty-four hundred feet. Now, could I mention one more thing?

MR. McNAMARA: Anything you'd like, sir.

MR. CHALOW: They come in-- Here's a letter here we got: "FAA 5010 inspection of the above referenced facility was recently completed. The following discrepancies were noted:

"Trees on the east side of highway 55 should be topped."

The Highway Department has a 300-foot right-of-way. When they put the trees in, apparently sunlight encouraged the growth of these trees. Now, they're obstructions, and the State

comes to us and says we should cut the trees. We can't cut the trees on State property.

I wrote them a letter. I wrote them a letter -- if you like, I can read it to you -- and never received an answer.

DR. TELLING: Jack, I think you'll be in business again.

MR. PENN: Well, we have an obstruction and removal program, where if Rudy comes to us we'll take those trees down for him. He doesn't have to pay it. We have a removal program. He has to come in and complete the application. We just had the people in this morning from Pemberton Airport, and he's allowed to-- He has to go out and get three bids, and then, we give him a grant and he cuts the-- Those are in airway. The FAA wants those down as part of the 5010 program--

MR. McNAMARA: Were you aware of this program, Rudy?

MR. CHALOW: Negative. I can read you the copy of-- Did I hit something here? (referring to microphone)

MR. McNAMARA: Yes. I think you want to push that button on your--

MR. CHALOW: Is this it now? (affirmative response)

I wrote a letter on March the 27th, 1995:

"Dear Mr. Maupin,

"Referring to your letter of March the 15th advising trees on the east side of highway should be topped, I wholeheartedly agree with you that they are an obstruction to approach onto runway 26 and create a safety hazard.

"The growth of this obstruction has been encouraged since the construction of highway 55. Clearing for highway 55 opened the trees to sunlight, which encouraged their growth.

See previous Master Record reports and also refer to your letter dated August 3rd, 1990." This is not something new, this has been going on.

"In as much as these trees are on Department of Transportation property, they are in violation of the Air Safety Hazard Zone Act." The Air Safety Hazard Zone Act doesn't want obstructions at the end of the runway. "Will you please advise the proper authority for their removal?"

And I never heard a reply at all from them.

MR. McNAMARA: The trees are not on your property I take it?

MR. CHALOW: They're not on my property. If the Department of Transportation would give me permission to go and remove them, I'd remove them easy.

MR. McNAMARA: Save some money, Jack.

MR. PENN: I will make sure that you get a response in the next few days. Gil is very good at--

I can't understand why he didn't respond to you, but I will look into it, Rudy. I know that you qualify to have that done, from what you've told me. It's the first time I heard about it, but I will find out about it for you. You can be assured it will be taken care of.

MR. McNAMARA: I'd just like to ask a couple of things. First of all, I'd like to make a comment that there was clearly a communication problem here that this Commission should take cognizance of. There was a program available to this airport owner and he didn't know about it.

Fortunately, now you do know about it, and you'll have some benefit from it.



The other question I wanted to ask you about is: Is my understanding correct that you testified that you had been paid \$300 at a rate of \$150 per acre for two acres of land taken for the purpose of highway 55, which land was assessed at the time of the taking at \$750 an acre?

MR. CHALOW: That is correct.

MR. McNAMARA: Why is it that there should be such a discrepancy between what you are paid in a condemnation proceeding and the assessed valuation of the land?

MR. CHALOW: I have no idea except the State assures me they hire all kind of assessors and appraisers and that's what they come up with.

MR. McNAMARA: Did you use that information to go to your tax assessor and seek a lower assessment?

MR. CHALOW: No. I appealed the taxes and about halfway through my ascertainment, the tax assessor got up and he said, "I agree. Mr. Chalow presented facts I was not aware of," and he conceded everything, so we used it to our benefit.

MR. McNAMARA: So at this point, you're being taxed at the rate of the condemnation price?

MR. CHALOW: Negative, that's been a long time ago.

MR. McNAMARA: As adjusted forward--

MR. CHALOW: I think it's good for three years and it's been going up and up.

MR. McNAMARA: In any event, there was no discrimination against you, because you were an airport, through the taxing authority of your municipality.

MR. CHALOW: Not that I'm aware of. Negative.

MR. McNAMARA: And how was it that two acres of land were able to take away 2400 feet of runway?

MR. CHALOW: It really didn't cut it down at all, because it was a wedge shaped piece of property, and maybe at the end of the runway, there it could've been maybe five feet or so. That's all. The big wedge was further down, which didn't bother the runway at all.

MR. McNAMARA: But you had originally planned a 5000-foot runway and you had to limit yourself to 2400 feet, why was that?

MR. CHALOW: This 2400-foot runway runs east and west. The proposed 5000-foot runway on the property that we had assembled would be north and south. By putting the highway in, they cut this property to north and south highway. If we went to put a north/south runway today, it probably wouldn't be any longer than 2400-foot. So it's just discouraged anything we could do there.

MR. McNAMARA: Because the highway on the north/south runway bisected the land, is that it?

MR. CHALOW: Yes. I have a diagram here if you would like to look at it.

MR. McNAMARA: If you would submit that as part of the evidence that you would like to submit, we'll accept that.

Are there any other questions?

DR. TELLING: Mr. Chairman, if I could just follow up two of the points.

One, on communication, it does suggest that maybe in addition to other things we could focus on with Commissioner

Penn, might be whether or not there is adequate budgeting and resources over time to communicate a number of these things--

I believe I remember at an earlier Commission meeting a discussion, Jack, on the issue of clearing runway space, and that wasn't known by a number of airport owners who were even there at the time. So there may be an opportunity to address this communication issue more broadly.

If I could ask one final question: Of the 200 acres, what portion would you consider nonrevenue producing at your facility?

MR. CHALOW: What was that, now?

DR. TELLING: Of the 200 acres that you own at this facility, what portion would you consider nonrevenue producing? -- back to our earlier effort to deal with the issue of tax assessment.

MR. CHALOW: This was all woodland. When we bought the land it was all solid woodland. We had to clear to put the runway in. So really it's not revenue producing at all now.

DR. TELLING: So only a tiny fraction, whether it's 5 percent, 2 percent of the land is fueling and other things that are required?

MR. CHALOW: Did you say fueling?

DR. TELLING: Yes. Do you refuel there?

MR. CHALOW: No. We had to give that up on account of your EPA.

MR. McNAMARA: Would you go into that, please? Would you please tell us why you had to discontinue fueling operations, your revenue generating operations?

MR. CHALOW: The fueling we had-- We had three tanks. We put them in ourselves, bought them. It was a convenience, not a profit making operation. And the paperwork that we got at one time or another -- or many times -- that we would have to get insurance for, I think, \$2 million if we wanted to continue the fuel, in case of a fuel spill.

We went to any number of insurance companies and not one of them would give us any insurance on that, period. So being property owners and the owner of the fuel, we just thought it was to our benefit to reduce this hazard and possibility. So we just removed all the tanks, that's all.

MR. McNAMARA: Do you remember what the premium would have been for \$2 million worth of insurance to cover a fuel spill?

MR. CHALOW: We could not find any at the time. Nobody would insure it.

MR. McNAMARA: Nobody would quote the insurance to you?

MR. CHALOW: Not even quote it. They wouldn't even take it. When we start telling them \$2 million, they laugh at you.

MR. McNAMARA: Who would you say, again, sir, the agency that required that you have that insurance?

MR. CHALOW: The agency?

MR. McNAMARA: No, why were you required to have \$2 million worth of insurance?

MR. CHALOW: I think it was the State. I'm trying to think who it was, I can't tell you now.

MR. McNAMARA: The Department of Environmental Protection?

MR. CHALOW: Possibly. I wouldn't know. But I know we-- It was-- We got a report on it or a request for it, and then, I know we got a couple letters or I found information out that they extended it a couple times each year because it was difficult to get the -- acquire the insurance. So we just-- It was not profitable for us to keep the fuel in there, so we just got rid of the tanks. We just thought that was the best way of doing it.

MR. McNAMARA: Dr. Telling?

DR. TELLING: All done, thank you.

MR. McNAMARA: Assemblyman Bagger?

ASSEMBLYMAN BAGGER: No, thank you.

MR. McNAMARA: Mr. Hines? (negative response)

Are there any other questions? (no response)

Thank you very much, sir, for coming to testify today.

MR. CHALOW: Thank you. I want to compliment this committee (sic), and I hope, maybe, you can see some of the problems and to encourage aviation in New Jersey.

MR. McNAMARA: Thank you, sir.

Mr. Lindemann, have you any other--

MR. LINDEMANN: No, sir. That's it for our side today.

MR. McNAMARA: And we'll see you again at our next meeting a month from now?

MR. LINDEMANN: I hope so.