PUBLIC MEETING

before

ASSEMBLY TRANSPORTATION, COMMUNICATIONS AND HIGH TECHNOLOGY COMMITTEE

and

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

ASSEMBLY BILLS 3289, 3290, and 3291

("Transplan" bills proposed by the Department of Transportation)

February 20, 1987
Room 418
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEES PRESENT:

Assembly Transportation, Communications and High Technology Committee:
Assemblyman Newton E. Miller, Chairman
Assemblywoman Joann H. Smith, Vice Chairperson

Assembly County Government Committee:
Assemblyman John Penn, Chairman
Assemblyman Frank M. Pelly

ALSO PRESENT:

Laurence A. Gurman
Office of Legislative Services
Aide, Assembly Transportation, Communications and High Technology Committee

Stephen L. Kuepper
Office of Legislative Services
Aide, Assembly County Government Committee

* * * * * * * * * * *

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

New Jersey State Legislature
ASSEMBLY TRANSPORTATION, COMMUNICATIONS
AND HIGH TECHNOLOGY COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 984-7381

M E M O R A N D U M

February 11, 1987

TO: MEMBERS OF THE ASSEMBLY TRANSPORTATION, COMMUNICATIONS AND HIGH TECHNOLOGY COMMITTEE

FROM: ASSEMBLYMAN NEWTON E. MILLER, CHAIRMAN

SUBJECT: JOINT COMMITTEE MEETING - FRIDAY, FEBRUARY 20, 1987 (Address comments and questions to Laurence A. Gurman, Committee Aide.)

The Assembly Transportation, Communications and High Technology Committee and the Assembly County Government Committee are rescheduling their joint committee meeting that was canceled on February 9, for Friday, February 20, 1987, at 9:30 a.m. in Room 418, State House Annex, Trenton.

The purpose of this meeting is to continue the discussion of A-3289, A-3290 and A-3291, the "Transplan" bills proposed by the Department of Transportation.

The New Jersey State League of Municipalities and the New Jersey Association of Counties are already scheduled to testify at this joint committee meeting.

Due to the cancellation of the two previously scheduled meetings because of inclement weather, and the desire to proceed with the consideration of "Transplan," the joint committee session on February 20, will be devoted to hearing from all interested parties regarding this legislation. Anyone interested in testifying is urged to appear at the meeting and to provide the joint committee with any suggested recommendations or amendments at that time.

If you wish to testify at this meeting, please contact Laurence A. Gurman, Committee Aide, at (609) 984-7381.

ASSEMBLY, No. 3289

STATE OF NEW JERSEY

INTRODUCED OCTOBER 2, 1986

By Assemblymen FRANKS, SHINN and McEnroe

AN ACT concerning county and municipal planning, making an appropriation, and revising parts of the statutory law.

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

1. (New section) The Legislature finds and declares that:

a. The public safety, health and general welfare require that county governments act to encourage sound regional development patterns, to promote regional prosperity and economic development, and to protect regional transportation and environmental resources;

b. Significant economies, efficiencies and savings in the development process would be realized by private sector enterprises and by public sector development agencies if the several levels of government would cooperate in the preparation of and adherence to sound and integrated plans;

c. It is in the public interest to encourage development, redevelopment and economic growth in locations that are well situated with respect to present or anticipated public services and facilities, giving appropriate priority to the redevelopment, repair, rehabilitation or replacement of existing facilities, and to discourage development where it may impair or destroy natural resources or environmental qualities that are vital to the health and well-being of the present and future citizens of this State;

d. A cooperative planning process that involves the full participation of State, county, and local governments as well as other

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

public and private sector interests will enhance prudent and rational development, redevelopment and conservation policies and the formulation of sound and consistent regional plans and planning criteria. In furtherance of this cooperative planning process, it is the intent of the Legislature that the laws with respect to county planning, found generally in Chapter 27 of Title 40 of the Revised Statutes, and the laws with respect to municipal planning, found generally in P. L. 1975, c. 291 (C. 40:55D-1 et seq.), should, to the extent not inconsistent, be read together;

e. An increasing concentration of the poor and minorities in older urban areas jeopardizes the future well-being of this State, and a sound and comprehensive planning process will facilitate the provision of equal social and economic opportunity so that all of New Jersey's citizens can benefit from growth, development and redevelopment;

f. Regional plans for development and redevelopment are essential for guiding public and private investment and development decisions of regional significance, and to encourage compatible planning objectives at the municipal level of government;

g. New Jersey's counties are, in large measure, economic or geographic regions, and are well suited to conducting regional planning activities;

h. Implementation of the "State Planning Act," P. L. 1985, c. 398 (C. 52:18A-196 et seq.) requires that strong and effective planning agencies exist at the county level to negotiate the cross-acceptance of municipal, county and state planning objectives;

i. County regional plans which describe in general terms how a county should develop over time, and in specific terms how resources of regional significance should be managed, can provide a framework which will improve and facilitate municipal planning decisions made within the county;

j. Local government will function best if the plans and policies of State and county government are clearly stated, and if these policies and plans include objective standards and procedures to effect their implementation;

k. County planning boards are well suited for reviewing developments which affect State as well as county resources, and it is desirable to promote coordination of development reviews by designating counties as review agencies for developments affecting State resources;

l. To facilitate efficient processing of development applications, it is desirable that issues of county, regional or State significance be resolved prior to initiation of municipal development reviews.

It is therefore desirable that county planning boards be required to certify that all issues of regional significance have been adequately resolved prior to initiation of the formal municipal development review process:

m. Regional transportation systems, including State and county highways and public transportation services, reflect major public investments which should not be allowed to be degraded as a result of poorly planned development activities or inadequate consideration of future needs resulting from regional growth and development;

n. Orderly development of land within the State requires that as land is developed for more intensive uses, land owners should provide incidental dedications of land consistent with a county master plan and official map. It is not necessary that a specific development create the need for a particular dedication of land, if the planning process being employed by the county can demonstrate that the overall process of development will require such dedication;

o. New Jersey's counties have been legislatively charged with responsibility for developing functional plans for solid waste disposal, wastewater management, agricultural preservation, transportation improvement plans and other programs of regional significance. It is necessary and appropriate to authorize counties to conduct these planning responsibilities in a comprehensive manner, and to provide county governments with the authority to guide land development within the county in a manner which will promote attainment of legislated regional policies and objectives.

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

40:27–1. The [board of chosen freeholders may] *governing body of each county shall* create a county planning board of not less than five nor more than nine members. The members of such planning board shall be [the director of the board of chosen freeholders, one member of the board of chosen freeholders, to be] appointed by the [director,] *governing body, shall include two members appointed by the governing body from among its number, and shall include* the county engineer, if the board exceed six in number, and other citizens who may not hold any other county office [and who shall be appointed by such director of the board of chosen freeholders with the approval of that body]. One of the [remaining] members shall be appointed for two years, two shall be appointed for three years, and all additional remaining members shall be appointed for four years, and thereafter their successors shall be appointed for the term of three years from and

after the expiration of the terms of their predecessors in office. All members of the county planning board shall serve as such without compensation, but may be paid expenses incurred in the performance of duties. *The provisions of this section shall not affect adversely the powers accorded to counties having adopted the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A-1 et seq) to reorganize functions through the administrative code of the county.*

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

40:27-2. *a.* The county planning board shall make and adopt a master plan for the physical development of the county. *In preparing the county master plan, or any revision to the plan, the board shall seek the full cooperation and participation of each municipality within the county, and it shall take into consideration the various objectives and proposals contained in the various municipal master plans.* The master plan of a county, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the county planning board's recommendations for the development of the territory covered by the plan [, and may include, among other things, the general location, character, and extent of streets or roads, viaducts, bridges, waterway and waterfront developments, parkways, playgrounds, forests, reservations, parks, airports, and other public ways, grounds, places and spaces; the general location and extent of forests, agricultural areas, and open-development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, or the protection of urban development, and such other features as may be important to the development of the county].

The county planning board shall encourage the [co-operation] *cooperation* of the local municipalities within the county in any matters whatsoever which may concern the integrity of the county master plan and [to] advise the [board of chosen freeholders] *county governing body* with respect to the formulation of development programs and budgets for capital expenditures.

b. The master plan shall contain the following elements:

(1) A general land use element providing a guide as to the future location and pattern of those land uses which will have a direct or indirect effect upon the ability of governmental agencies to manage and protect natural and cultural resources of regional significance, or which will have a direct or indirect effect upon the need for improvements of regional significance, and the ability to provide for such improvements. Improvements of regional significance would include, but not be limited to, airports, mass trans-

portation facilities, waste water treatment systems, flood control systems, regional educational facilities, and regional parks or recreational facilities.

The land use element of the county master plan should only provide a general guide for regional planning purposes, and should depict in a general fashion those areas within the county which will likely be used for the following purposes: (a) regional economic development centers, including regional and community shopping areas and areas of concentrated office or research employment, (b) residential communities, including supportive retail services, (c) areas of industrial development, including areas of manufacturing, warehousing and transportation services, (d) lands for parks, recreation and conservation, (e) wetlands to be preserved and protected for the purposes of regional flood control and water quality protection, and (f) agricultural development areas identified pursuant to section 11 of P. L. 1983, c. 32 (C. 4:1C–18).

(2) A comprehensive development strategy, providing a process for accomplishing the land use plan, and providing measurable criteria to be used in monitoring the effectiveness of the development strategy on a year to year basis.

(3) A range of population and employment projections consistent with the land use plan and development strategy. Demographic projections for the county should be consistent with projections prepared by the Office of State Planning, or, alternatively, should contain a technical statement indicating why the county projections differ.

(4) A circulation element describing a transportation system which can adequately support projected development, and an implementation plan linking transportation improvements to the anticipated pace of development. The circulation element shall be consistent with the State comprehensive master plan for transportation prepared on conformance with section 5 of P. L. 1966, c. 301 (C. 27:1A–5), and shall include, as appropriate, provisions for public transportation, highway circulation, aviation services, freight movement and the special transportation needs of the handicapped, the poor, the young and the aged. A circulation element may also include provisions for pedestrians and bicycles. The circulation element shall classify all roadways in the county by function in accordance with procedures of the Department of Transportation.

4. R. S. 40:27–4 is amended to read as follows:

40:27–4. a. Before adopting the master plan or any part thereof or any amendment thereof the board shall hold at least one public

hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the county and by the transmission by delivery or by certified mail, at least 20 days prior to such hearing, of a notice of such hearing and a copy of the proposed master plan, or part thereof or any proposed amendment thereof to the municipal clerk and secretary of the planning board of each municipality in the county. The adoption of the plan or part or amendment thereof shall be by resolution of the board carried by the affirmative vote of not less than ⅔ of the members of the board. The resolution shall refer especially to the maps and descriptive and other matter intended by the board to form the whole or part of the plan or amendment and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the secretary of the board. An attested copy of the master plan or any amendments thereof shall be certified to the [board of chosen freeholders] *governing body of the county*, to the county park commission, if such exists, and to the legislative body of every municipality within the county.

b. In order to maximize the degree of [co-ordination] *coordination* between municipal and county plans and official maps, the county planning board shall be notified in regard to the adoption or amendment of any municipal master plan, official map or ordinance under the ["Municipal Planned Unit Development Act (1967)."] *"Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D–1 et seq.)*. A copy of any such proposed plan, map or amendment shall be forwarded to the county planning board for review and report at least 20 days prior to the date of public hearing thereon.

c. Within 30 days after the adoption of a zoning ordinance, subdivision ordinance, master plan, official map, capital improvement program, or amendments thereto, a copy of said document shall be transmitted to the county planning board for its information and files.

d. The county planning board shall review any municipal master plan, official map, capital improvement program, or amendments thereto, or any ordinance submitted to it to evaluate the degree of consistency with the county master plan. In the event that a municipal master plan, map or ordinance is not consistent with the master plan, the county planning board shall so inform the municipality in writing, describing the nature of the inconsistency.

5. R. S. 40:27–5 is amended to read as follows:

40:27-5. The [board of chosen freeholders] *governing body* in any county after receiving the advice of the county planning board [is hereby empowered to] *shall* adopt and establish and thereafter as often as the [board] *governing body* may deem it for the public interest[, to] *may* change or [to] add to an official county map, showing [the highways, roadways, parks, parkways, and sites for public buildings or works, under county jurisdiction, or in the acquisition, financing or construction of which the county has participated or may be called upon to participate] *existing features of the county and all projected improvements contained in the county master plan, regardless of jurisdiction The official map shall provide information with respect to the location and width of public drainageways, public transportation facilities, streets, roadways, parks, parkways and highways, including State highways.*

Such map shall be deemed to have been established to conserve and promote the public health, safety, convenience, and welfare. Before acting thereon in the first instance and before adopting any amendments thereto [such board of chosen freeholders] *the governing body*, after notice of time and place has been given by one publication for each of three successive weeks in a newspaper of general circulation in the county, and after written notice to the county engineer, county planning board, county park commission, if such exists, and such other county officers and departments as the [board] *governing body* shall designate and to the municipal clerk and secretary of the planning board of each municipality in the county, shall hold a public hearing or hearings thereon at which such representatives entitled to notice and such property owners and others interested therein as shall so desire shall be heard.

Before holding any such public hearing [such board of chosen freeholders] *the governing body* shall submit such proposed change or addition to the county planning board for its consideration and advice and shall fix a reasonable time within which such county planning board may report thereon, not, however, less than 20 days; upon receipt of such report from the county planning board or upon the failure of such board to report within the time limit so fixed [such board of chosen freeholders] *the governing body* may thereupon act upon the proposed change, but any action adverse to the report of the county planning board shall require the affirmative vote of the majority of all the members of [such board of chosen freeholders] *the governing body*.

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

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

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

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

"Applicant" means a developer submitting an application for development.

"Application for development" means the application form and all accompanying documents required by ordinance for approval of a subsection plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P. L. 1975, c. 291 (C. 40:55D-34 and 40:55D-36).

"Chief executive officer" means the director of the board of chosen freeholders appointed pursuant to R. S. 40:20-71, the county executive in the case of any county which has adopted the "county executive plan" pursuant to Article 3 of P. L. 1972, c. 154 (C. 40:41A-31 et seq.), the county manager in the case of any county which has adopted the "county manager plan" pursuant to Article 4 of P. L. 1972, c. 154 (C. 40:41A-45 et seq.), the county supervisor in the case of any county which has adopted the "county supervisor plan" pursuant to Article 5 of P. L. 1972, c. 154 (C. 40:41A-59) et seq.), or the board president in the case of any county which has adopted the "board president plan" pursuant to Article 6 of P. L. 1972, c. 154 (C. 40:41A-72 et seq.).

"County master plan" and "master plan" means a composite of [the master plan for the physical development of the county, with the accompanying maps, plats, charts and descriptive and explana-

tory matter] *one or more written or graphic proposals and supporting documentation to guide the use of land within the county as set forth in and* adopted by the county planning board pursuant to [Revised Statutes] *R. S.* 40:27-2[;].

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

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alterations, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this act.

"Development of potential regional significance" means any development which:

a. would permit construction of more than 250 residential dwelling units, or;

b. would permit construction of more than 100,000 gross square feet of non-residential floor space, or;

c. fronts on a county road or State highway, or;

d. affects State or county drainage facilities, provided that the development includes more than one acre of impervious surfaces, or;

e. adjoins land which is owned by the developer, or in which the developer holds a partial interest or an enforceable proprietary interest, if the adjacent land would permit under municipal zoning ordinances additional development resulting in the construction of a total of more than 100,000 square feet of non-residential floor space or more than 250 residential dwelling units, when combined

with the proposed development. For the purposes of this subsection, "developer" shall also mean:

(1) any person related to the developer by blood, marriage or adoption, as well as any partnership or corporation in which the developer holds a partnership or stock interest, either directly or indirectly, of greater than 20%.

(2) for a partnership or corporation, any other partnership or corporation in which the developer holds an interest, either directly or indirectly, of greater than 30%, as well as any individual who is an officer of the corporation or who holds a stock or partnership interest in the corporation or partnership of greater than 20%.

"Governing body" means the board of chosen freeholders and the appropriate chief executive officer.

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution *or ordinance* of the [board of chosen freeholders] *governing body* of the county pursuant to R. S. 40:27-5[:].

"Site plan" means a plan of an existing lot or plot or a subdivided lot on which is shown topography, location of all existing and proposed buildings, structures, drainage facilities, roads, rights-of-way, easements, parking areas, together with any other information required by and at a scale specified by a site plan review and approval resolution *or ordinance* adopted by the [board of chosen freeholders] *governing body* pursuant to this act[:].

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

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

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

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

a. *The governing body of each county shall provide by ordinance or resolution, as appropriate, for: (1) review by the county planning board of each application for development in the county for the purpose of determining whether or not that development is a development of potential regional significance, (2) review by the county planning board of each development of potential regional significance for the purpose of determining whether or not the development complies with the planning and engineering standards adopted in accordance with subsection b. of this section, and (3) certification by the county planning board to the appropriate municipal authority either that the development is not a development of potential regional significance or that the development is a development of potential regional significance and complies with the planning and engineering standards set forth in the ordinance or resolution, as appropriate.*

b. The planning and engineering standards for review of developments of potential regional significance shall be set forth in the ordinance or resolution, as appropriate, and shall be strictly limited to the following:

(1) The requirement of adequate drainage facilities and easements when, as determined by the county engineer in accordance with county-wide standards, the proposed [subdivision] *development* will cause storm water to drain either directly or indirectly to a county road *or State highway*, or through any drainageway, structure, pipe, culvert, or facility for which the county *or State* is responsible for the construction, maintenance, or proper functioning;

[b.] *(2)* The requirement of dedicating rights-of-way *or additional rights-of-way* for any roads or drainageways shown on a duly adopted county master plan or official county map, *including State highways;*

[c. Where a proposed subdivision abuts a county road, or where additional rights-of-way and physical improvements are required by the county planning board, such improvements shall be]

(3) The requirement for improvements to a public transportation system, county road or State highway, including off-site improvements, as necessitated by the development, subject to recommendations of the county engineer [relating], *or of the Commissioner of Transportation in the case of a State highway or public transportation system. Such improvements shall relate* to the safety and convenience of the traveling public and may include additional pavement widths, marginal access streets, reverse frontage, *provisions for public transportation services,* and other [county] highway and traffic design features necessitated by an increase in traffic volumes, potential safety hazards or impediments to traffic flows caused by the [subdivision] *development*;

[d.] *(4)* The requirement of performance guarantees and procedures for the release of same, maintenance bonds for not more than two years duration from date of acceptance of improvements and agreements specifying minimum standards of construction for required *drainage or transportation* improvements. The amount of any performance guarantee or maintenance bond shall be set by the planning board upon the advice of the county engineer and shall not exceed the full cost of the facility and installation costs or the developer's proportionate share thereof, computed on the basis of [his] *the* acreage *of the development* related to the acreage of the total drainage basin involved plus 10% for contingencies *or, in the case of transportation improvements, on the extent to which the development will contribute to the need for the improvement.* In lieu of providing any required drainage easement *or transportation improvement,* a cash contribution may be deposited with the county to cover the cost or the proportionate share thereof for securing said easement *or improvement.* In lieu of installing any such required facilities exterior to the proposed plat, a cash contribution may be deposited with the county to cover the cost or proportionate share thereof for the future installation of such facilities. Any and all moneys received by the county to insure performance under the provisions of this act shall be paid to the county treasurer who shall provide a suitable depository therefor. Such funds shall be used only for [county] drainage *or transporta-*

tion projects or [improvement] *improvements* for which they are deposited unless such projects are not initiated for a period of 10 years, at which time said funds shall be transferred to the general fund of the county, provided that no assessment of benefits for [such] *the same* facilities as a local improvement shall thereafter be levied against the owners of the lands upon which the developer's prior contribution had been based. Any moneys or guarantees received by the county under this paragraph shall not duplicate bonds or other guarantees required by municipalities for municipal purposes.

[e.] *(5) The requirement of conformity with access standards adopted by the Commissioner of the Department of Transportation under section 3 of the "State Highway Access Management Act of 1986," P. L. , c. (C.) (now pending before the Legislature as Senate Bill No. 2627 and Assembly Bill No. 3291 of 1986).*

(6) The requirement of conformity with those elements of the county master plan relating to regional transportation, water supply or water quality resources, provided that the board has negotiated cross-acceptance of the plan with the State Planning Commission pursuant to section 7 of the "State Planning Act," P. L. 1985, c. 398 (C. 52:18A-202), and the requirement of conformity with any plan adopted in accordance with the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.), the "Water Quality Planning Act," P. L. 1977, c. 75 (C. 58:11A-1 et seq.), or the "Agriculture Retention and Development Act," P. L. 1983, c. 32 (C. 4:1C-11 et al.). Where the board finds that a development does not conform with a plan as required by the ordinance or resolution, as appropriate, the board may, to the extent permitted by law, require in lieu thereof contributions or improvements to mitigate any regional impact resulting from the failure to conform with the plan, and it may require additional improvements, as necessary, to ensure that the development will be consistent with the objectives of the plan.

(7) Provision may be made for waiving or adjusting requirements under the [subdivision] *ordinance or* resolution *governing the review of developments of potential regional significance* to alleviate hardships which would result from strict compliance with the [subdivision] standards. Where provision is made for waiving or adjusting requirements, criteria shall be included in the standards adopted by the [board of chosen freeholders] *county governing body* to guide actions of the county planning board.

c. Notice of the public hearing on a proposed *ordinance or* resolution, *as appropriate,* of the [board of chosen freeholders] *county governing body* establishing procedures and engineering standards [to govern land subdivision within the county] *for developments of potential regional significance,* and a copy of such *ordinance or* resolution, shall be given by delivery or by certified mail to the municipal clerk and secretary of the planning board of each municipality in the county, *and to the planning board of each adjoining county,* at least 10 days prior to such hearing *and to the Commissioner of the Department of Environmental Protection and the Commissioner of the Department of Transportation at least 20 days prior to such hearing.*

8. Section 5 of P. L. 1968, c. 285 (C. 40:27–6.3) is amended to read as follows:

5. Each [subdivision] application *for development* shall be submitted to the county planning board for review and[, where required, approval] *certification* prior to [approval] *being accepted as complete* by the local municipal approving authority. County [approval] *certification* of any [subdivision] application *for development* [affecting county road or drainage facilities] shall be limited by and based upon the rules, regulations and standards established by and duly set forth in [a] *the ordinance or* resolution [adopted by the board of chosen freeholders] *providing for review and certification of development applications.* The municipal approval authority shall [either defer taking final action on a subdivision] *not accept an* application *for development as complete* until receipt of the *certification of the* county planning board [report thereon or approve the subdivision application subject to its timely receipt of a favorable report thereon by the county planning board].

[The] *a. Developments of potential regional significance.*

(1) If an application for development is for a development of potential regional significance, the county planning board shall report to the municipal authority *whether the development complies with the standards and procedures set forth in the county subdivision ordinance or resolution* within [30] *45* days from the date of [receipt of the] *submission of a complete* application. If the county planning board fails to report to the municipal approving authority within the [30-day] *45-day* period, [said subdivision] *the* application *for development* shall be deemed to have been [approved] *certified* by the county planning board unless, by mutual agreement between the county planning board and municipal approving authority, with approval of the applicant, the [30-

day] *45-day* period shall be extended for an additional 30-day period[, and any such extension shall so extend the time within which a municipal approving authority shall be required by law to act thereon].

(2) An application for development shall be complete for purposes of commencing the 45-day period when so certified by the county planning board or its authorized committee or designee. In the event that the board, committee or designee fails to certify the application to be complete within seven days of the date of submission, the application shall be deemed complete upon the expiration of the seven-day period unless: (a) the application lacks information indicated on a checklist adopted by ordinance or resolution, as appropriate, and provided to the applicant; and (b) the board or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within seven days of submission of the application. The board or its designee may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for certification of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required.

(3) Within three working days from the initial date of submission of an application for a development of potential regional significance, the county planning board shall submit a copy of the application to the Department of Environmental Protection and the Department of Transportation, and shall solicit comments from each department.

(4) If the development of potential regional significance is situated within one mile of an adjoining county, the county planning board shall provide to the planning board of the adjoining county by personal service or certified mail written notification of the application within five working days of the initial date of submission. The notice shall identify the location of the development both by tax map description and by street address, and it shall indicate the size of the development and the schedule the planning board will adopt in conducting its review.

b. The county planning board shall return to the municipal approving authority within five working days of its receipt any application for development which is not a development of potential

regional significance, together with a certification that the development is not affected by the county subdivision ordinance or regulation.

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

6. The county planning board shall review each [subdivision] application *for a development of potential regional significance* and withhold [approval] *certification* if [said proposed subdivision] *the development* does not meet the [subdivision approval] standards previously adopted by the [board of chosen freeholders.] *governing body* in accordance with section 4 of this act. In the event of the withholding of [approval, or the disapproval] *certification* of[, a subdivision] *an* application *for development of potential regional significance,* the reasons for such action shall be set forth in writing and [a copy] *copies* thereof shall be transmitted to the applicant *and to the municipal approving authority.*

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

7. The county recording officer shall not accept for filing any subdivision plat unless it bears the certification [of either approval or of review and exemption] of the authorized county planning board officer or staff member indicating compliance with the provisions of this act and standards adopted pursuant thereto, in addition to all other requirements for filing a subdivision plat including compliance with the provisions of ["The Map Filing Law" (P. L. 1960, c. 141)] *"the map filing law", P. L. 1960, c. 141 (C. 46:23-9.9 et seq.).* In the event the county planning board shall have waived its right to review[, approve or disapprove] *and certify* a subdivision by failing to report to the municipal approval authority within the [30-day] *45-day* period or the mutually agreed upon 30-day extension period, as outlined in section 5 above, the subdivision shall be deemed to have county planning board [approval] *certification,* and at the request of the applicant, the secretary of the county planning board shall attest on the plat to the failure of the county planning board to report within the required time period, which shall be sufficient authorization for further action by the municipal planning board and acceptance thereof for filing by the county recording officer.

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

9. The municipal or other local agency or individual with authority to approve [the] site [plan] *plans* or issue [a] building

[permit] *permits* shall defer action on any application *for development* [requiring county approval pursuant to section 7 of this act] until the same shall have been [submitted to] *certified by* the county planning board [for its approval of the site plan]. [The county planning board shall have 30 days from the receipt of a site plan to report to the appropriate local authority. In the event of disapproval, such report shall state the specific reasons therefor. If the county planning board fails to report to the municipal approving or issuing authority within the 30-day period, said site plan shall be deemed to have been approved by the county planning board. Upon mutual agreement between the county planning board and the municipal approving authority with approval of the applicant, the 30-day period may be extended for an additional 30-day period.]

12. Section 10 of P. L. 1968, c. 285 (C. 40:27–6.8) is amended to read as follows:

10. The county planning board may by resolution vest its power to review and [approve subdivisions,] *certify applications for development* pursuant to the provisions of section 4 through [6 of this act, and the power to review and approve site plans pursuant to the provisions of section 8 and] 9 of this act with the county planning director and a designated committee of members of said county planning board.

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

11. If said action is taken by the planning director and a committee of the board, said applicant may file an appeal in writing to the county planning board within 10 days after the date of notice by certified mail of the [said] action. Any person aggrieved by the action of the county planning board in regard to [subdivision] *the* review and [approval] *certification* [or site plan review and approval] *of an application for development* may file an appeal in writing to the [board of chosen freeholders] *county governing body* within 10 days after the date of notice by certified mail of said action. The county planning board or the [board of chosen freeholders] *governing body* to which an appeal is taken shall consider such appeal at a regular or special public meeting within 45 days from the date of its filing. Notice of said hearing shall be made by certified mail at least 10 days prior to the hearing to the applicant and to such of the following officials as deemed appropriate for each specific case: the municipal clerk, municipal planning board, board of adjustment, building inspector, zoning officer, *chief executive officer of the county*, board of chosen free-

holders and the county planning board. The *county planning* board [to which appeal is taken] *or the governing body, as appropriate,* shall render a decision within 30 days from the date of the hearing.

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

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

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

13. The county planning board shall be notified of any application to the board of adjustment under [Revised Statute 40:55–39] *section 57 of P. L. 1975, c. 291 (C. 40:55D–70)* in such cases where the land involved fronts upon an existing [county road or proposed road] *or proposed county road or State highway* shown on the official county map or on the county master plan, adjoins [the] other county land or is situated within 200 feet of a municipal boundary. Notice of hearings on such applications shall be furnished by the appellant in accordance with [P. L. 1965, c. 162 (C. 40:55–53)] *section 7.1 of P. L. 1975, c. 291 (C. 40:55D–12).*

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

15. Whenever a hearing is required before a zoning board of adjustment or the governing body of a municipality in respect to the granting of a variance or establishing or amending an official municipal map involving property adjoining a county road *or State highway* or within 200 feet of an adjoining municipality, and notice of said hearing is required to be given, the person giving such notice shall also, at least 10 days prior to the hearing, give notice thereof in writing by certified mail to the county planning board. The notice shall contain a brief description of

the property involved, its location, a concise statement of the matters to be heard and the date, time and place of such hearing.

17. Section 5 of P. L. 1984, c. 20 (C. 40:55D-10.3) is amended to read as follows:

5. An application for development shall be complete for purposes of commencing the applicable time period for action by a municipal agency, when so certified by the municipal agency or its authorized committee or designee. *No application shall be so certified, however, unless and until the application has been certified by the county planning board to be in compliance with the development ordinances or resolutions, as appropriate, of the county, or until the application has been so certified as a result of the failure of the county planning board to act upon the application within the time period required by section 5 of P. L. 1968, c. 285 (C. 40:27-6.3).* In the event that the *municipal* agency [.] *or its authorized* committee or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the 45-day period for purposes of commencing the applicable time period, *or upon the date on which the certification of the county planning board is received, whichever date is later,* unless: a. the application lacks information indicated on a checklist adopted by ordinance and provided to the applicant; and b. the municipal agency or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency.

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

28. Grant of power; referral of proposed ordinance; county planning board of [approval] *certification.*

a. The governing body may by ordinance require approval of subdivision plats by resolution of the planning board as a condition for the filing of such plats with the county recording officer and approval of site plans by resolution of the planning board as a condition for the issuance of a permit for any development, except that subdivision or nidividual lot applications for detached one or two-dwelling unit buildings shall be exempt from such site plan review and approval; provided that the resolution of the board of adjustment shall substitute for that of the planning board whenever the board of adjustment has jurisdiction over a subdivision or site plan pursuant to subsection 63b. of this act.

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

c. Each application for subdivision approval[, where required pursuant to section 5 of P. L. 1968, c. 285 (C. 40:27–6.3)] and each application for site plan approval[, where required pursuant to section 8 of P. L. 1968, c. 285 (C. 40:27–6.6)] shall be submitted by the applicant to the county planning board for [review or approval] *certification* as required by [the aforesaid sections and, the] *sections 5 through 7 and section 9 of P. L. 1968, c. 285 (C. 40:27–6.3 through 40:27–6.5 and 40:27–6.7).* The municipal planning board shall [condition any approval that it grants upon timely receipt of a favorable report on the application by] *not accept an application for development as complete until it has received a certification from* the county planning board *indicating that the application is in accordance with the county's ordinances or resolutions regulating development,* or [approval by] *until certification is obtained from* the county planning board [by] *as a result of* its failure to report thereon within the required time period.

19. Section 14 of P. L. 1979, c. 216 (C. 40:55D–46.1) is amended to read as follows:

14. An ordinance requiring, pursuant to section 7.1 of [this act] *P. L. 1975 c. 291* (C. 40:55D–12), notice of hearings on applications for development for conventional site plans, may authorize the planning board to waive notice and public hearing for an application for development, if the planning board or site plan subcommittee of the board apointed by the chairman finds that the application for development conforms to the definition of "minor

site plan." Minor site plan approval shall be deemed to be final approval of the site plan by the board, provided that the board or said subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to sections 29, 29.1, 29.3 and 41 of [this act] *P. L. 1975, c. 291,* (C. 40:55D–38, 40:55D–39, 40:55D–41 and 40:55D–53).

a. Minor site plan approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute minor site plan approval.

b. [Whenever review or approval of the application by the county planning board is required by section 8 of P. L. 1968, c. 285 (C. 40:27–6.6), the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.] *(Deleted by amendment P. L. , c.)*

c. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of [2] *two* years after the date of minor site plan approval.

20. Section 35 of P. L. 1975, c. 291 (C. 40:55D–47) is amended to read as follows:

35. Minor subdivision.

An ordinance requiring approval of subdivisions by the planning board may authorize the planning board to waive notice and public hearing for an application for development if the planning board or subdivision committee of the board appointed by the chairman find that the application for development conforms to the definition of "minor subdivision" in section 3.2 of this act. Minor subdivision approval shall be deemed to be final approval of the subdivision by the board; provided that the board or said subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to sections 29, *29.1, 29.2* and 41 of this act.

Minor subdivision approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute minor subdivision approval and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of

the applicant; and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

[Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.]

Approval of a minor subdivision shall expire 190 days from the date of municipal approval unless within such period a plat in conformity with such approval and the provisions of [the "Map Filing Law,"] *"the map filing law,"* P. L. 1960, c. 141 (C. 46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the municipal engineer and the municipal tax assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the planning board. In reviewing the application for development for a proposed minor subdivision the planning board may be permitted by ordinance to accept a plat not in conformity with [the "Map Filing Act,"] *"the map filing law,"* P. L. 1960, c. 141 (C. 46:23-9.9 et seq.); provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of said act.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision aproval was granted, shall not be changed for a period of two years after the date of minor subdivision approval; provided that the approved minor subdivision shall have been duly recorded as provided in this section.

21. Section 38 of P. L. 1975, c. 291 (C. 40:55D-50) is amended to read as follows:

38. Final approval of site plans and major subdivisions:

a. The planning board shall grant final approval if the detailed drawings, speifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions of preliminary approval and, in the case of a major subdivision, the standards prescribed by [the "Map Filing Law,"] *"the map filing law,"* P. L. 1960, c. 141 (C.

46:23-9.9 et seq.); provided that in the case of a planned unit development, planned unit residential development or residential cluster, the planning board may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for premilinary approval.

b. Final aproval shall be granted or denied within 45 days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute final approval and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

[Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal planning board shall condtion any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its faliure to report thereon with the required time period.]

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

48. Time periods.

Whenever an aplication for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to section 47 of this act, the planning board shall grant or deny approval of the application within 120 days after submission by a developer of a completed application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided in this act. Failure of the planning board to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required.

and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

[Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.]

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

54. Conditional uses; site plan review.

a. A zoning ordinance may provide for conditional uses to be granted by the planning board according to definite specifications and standards which shall be clearly set forth with sufficient certainty and definiteness to enable the developer to know their limit and extent. The planning board shall grant or deny an application for a conditional use within 95 days of submission of a complete application by a developer to the administrative officer, or within such further time as may be consented to by the applicant.

b. The review by the planning board of a conditional use shall include any required site plan review pursuant to article 6 of this act. The time period for action by the planning board on conditional uses pursuant to subsection a. of this section shall apply to such site plan review. Failure of the planning board to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

[Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its faliure to report thereon within the required time period.]

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

63. Other powers.

a. Sections 59 through 62 of this article shall apply to the power of the board of adjustment to:

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

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

b. The board of adjustment shall have the power to grant, to the same extent and subject to the same restrictions as the planning board, subdivision or site plan approval pursuant to article 6 of this act or conditional use approval pursuant to section 54 of this act, whenever the proposed development requires approval by the board of adjustment of a variance pursuant to subsection d. of section 57 of this act (C. 40:55D–70). The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the board of adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes of board members required to grant any such subsequent approval shall be as otherwise provided in this act for the approval in question, and the special vote pursuant to the aforesaid subsection d. of section 57 shall not be required.

c. Whenever an application for development requests relief pursuant to subsection b. of this section, the board of adjustment shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this act. Failure of the board of adjustment to act within the period prescribed shall constitute approval of the application, and a certificate of the administrative officer as to the failure of the board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the

written endorsement or other evidence of approval herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

[Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L. 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal board of adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time.]

An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

25. R. S. 27:7-21 is amended to read as follows:

27:7-21. In addition to, and not in limitation of, his general powers, the commissioner may:

a. Determine and adopt rules, regulations and specifications and enter into contracts covering all matters and things incident to the acquistion, improvement, betterment, construction, reconstruction, maintenance and repair of State highways;

b. Execute and peform as an independent contractor or through contracts made in the name of the State, all work incident to the maintenance and repair of State highways;

c. Establish and maintain as an independent contractor or employer a patrol repair system for the proper and efficient maintenance and repair of State highways;

d. Employ and discharge, subject to the provisions of the Civil Service law, all foremen and laborers, prescribe their qualifications and furnish all equipment, tools and material necessary for such patrol repair system;

e. Widen, straighten and regrade State highways;

f. Vacate any State highway or part thereof;

g. The commissioner and his authorized agents and employees may enter upon any lands, waters and premises in the State, after giving written notice to the recorded owner at least three days prior thereto, for the purpose of making surveys, soundings, drillings, borings and examinations as he may deem necessary or convenient for the purposes of this Title, and such entry shall not be deemed a trespass; nor shall such entry be deemed an entry under any condemnation proceedings which may be then pending. The

commissioner shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities; [and]

h. Enter into cooperative agreements with any State department, agency or authority or any county or municipality enabling the State to negotiate for and condemn lands and also provide relocation services and payments deemed necessary for the effectuation of State or Federally financed State Aid Transportation and related [Programs.] *programs;*

i. File with the county clerk of each county a general plan or standard cross-section depicting a standard right-of-way sufficient to accommodate future improvements along each State highway within the county, including future grade separations; and

j. Do whatever may be necessary or desirable to effectuate the purposes of this Title.

26. Section 9 of P. L. 1968, c. 393 (C. 27:7-66) is amended to read as follows:

9. Whenever the location of a proposed line of any new State highway *or the proposed lines of the right-of-way required for widening, intersection improvements, straightening of alignment or other improvements on an existing State highway* shall have been approved by the commissioner, the commissioner may file a certified copy of a map, plan or report indicating such proposed line *or lines*, the width whereof shall not exceed what is reasonably required in accordance with recognized standards of highway engineering practice, with the county clerk of each county within which the proposed line *or lines* of said new highway *or highway improvement* is to be located and with the municipal clerk, planning board and building inspector of each municipality within which said line *or lines* is located. The commissioner shall accompany such filing with his certification that residents of the municipality in which such filing is made have been afforded adequate opportunity to express any objections that they may have to the proposed location of such highway *or highway improvement* [at a public hearing held at a convenient location for the purpose].

Any map, plan or report filed pursuant to this section may be amended from time to time by filing certified copies of a map, plan or report indicating any changes to be made in the location of proposed lines with the officials and in the manner set forth herein.

27. Section 10 of P. L. 1968, c. 393 (C. 27:7-67) is amended to read as follows:

10. (a) Whenever a map, plan or report indicating a proposed line *or lines* of a new State highway *or highway improvement*, or

any amendment thereto, has been filed by the department pursuant to this act, any municipal approving authority, before issuing a building permit or approving a subdivision plat with respect to any lot, tract, or parcel of land which abuts or is located wholly or partially within the proposed line *or lines* of a new highway *or highway improvement* shall refer the site plan, application for building permit or subdivision plat to the commissioner for review and recommendation as to the effect of the proposed development or imrovement upon the safety, efficiency, utility or natural beauty of the proposed new highway *or highway improvement.*

A municipal approving authority shall not issue any building permit or approve any subdivision plat without the recommendation of the commissioner until 45 days after such reference shall have elapsed without such recommendation. Within said 45-day period, the commissioner may:

(1) Give notice to the municipal approving authority and to the owner of such lot, tract or parcel of land of probable intention to acquire the whole or any part thereof, and thereupon no further action shall be taken by such approving authority for a further period of 120 days following the receipt of said notice: if within such further 120-day period, the department has not acquired, agreed to acquire, or commenced an action to condemn said property, the municipal approving authority shall be free to act upon upon the pending application in such manner as may be provided by law.

(2) Give notice to the municipal approving authority and to the owner of such lot, tract or parcel of land of his recommendation that the permit or approval for which application has been made be granted subject to certain modifications specified in said notice. Within 20 days of receiving such notice the municipal approving authority may, with the consent of the applicant, grant such permit or approval in such manner as to incorporate the commissioner's recommended modifications. If no such modified permit or approval is granted within said 20 days, then for a further period of 20 days, commencing either from the expiration of the aforesaid 20-day period or from any earlier date upon which either the municipal approving authority or the applicant shall have notified the commissioner that has recommended modifications will not be accepted, no further action shal be taken upon such application, unless the commissioner shall earlier notify the municipal approving authority and the applicant that he does not intend to initiate any steps toward the acquisition of such lot, tract or parcel of

land or any part thereof. But if before the expiration of said second 20-day period the commissioner gives notice to the municipal approving authority and to the owner of such lot, tract or parcel of land of probable intention to acquire the whole or any part thereof, no further action on such application shall be taken by such approving authority for a further period of 120 days following receipt of said notice. If within such further 120-day period the department has not aquired, agreed to acquire or commenced an action to condemn said property, the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law.

(3) Give notice to the municipal approving authority and to the owner of such lot, tract or parcel of land that he finds no objection to the granting of such permit or approval in the form in which it has been applied for. Upon receipt of such notice the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law.

(b) Nothing in this act shall be construed to prohibit or limit the authority of any municipal *or county* board, body or agency from incorporating a proposed line *or lines* of any new State highway *or highway improvement* in the master plan or official map of said municipality *or county* and from taking any action with respect thereto as may be authorized by law.

(c) No application for a building permit or subdivision approval shall be subject to the provisions of this subparagraph with respect to any proposed highway *or highway improvement* location or amendment thereto filed by the commissioner subsequent to the date on which such application was submitted to the municipal approving authority.

28. (New section) At least every six years the governing body of the county shall provide for a general reexamination of its master plan and development regulations by the county planning board. The county planning board shall prepare a report on the findings of that reexamination, and a copy of that report shall be sent to the planning board secretary and the municipal clerk of each municipality in the county. The six year period shall commence at the time of the adoption of the last general reexamination. The first reexamination shall be completed within six years after the effective date of this act.

The reexamination report shall state:

a. The major problems and objectives relating to land development in the county at the time of the adoption of the last reexamination, report, if any.

d. After preparing the Capital Improvement Program, the county planning board shall recommend the program to the county governing body for adoption. The county governing body may modify the Capital Improvement Program recommended to it by the county planning board, but any modification shall be approved by affirmative vote of a majority of the full authorized membership of the governing body and with the reasons for said modification recorded in the minutes. The county governing body shall adopt the Capital Improvement Program by ordinance or resolution, as appropriate.

30. (New section) a. For existing State highways the official county map shall depict a standard right-of-way sufficient to accommodate future improvements which may be required along the highway, including future grade separations. The standard right-of-way for each highway shall be based on a general plan or standard cross-section filed with the county by the Department of Transportation.

b. The official county map shall be consistent with any route preservation map filed by the Commissioner of Transportation in accordance with section 9 of P. L. 1968, c. 393 (C. 27:7-66).

c. If the county planning board, in the master plan, has determined that additional improvements to a State highway may be required in the future, these improvements, including realignments, bypasses, major widening or grade separations, may be incorporated into the official map. The county governing body shall notify the Department of Transportation of any projected additional improvements at the time of their inclusion in the official county map.

31. (New section) In order to facilitate efficient and coordinated review of subdivision and site plan applications submitted to it, the county planning board may by resolution provide for a regular monthly meeting at which development applications may be reviewed with all affected agencies including the Department of Environmental Protection and the Department of Transportation.

32. (New section) There is appropriated from the General Fund to the Department of Transportation the sum of $2,000,000.00 to be distributed to the counties for the purpose of assisting the counties and county planning boards in meeting the responsibilities created by this act. Each county shall receive a base payment of $30,000.00. The remainder of the appropriation shall be divided among the counties using a formula based equally upon the relative population of each county and the relative land area of each county. Prior to disbursing any funds to a county, the Com-

missioner of the Department of Transportation, or his designee, shall enter into a contractual agreement stating the specific work tasks for which the allocated funds will be used.

33. Section 8 of P. L. 1968, c. 285 (C. 40:27-6.6) is repealed.

34. This act shall take effect 90 days after enactment.

STATEMENT

This bill would revise and supplement New Jersey's county planning statutes to provide for a stronger regional planning role for counties. A stronger role for counties is needed to connect and complete the strong municipal and State planning processes established by the "Municipal Land Use Law" and the "State Planning Act." The role of county planning is particularly critical in assuring orderly development of the State's high growth areas.

The bill would give county planning boards a new role in the development approval process. County planning boards would be required to review major developments to ensure that vital regional and State concerns are addressed, while the major substantive reviews would continue to be done by municipal planning boards. Specifically, county planning board would be given the responsibility of reviewing subdivisions and site plans having potential regional impacts. These are defined as including: (1) developments located on a State highway or affecting the State drainage facilities, (2) developments which include more than 250 housing units, (3) developments which contain more than 100,000 square feet of nonresidential floor space and (4) developments located on a county road or affecting county drainage facilities (already covered under existing law). The requirements that a county planning board could impose on a developer would continue to be restrictive to specified issues of regional significance. This list is expanded to include requirements for off-site improvements and dedications for State, as well as county, highways and drainageways. To expedite the development approval process, the county planning board would be required to certify to the municipal planning board, in advance of municipal review, that all county requirements have been met. County certification would be required within 45 days in the case of a project having potential regional impact and within five days in the case of a project not having potential regional impact.

The bill would also strengthen county planning generally through requiring all counties to have planning boards and master plan and specifying in greater detail the contents of the county

master plan. An appropriation of $2,000,000.00 is provided to the Department of Transportation for a state aid program to counties for the purpose of assisting counties and county planning boards in meeting the additional responsibilities placed upon them by this legislation.

LOCAL PLANNING AND ZONING

Provides stronger regional planning role for counties and appropriates $2,000,000.

ASSEMBLY, No. 3290

STATE OF NEW JERSEY

INTRODUCED OCTOBER 2, 1986

By Assemblymen LITTELL and HAYTAIAN

AN ACT concerning the financing of transportation improvements in growth corridors, and supplementing Title 27 of the Revised Statutes.

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

1. This act shall be known and may be cited as the "New Jersey Transportation Development District Act of 1986."

2. The Legislature finds and declares that:

a. In recent years, New Jersey has experienced explosive growth in certain regions, often along State highway routes. These "growth corridors" and "growth districts" are vital to the State's future but also present special problems and needs.

b. Growth corridors and districts are heavily dependent on the State's transportation system for their current and future development. At the same time, they place enormous burdens on existing transportation infrastructure, contiguous to new development and elsewhere, creating demands for expensive improvements, reducing the ability of State highways to provide for through movement of traffic and creating constraints to future development.

c. Existing financial resources and existing mechanisms for securing financial commitments for transportation improvements are inadequate to meet transportation improvement needs which are the result of rapid development in growth areas, and therefore it is appropriate for the State to make special provisions for the financing of needed transportation improvements in these areas, including the creation of special financing districts and the

assessment of special fees on those developments which are responsible for the added burdens on the transportation system.

3. The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

a. "Commissioner" means the Commissioner of Transportation.

b. "Department" means the Department of Transportation.

c. "Development" means "development" in the meaning of section 3.1 of the "Municipal Land Use Law," P. L. 1975, c. 291 (C. 40:55D-4), for which a construction permit has been issued pursuant to section 12 of P. L. 1975, c. 217 (C. 52:27D-130).

d. "Development assessment liability date" means a date specified in an ordinance or resolution, as appropriate, adopted under section 7 of this act, which shall be either the effective date of the ordinance or resolution, as appropriate, or a specified date not more than 10 years prior to the effective date of the ordinance or resolution, as appropriate.

e. "Development fee" means a fee assessed on a development pursuant to an ordinance or resolution, as appropriate, adopted under section 7 of this act.

f. "Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, and any facilities, equipment, property, rights-of-way, easements and interests therein needed for the construction, improvement and maintenance of highways.

g. "Public transportation project" means, in connection with public transportation service or regional ridesharing programs, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service or regional ridesharing programs.

h. "Transportation development district" or "district" means a district created under section 4 of this act.

i. "Transportation project" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods.

4. a. The governing body of any county may, by ordinance or resolution, as appropriate, apply to the commissioner for the designation and delineation of a transportation development district within the boundaries of the county. The application shall include: (1) proposed boundaries for the district, (2) evidence of growth conditions prevailing in the proposed district which justify creation of a transportation development district in conformity with the purposes of this act, especially as expressed in subsection c. of section 2 of this act, (3) a description of transportation needs arising from rapid development within the district, (4) certification that there is in effect for the county a current county master plan adopted under R. S. 40:27-2 and that creation of the district would be in conformity both with the county master plan and with the State Development and Redevelopment Plan adopted under the "State Planning Act," P. L. 1985, c. 398 (C. 52:18A-196 et al.), and (5) any additional information that the commissioner may require.

b. The commissioner shall, within 90 days of receipt of a completed application and upon review of the application as to sufficiency and conformity with the purposes of this act, (1) by order designate a district and delineate its boundaries in conformance with the application, or (2) disapprove the application and inform the governing body of the county in writing of the reasons for the disapproval. The governing body may, in the case of a disapproval of its application, resubmit an application incorporating whatever revisions it deems appropriate, taking into consideration the commissioner's reasons for disapproval.

5. a. Following the commissioner's designation and delineation of a district under section 4 of this act, the governing body of the county shall initiate a joint planning process for the district, with opportunity for participation by State, county, municipal and private representatives. The joint planning process shall produce a draft district transportation improvement plan and a draft financial program.

b. The draft district transportation improvement plan shall establish goals and priorities for all modes of transportation within the district, shall incorporate the relevant plans of all transportation agencies within the district and shall contain a

program of transportation projects which addresses transportation needs arising from rapid growth conditions prevailing in the district and which therefore warrants financing in whole or in part from a trust fund to be established under section 7 of this act. The draft district transportation improvement plan shall be consistent with the State transportation master plan adopted under section 5 of P. L. 1966, c. 301 (C. 27:1A-5), the county master plan adopted under R. S. 40:27-2 and the State Development and Redevelopment Plan adopted under the "State Planning Act," P. L. 1985, c. 398 (C. 52:18A-196 et al.).

c. The draft financial program shall include an identification of projected available financial resources for financing district transportation projects outlined in the draft district transportation improvement plan, including recommendations for types and rates of development fees to be assessed under section 7 of this act, and projected annual revenue to be derived therefrom.

d. The governing body of the county shall make copies of the draft district transportation improvement plan and the draft financial program available to the public for inspection and shall hold a public hearing on them.

6. a. The governing body of any county which has completed all the requirements of section 5 of this act may, by ordinance or resolution, as appropriate, adopt a district transportation improvement plan. The district transportation improvement plan shall be derived from the draft district transportation improvement plan developed under section 5 of this act and shall contain a program of transportation projects intended to be financed over time in whole or in part from a trust fund to be established under section 7 of this act. The district transportation improvement plan shall be incorporated into the capital improvements program required to be adopted under P. L. , c. (C.) (now pending before the Legislature as Assembly Bill No. 3289 and Senate Bill No. 2626 of 1986) and shall be consistent with any transportation improvement program which the county may be required to submit to the department.

b. No ordinance or resolution, or amendment or supplement thereto, adopted under this section shall be effective until approved by the commissioner. In evaluating the district transportation improvement plan, the commissioner shall take into consideration: (1) the appropriateness of the district boundaries in light of the findings of the plan, (2) the appropriateness of the content and timing of the program of projects intended to be financed in whole or in part from the district trust fund in

relation to the transportation needs stemming from rapid growth in the district, (3) the hearing record of the public hearing held prior to adoption of the ordinance, and (4) any written comments submitted by municipalities or other parties. The commissioner shall complete the review of the ordinance or resolution and shall inform the governing body in writing of the approval or disapproval thereof within 180 days of receipt. The written notice shall be accompanied, in the case of approval, by the commissioner's estimate of the resources which may be made available under this act and from other sources to support implementation of the plan and, in the case of disapproval, by the reasons for that disapproval. The governing body may, in the case of a disapproval, resubmit an ordinance or resolution, as appropriate, or amendment or supplement thereto, incorporating whatever revisions it deems appropriate, taking into consideration the commissioner's reasons for disapproval.

7. a. After the effective date of an ordinance or resolution, as appropriate, adopted under section 6 of this act, the governing body of the county may provide, by ordinance or resolution, as appropriate, for the assessment and collection of development fees on developments within the district, including those developments which consist of a change of use on previously developed property.

b. The ordinance or resolution, as appropriate, shall specify whether the fee is a one-time fee, to be assessed and collected once, or an annual fee, to be assessed annually and collected not more often than quarterly.

c. The ordinance or resolution, as appropriate, shall specify a development assessment liability date. Developments occurring after the development assessment liability date shall be liable for assessment on the effective date of the ordinance or on the date of development, whichever is later. Developments for which a construction permit is issued before the development assessment liability date shall not be liable for assessment.

d. The ordinance or resolution, as appropriate, also shall provide for the establishment of a transportation development district trust fund under the control of the county treasurer. All monies collected pursuant to the ordinance or resolution, as appropriate, shall be deposited into the trust fund.

e. An ordinance or resolution, as appropriate, adopted under this section also may contain provisions for: (1) delineating a core area within the district within which the conditions justifying creation of the district are most acute and providing for a

reduced development fee rate to apply outside that core area; (2) credits against assessed development fees for payments made or expenses incurred which have been determined by the governing body of the county to be in furtherance of the district transportation improvement plan, including but not limited to, contributions to transportation improvements, other than those required for safe and efficient highway access to a development, and costs attributable to the promotion of public transit or ridesharing; (3) exemptions from or reduced rates for development fees for specified land uses which has been determined by the governing body of the county to have a beneficial, neutral or comparatively minor adverse impact on the transportation needs of the district; and (4) a reduced rate of development fees for developments for which construction permits were issued after the development assessment liability date but before the effective date of the ordinance or resolution, as apprporiate, where those dates are different.

8. An ordinance or resolution, as appropriate, adopted under section 7 of this act shall provide for the assessment of development fees based upon one or more of the following criteria:

a. A vehicle trip fee, based on the number of vehicle trips generated by the development;

b. A square footage fee, based on the occupied square footage of a developed structure;

c. An employee fee, based on the number of employees regularly employed at the development:

d. A parking space fee, based on the number of parking spaces located at the development: or

e. Any other fee, approved by the commissioner, which is related to trip generation or impact on the transportation system.

9. Computation of fees due under any development fee assessed under an ordinance or resolution, as appropriate, adopted under section 7 of this act shall be made according to uniform standards adopted by regulation by the commissioner.

10. Every transportation project funded in whole or in part by funds from a transportation development district trust fund shall be subject to a project agreement to which the commissioner is a party. Every transportation project for which a project agreement has been executed shall be included in a district transportation improvement plan adopted by an ordinance or resolution, as appropriate, under section 6 of this act. A project agreement may include other parties, including but not limited to, municipalities and developers. A project agreement shall provide for

the assignment of financial obligations among the parties, and those provisions for discharging respective financial obligations as the parties shall agree upon. A project agreement also shall make provision for those arrangements among the parties as are necessary and convenient for undertaking and completing a transportation project. A project agreement may provide that a county may pledge funds in a transportation development district trust fund or revenues to be received from development fees for the repayment of debt incurred under any debt instrument which the county may be authorized by law to issue. Each project agreement shall be authorized by and entered into pursuant to an ordinance or resolution, as appropriate, of the governing body having charge of the finances of each county and municipality which is a party to the project agreement. Any project agreement may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by or on behalf of the county or municipality and shall be valid whether or not an appropriation with respect thereto is made by the county or municipality prior to the authorization or execution thereof. Every county and municipality is authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every project agreement.

11. No expenditure of funds shall be made from a transportation development district trust fund except by appropriation by the governing body of the county and upon certification of the county treasurer that the expenditure is in accordance with a project agreement entered into under section 10 of this act. Notwithstanding the provisions of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.) to the contrary, there shall be exempted from the final appropriations of a county, subject to the spending limitations imposed thereunder, any appropriations made by the county in accordance with this section or any payments made by the county pursuant to a project agreement authorized in accordance with section 10 of this act.

12. The commissioner may, subject to the availability of appropriations for this purpose and pursuant to a project agreement entered into under section 10 of this act, make loans to a party to a project agreement for the purpose of undertaking and completing a transportation project. In this event, the project agreement shall include the obligation of the governing body of the county to make payments to the commissioner for repayment

of the loan according to an agreed upon schedule of payments. The commissioner may receive monies from a county for repayment of a loan and pay these monies, or assign his right to receive them, to the New Jersey Transportation Trust Fund Authority, created pursuant to section 4 of P. L. 1984, c. 73 (C. 27:1B–4), in reimbursement of funds paid to him by that authority for the purpose of making loans pursuant to this section.

13. The governing bodies of two or more counties which have established, or propose to establish, adjoining transportation development districts, and which have determined that joint or coordinated planning or implementation of transportation projects would be beneficial, may enter into joint arrangements under this act, including: (1) filing joint applications under section 4 of this act, (2) initiating a coordinated joint planning process under section 5 of this act, (3) adopting coordinated district transportation improvement plans under section 6 of this act and (4) entering into joint project agreements under section 10 of this act.

14. a. The commissioner shall, subject to the availability of appropriations, allocate State aid under the terms and conditions of this act to counties which have established transportation development districts. State aid provided under this section shall be provided for the purpose of undertaking transportation projects in district transportation improvement plans approved under section 6 of this act and for the purpose of assisting in the development of district transportation improvement plans under section 5 of this act and shall be allocated on a pro rata basis among all counties which have established transportation development districts in proportion to the development fees assessed within a district or in proportion to funds appropriated by a county for the development of a district transportation improvement plan, as appropriate, except that the total amount of State aid so allocated shall not exceed the total amount of development fees assessed in all transportation development districts and plan development funds appropriated by all counties.

b. When the commissioner determines in any fiscal year that the funds appropriated for the purposes of this section exceed the total amount of development fees assessed and plan development funds appropriated by counties which have established transportation development districts, the commissioner may allocate these funds to counties and municipalities at his discretion for purposes consistent with this act.

15. The commissioner shall adopt the rules and regulations, in accordance with the "Administrative Procedure Act," P. L. 1968,

c. 410 (C. 52:14B-1 et seq.), necessary to effectuate the purposes of this act.

16. If any clause, sentence, paragraph, section or part of this act is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which the judgment is rendered.

17. This act shall be interpreted liberally to effect the purposes set forth herein.

18. This act shall take effect immediately.

STATEMENT

The need for transportation improvements caused by rapid development in New Jersey's growth corridors far exceeds the resources available to State, county and municipal governments to pay for those improvements. This bill would authorize these governmental bodies and developers to join together in regional partnerships to plan and finance the improvements needed to accommodate and facilitate growth. Specifically, the bill would enable counties, in conjunction with the Department of Transportation, to establish transportation development districts (TDDs) in New Jersey's growth corridors. A county which had set up such a district would be empowered to assess, by ordinance, development fees to be used to finance transportation improvements. All funds would be required to be spent in accordance with a district transportation improvement plan and individual project agreements approved by the Commissioner of Transportation. TDD funds could be used to finance, in whole or in part, improvement projects on State highways, county roads or municipal streets or other transportation capital projects, as needed, within the district.

The State would assist the development of TDDs in two ways. First, the New Jersey Transportation Trust Fund Authority would be authorized to serve as "banker" to TDDs through advancing cash for projects which would then be repaid from projected revenue. Second, a special State aid program would be established to provide matching funds for fees assessed in TDDs.

TRANSPORTATION—GENERAL

Establishes the "New Jersey Transportation Development District Act of 1986."

ASSEMBLY, No. 3291

STATE OF NEW JERSEY

INTRODUCED OCTOBER 2, 1986

By Assemblymen MILLER and MAZUR

AN ACT concerning the management of access to State highways, amending R. S. 27:7-1, R. S. 27:16-1, R. S. 40:67-1, the title and body of P. L. 1945, c. 83, P. L. 1952, c. 21, P. L. 1975, c. 291, P. L. 1983, c. 283, and repealing sections 4 and 7 of P. L. 1945, c. 83 and section 52 of P. L. 1951, c. 23.

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

1. (New section) Sections 1 through 10, inclusive, and sections 27 through 30, inclusive, of this act shall be known and may be cited as the "State Highway Access Management Act of 1986."

2. (New section) The Legislature finds and declares that:

a. The purpose of the State highway system is to serve as a network of principal arterial routes for the safe and efficient movement of people and goods in the major travel corridors of the State.

b. The existing State highways which comprise the State highway system were constructed at great public expense and constitute irreplaceable public assets.

c. The State has a public trust responsibility to manage and maintain effectively each highway within the State highway system to preserve its functional integrity and public purpose for the present and future generations.

d. Inappropriate land development activities and unrestricted access to State highways can impair the purpose of the State highway system and damage the public investment in that system.

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

Matter printed in italics *thus* is new matter.

e. Every owner of property which abuts a public road has a right of reasonable access to the general system of streets and highways in the State, but not to a particular means of access. The right of access is subject to regulation for the purpose of protecting the public health, safety and welfare.

f. Governmental entities through regulation may not eliminate all access to the general system of streets and highways without providing just compensation.

g. The access rights of an owner of property abutting a State highway must be held subordinate to the public's right and interest in a safe and efficient highway.

h. It is desirable for the Department of Transportation to establish through regulation a system of access management which will protect the functional integrity of the State highway system and the public investment in that system.

i. Improved access management is beneficial for streets and highways of every functional classification, and a statutory plan providing for improved management should enable counties and municipalities to take full advantage of its provisions.

3. (New section) a. The Commissioner of Transportation shall, within one year of the effective date of this amendatory and supplementary act, and following a public hearing, adopt as a regulation under the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), a State highway access management code (hereinafter, "access code") providing for the regulation of access to State highways.

b. The access code shall establish a general classification system for the State highway system, taking into account the various functions different highways perform and the various environments in which different highways are located. Each State highway segment shall have its classification identified in the access code.

c. For each highway classification identified, the access code shall establish standards for the design and location of driveways and intersecting streets. The access code also shall set forth alternative design standards for each highway classification which, combined with limits on vehicular use, can be applied to lots which were in existence prior to the adoption of the access code and which cannot meet the standards of the access code.

d. The access code shall set forth administrative procedures for the issuance of access permits.

e. The access code shall contain standards suitable for adoption by counties and municipalities for the management of access to streets and highways under their jurisdiction.

f. The commissioner may adopt, as supplements to the access code, site-specific access plans for individual segments of a State highway. Any access plan adopted in accordance with this subsection shall be developed jointly by the Department of Transportation and the municipality in which the highway segment is located. Prior to incorporating a site-specific access plan into the access code, the commissioner shall determine that the access plan conditions have been incorporated into the master plan and development ordinances of the municipality, that the access plan complies with or exceeds the standards established in the access code, and that an appropriate means of access has been identified for every lot currently having frontage on the highway segment.

4. (New section) a. Any person seeking to construct or open a driveway or public street entering into a State highway shall first obtain an access permit from the Commissioner of Transportation.

b. Every access permit, including street opening permits, in effect on the effective date of this amendatory and supplementary act shall remain valid and effective until revoked or replaced.

c. Every State highway intersection with a driveway or public street in existence prior to January 1, 1970 shall be assumed to have been constructed in accordance with an access permit, even if no permit was issued.

d. Access permits issued under this amendatory and supplementary act may contain whatever terms and conditions the commissioner finds necessary and convenient for effectuating the purposes of this amendatory and supplementary act, including but not limtied to, the condition that a permit shall expire when the use of the property served by the access permit changes or is expanded.

e. Any person constructing, maintaining or opening a driveway or public street entering into a State highway, except as authorized by law, is subject to a civil penalty of $100.00. Each day in which an authorized driveway or street entering into a State highway is open, following written notice from the commissioner that the driveway or public street is not authorized by law, is a separate violation. The commissioner may, in addition to or in conjunction with initiating a civil acton for collecton of this penalty, initiate an action in the Chancery Division of the Superior Court for injunctive relief.

5. (New section) The Commissioner of Transportation may issue a nonconforming lot access permit for a property after finding that: a. the property otherwise would not be eligible for an access permit under the access code because of insufficient frontage or

other reason; b. the lot on which the property is located was in existence prior to adoption of the access code; and c. denial of an access permit would leave the property without reasonable access to the general system of streets and highways. Every nonconforming lot access permit shall specify limits on the maximum permissible vehicular use of any driveway constructed or operated under that permit.

6. (New section) The Commissioner of Transportation may, upon written notice and hearing, revoke an access permit after determining that reasonable alternative access is available for the property served by the access permit and that the revocation would be consistent with the purposes of this amendatory and supplementary act.

7. (New section) The Commissioner of Transportation may, upon written notice and hearing, revoke an access permit issued before the effective date of this amendatory and supplementary act after determining that the access granted by the access permit is nonconforming under the access code and that the use of property served by the access permit has changed or has been expanded after the adoption of the access code.

8. (New section) After adoption of the access code, as provided by section 3 of this amendatory and supplementary act, no property abutting a State highway shall be subdivided in a manner which would create additional lots abutting that highway unless all the abutting lots so created are in accord with the standards established in the access code.

9. (New section) The Commissioner of Transportation and every county and municipality may build new roads or acquire access easements to provide alternative access to existing developed lots which have no other means of access except to a State highway.

10. (New section) In addition to any powers granted to him under this amendatory and supplementary act or any other provision of law, the Commissioner of Transportation may acquire, by purchase or condemnation, any right of access to any highway upon a determination that the public health, safety and welfare require it.

11. R. S. 27:7-1 is amended to read as follows:

27:7-1. As used in this subtitle:

"Access code" means the State highway access management code adopted by the commissioner under section 3 of the "State Highway Access Management Act of 1986," P. L. 19 , c. (C.) (now pending before the Legislature as this bill).

"Access permit" means a permit issued by the commissioner pursuant to sections 4 and 5 of P. L. , c. (C.) (now pending before the Legislature as this bill) for the construction and maintenance of a driveway or public street connecting to a State highway.

"Authority" means a governing body or public official charged with the care of a highway.

"Betterment" means construction, subsequent to the original improvement, of any one or more of the component factors properly belonging to the original improvement, which may have been omitted in the original improvement of a road, or which adds to the value thereof after improvement.

"Commissioner" means the [State highway commissioner] *Commissioner of Transportation.*

"County road" means a road taken over, controlled or maintained by the county.

"Department" means the [State highway department] *Department of Transportation*, acting through the [State highway] commissioner or such officials as may be by the commissioner designated.

"Driveway" means a private roadway providing access to a public street.

"Engineer" means the [State highway engineer] *Assistant Commissioner for Engineering and Operations*, or the [assistant] *deputy* State highway engineer, when designated.

"Extraordinary repairs" means extensive or entire replacement, with the same or a different kind of material, of one or more of the component factors of the original improvement of a road, which may become necessary because of wear, disintegration or other failure.

"Governing body" means the mayor and council, town council, village trustees, commission or committee of any municipality, and the board of chosen freeholders of any county.

"Highway" means a public right of way, whether open or improved or not, including all existing factors of improvements.

"Improvement" means the original work on a road or right of way which converts it into a road which shall, with reasonable repairs thereto, at all seasons of the year, be firm, smooth and convenient for travel. "Improvement" shall consist of location, grading, surface, and subsurface drainage provisions, including curbs, gutters, and catch basins, foundations, shoulders and slopes, wearing surface, bridges, culverts, retaining walls, intersections,

private entrances, guard rails, shade trees, illumination, guide-posts and signs, ornamentation and monumenting. *"Improvement" also may consist of alterations to driveways and local streets, acquisition of rights-of-way, construction of service roads and other actions designed to enhance the functional integrity of a highway.* All of these component factors need not be included in an original improvement.

"Jurisdiction" means the civil division of the State, over the roads of which any authority may have charge.

"Maintenance" means continuous work required to hold an improved road against deterioration due to wear and tear and thus to preserve the general character of the original improvement without alteration in any of its component factors.

"Public utility" means and includes every individual, copartnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court, owning, operating, managing or controlling within the State of New Jersey a steam railroad, street railway, traction railway, canal, express, subway, pipe line, gas, electric, light, heat, power, water, oil, sewer, telephone, telegraph system, plant or equipment for public use under privileges granted by the State or by any political subdivision thereof.

"Reconstruction" means the rebuilding with the same or different material of an existing improved road, involving alterations or renewal of practically all the component factors of which the original improvement consisted.

"Repairs" means limited or minor replacements in one or more of the component factors of the original improvement of a road which may be required by reason of storm or other cause in order that there may be restored a condition requiring only maintenance to preserve the general character of the original improvement of a road.

"Resurfacing" means work done on an improved road involving a new or partially new pavement, with or without change in width, but without change in grade or alignment.

"Road" means a highway other than a street, boulevard or parkway.

"Route" means a highway or set of highways including roads, streets, boulevards, parkways, bridges and culverts needed to provide direct communication between designated points.

"State highway" means a road taken over and maintained by the State.

"State highway system" means all highways included in the routes set forth in this subtitle, or added thereto, including all bridges, culverts, and all necessary gutters and guard rails along the route thereof.

"Street" means a highway in a thickly settled district where, in a distance of one thousand three hundred and twenty feet on the center line of the highway, there are twenty or more houses within one hundred feet of the center line; or any highway which the governing body in charge thereof and the commissioner may declare a street, and all highways within incorporated municipalities of over twelve thousand population; and includes boulevards, parkways, speedways, being highways maintained mainly for purposes of scenic beauty or pleasure, or of which the public use is restricted.

"Take over" means the action by the department in assuming the control and maintenance of a part of the State highway system.

"Work" means and includes the:

a. Acquisition, by lease, gift, purchase, demise or condemnation, of lands for any purpose connected with highways or adjoining sidewalks, for temporary or permanent use;

b. Laying out, opening, construction, improvement, repair and maintenance of highways and removal of obstructions and encroachments from adjoining sidewalks;

c. Building, repair and operation of bridges;

d. Building of culverts, walls and drains;

e. Planting of trees;

f. Protection of slopes;

g. Placing and repair of road signs and monuments;

h. Opening, maintenance and restoration of detours;

i. Elimination of grade crossings;

j. Lighting of highways;

k. Removal of obstructions to traffic and to the view;

l. Surveying and preparation of drawings and papers;

m. Counting of traffic;

n. Letting of contracts;

o. Purchase of equipment, materials and supplies;

p. Hiring of labor;

q. And all other things and services necessary or convenient for the performance of the duties imposed by this title.

12. Section 1 of P. L. 1983, c. 283 (C. 27:7-~~44~~.9) is amended to read as follows:

1. *a.* In addition to other powers conferred upon the Commissioner of Transportation by any other law and not in limitation

thereof, the commissioner, in connection with the construction, reconstruction, maintenance or operation of any highway project, may make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances, herein called "facilities," of any public utility as defined in R. S. 48:2-13, and of any cable television company as defined in the "Cable Television Act," P. L. 1972, c. 186 (C. 48:5A-1 et seq.), in, on, along, over or under any highway project. Whenever the commissioner determines that it is necessary that facilities which now are, or hereafter may be, located in, on, along, over or under any highway project shall be relocated in the project or should be removed from the project, the public utility or cable television company owning or operating the facilities shall relocate or remove the same in accordance with the order of the commissioner. The cost and expenses of such relocation or removal, including the cost of installing the facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights acquired to accomplish the relocation or removal, shall be ascertained and paid by the commissioner as a part of the cost of the project. In the case of the relocation or removal of facilities, as aforesaid, the public utility or cable television company owning or operating the same, its successors or assigns may maintain and operate the facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in the former location or locations.

b. As used in this act, "highway project," in addition to its ordinary meaning, means one which is administered and contracted for by the commissioner.

c. The powers conferred upon the commissioner by this section also are conferred upon the governing body of any county having under its jurisdiction a limited access highway in the meaning of section 1 of P. L. 1945, c. 83 (C. 27:7A-1) with respect to the construction, reconstruction, maintenance or operation of any highway project on that limited access highway.

13. The title of P. L. 1945, c. 83, as said title was amended by P. L. 1948, c. 461, is amended to read as follows:

An act providing for the establishment, construction and maintenance of [freeways and parkways] *limited access highways*.

14. Section 1 of P. L. 1945, c. 83 (C. 27:7A-1) is amended to read as follows:

1. *a.* As used in this act[, "freeway"];

"Limited access highway" [shall mean] *means a* [State] highway especially designed for through [mixed] traffic over which abutters have no easement or right of light, air or direct access, by reason of the fact that their property abuts upon such way[, with infrequent public entrances and exits and with or without service roads];

["Parkway" shall mean a State highway especially designed for through passenger traffic over which abutters have no easement or right of light, air or direct access, by reason of the fact that their property abuts upon such way, with special treatment in landscaping and planting between roadways and along its borders, which borders may also include service roads open to mixed traffic, recreational facilities such as pedestrian, bicycle and bridle paths, overlooks and picnic areas, and other necessary noncommercial facilities.]

"Commissioner" means the Commissioner of Transportation.

b. The definitions in this section do not restrict the ability of the commissioner to provide for the design of any State highway or element thereof, according to whatever design standards the commissioner determines to be appropriate.

c. The term "freeway" or "parkway," as used in any law which went into effect before the effective date of P. L. , c. (C.) (now pending before the Legislature as this bill) which designates any State highway as a "freeway" or "parkway" shall be construed to mean a "limited access highway" as defined in subsection a. of this section.

15. Section 2 of P. L. 1945, c. 83 (C. 27:7A–2) is amended to read as follows:

2. [Upon recommendation of the State Highway Commissioner and upon subsequent designation by the Legislature of any projected State Highway, or portion thereof, as a freeway or as a parkway, the State Highway Commissioner] *a. Except as otherwise determined by the commissioner based on the public interest, the commissioner shall construct every State highway, or portion thereof, located on new alignment as a limited access highway.*

b. When the commissioner or the governing body of a county constructs a limited access highway, the commissioner or governing body shall have authority to arrange with landowners, at the time of purchase of the rights-of-way for such highway or portion thereof, for the control of public or private access or for complete exclusion of direct access of abutters to the [State] highway

right-of-way. Such arrangements shall be made part of the purchase contract. In the event that no agreement can be reached between the parties, the commissioner *or the governing body of the county* shall have the power to acquire said rights of access by condemnation.

c. No right of access exists to a highway constructed on new alignment unless the construction of the highway results in the creation of a remainder parcel of property which has no access to a public street. Arrangements made with landowners for exclusion of direct access by the commissioner, or by the governing body of a county under subsection b. of this section, shall not be subject to compensation unless it is determined that the construction of the highway has had the effect of eliminating all reasonable access to the system of streets and highways to a remainder parcel of land.

16. Section 3 of P. L. 1945, c. 83 (C. 27:7A–3) is amended to read as follows:

3. *a.* Property needed for any [freeway] *limited access highway* is declared to be all those lands or interests therein required for the traveled way together with those lands or interests therein necessary or desirable for service, maintenance and protection of the present and future use of the highway, [not to exceed a total average width of right-of-way of three hundred feet, except where greater width is needed] *including those lands or interests therein necessary or desirable* in connection with grade separations, connecting roadways at an intersection with another main highway, *land between roadways, occasional parking areas, treatment of borders and landscape areas, recreational facilities, parallel service roads* and railroad crossing eliminations or relocations, and for those areas referred to in section [eight] *8* of this act. [The State Highway Commissioner shall have the authority to control the number of access roads and their location and design.]

b. Except as provided in subsection c. of this section, the commissioner, with respect to limited access highways under his jurisdiction, and the governing body of a county, with respect to limited access highways under its jurisdiction, shall permit access only from infrequently spaced intersections with public streets and highways. Intersections shall be especially designed to minimize interference with through traffic and shall be located in a manner which facilitates regional access to the highway.

c. The commissioner, or the governing body of the county, as appropriate, may allow construction or continuation of driveway

access to a remote or isolated facility owned or operated by a governmental agency or authority or by a public utility or to an agricultural building or land, if the commissioner or governing body determines that the use of the driveway would be infrequent and would not pose a hazard or inconvenience to the public and that the creation or continuation of the driveway would not be in conflict with the purposes of P. L. , c. (C.) (now pending before the Legislature as this bill). No driveway access shall be provided to a facility which consists of an establishment providing employment to more than five persons.

17. Section 1 of P. L. 1952, c. 21 (C. 27:7A–4.1) is amended to read as follows:

1. In connection with the acquisition of property or property rights for any [freeway or parkway] *limited access highway* or portion thereof, the [State Highway Commissioner] *commissioner, with respect to limited access highways under his jurisdiction, and the governing body of a county, with respect to limited access highways under its jurisdiction,* may, in his *or its* discretion, acquire by gift, devise, purchase or condemnation, an entire lot, block or tract of land, if, by so doing, the interests of the public will be best served even though said entire lot, block or tract is not needed for the right-of-way proper [but only if the portion outside the normal right-of-way is landlocked or is so situated that the cost of acquisition to the State will be practically equivalent to the total value of the whole parcel of land; provided, however, that the State Highway Commissioner shall not have the power to acquire by the exercise of the right of eminent domain for any of the purposes of this act any property or property rights owned or used by any public utility as defined in section 48:2–13 of the Revised Statutes].

18. Section 5 of P. L. 1945, c. 83 (C. 27:7A–5) is amended to read as follows:

5. [Upon recommendation of the State Highway Commissioner and upon subsequent designation by the Legislature of any existing State highway, or portion thereof, as a freeway or parkway, the State Highway Commissioner] *The commissioner may, by order and after public hearing, designate any existing State highway, or portion thereof, as a limited access highway and thereafter* shall have the authority to acquire, either by purchase or condemnation, such property rights, easements and access rights as may be necessary to make such existing highway or portion thereof a [freeway or parkway as defined in this act] *limited access highway.*

19. Section 6 of P. L. 1945, c. 83 (C. 27:7A–6) is amended to read as follows:

6. The [State Highway Commissioner] *commissioner, with respect to limited access highways under his jurisdiction, and the governing body of a county, with respect to limited access highways under its jurisdiction,* shall have the authority to restrict the use of roadways in [parkways] *limited access highways* to passenger motor vehicles, *to prohibit the use of any roadway in limited access highways by certain classes of vehicles or by pedestrians, bicycles or other nonmotorized traffic or by any person operating a motor-driven cycle* and to make such other regulations as may be proper or necessary to carry out the provisions of this act[: provided, however, if any highway or any portion or portions thereof over which autobuses lawfully operate is designated a parkway, or a part of a parkway, no such restriction or regulation shall prevent the use by autobuses, in accordance with other laws applicable thereto, of such portion or portions of such parkway as include such highway or portion or portions thereof, or of such portion or portions of such parkway as shall be necessary to provide ingress and egress for such autobuses in connection with such use].

20. Section 8 of P. L. 1945, c. 83 (C. 27:7A–8) is amended to read as follows:

8. No commercial enterprises or activities shall be conducted by the [State Highway Commissioner] *commissioner* or any other agency of the State within or on the property acquired for or in connection with a [freeway or parkway] *limited access highway,* as defined in this act, nor shall such commercial enterprises or activities be authorized except as hereinafter provided but nothing herein shall prevent the operation, in the manner provided by law, of autobuses within or on the property used for or designated as a [freeway] *limited access highway* as defined in this act[, or the operation, in the manner provided by law, of autobuses within or on the property used for or designated as a parkway as defined in this act to the extent provided for in section six of this act].

The [State Highway Commissioner] *commissioner,* in order to permit the establishment of adequate fuel or other service facilities by private owners or their lessees, for the users of a [freeway or parkway] *limited access highway,* may acquire suitable areas for such facilities even though such areas are not needed for the right-of-way proper and, in the manner hereinafter provided, shall sell *or lease as lessor* such portions thereof as in his judgment the public interest shall then require. Such sales *and leases* shall be made under the following terms and conditions:

a. Each purchaser *and lessee* shall be a person who has been continuously a resident of this State for a period of at least two years immediately preceding such sale.

b. Subject to the conditions and restrictions imposed by this act, the premises shall be sold *or leased* at public sale to the highest responsible bidder.

c. The commissioner shall have the right to incorporate in any deed conveying premises so sold covenants running with the land requiring the purchasers, their grantees, and successors (1) to erect and maintain any buildings thereon in conformity with specified exterior design, (2) to provide services reasonably required by the users of the [freeway or parkway] *limited access highway* subject to usual sanitary and health standards, and (3) to conduct no business other than that for which the property was originally sold, without the written consent of the commissioner.

d. Such premises shall not be sold *or leased* to a person who owns, directly or indirectly, or holds under lease any premises in the same service area on the same side of a [freeway or parkway] *limited access highway* purchased *or leased* for a similar purpose.

e. In acquiring areas for the purposes aforesaid in subdividing such areas into smaller premises for sale to the purchasers thereof, the commissioner shall provide a sufficient number of separate premises to encourage free and open competition among all suppliers of each service involved who desire to purchase *or lease* premises for the furnishing of such services along each [freeway and parkway] *limited access highway*, subject to any restrictions hereinabove stated.

f. The commissioner shall provide access roads from the [freeway or parkway] *limited access highway* to the service areas, the location of which shall be indicated to users of the [freeway or parkway] *limited access highway* by appropriate signs, the style, size, and specifications of which shall be determined by the [State Highway Commissioner] *commissioner*.

g. Each purchaser *or lessee* of such premises may arrange to have the services for which such premises were sold *or leased* performed through [lessees] *sublessees* or other third persons provided that such purchasers *or lessees* shall remain liable for failure to comply with the covenants contained in the deed affecting such premises.

For the purpose of this section, "person" shall include any individual and those related to him by blood, marriage or adoption, and partnerships and corporations and all individuals affiliated therewith through ownership or control, directly or indirectly, of more than fifty per centum (50%) of any outstanding corporate stock.

21. Section 9 of P. L. 1945, c. 83 (C. 27:7A–9) is amended to read as follows:

9. The powers contained in this act are in addition to all the powers that the [State Highway Commissioner] *commissioner* has at the time this act becomes effective *and in addition to the powers granted to him by the "State Highway Access Management Act of 1986," P. L. , c. (C.) (now pending before the Legislature as this bill)*, and any limitation herein contained shall be interpreted as applying only to [freeways and parkways] *limited access highways* created under this act.

22. R. S. 27:16–1 is amended to read as follows:

27:16–1. [Every board of chosen freeholders] *The governing body of any county* may:

a. Lay out and open such free public roads in the county as it may deem useful for the accommodation of travel between two or more communities;

b. Acquire roads and highways, or portions thereof, within the limits of the county;

c. Widen, alter, straighten, and change the grade or location of any road or highway under its control, or any part thereof;

d. Improve, pave, repave, surface or resurface, repair and maintain any road or highway under its control, either in whole or in part;

e. Protect any road or highway under its control, or any part thereof, by the construction of sewers, drains, culverts, receiving basins, jetties, bulkheads, seawalls, or other means and devices, either in or on the road or highway or on land adjacent thereto;

f. Light, beautify and ornament any road or highway under its control, or any part thereof and, in any county where a county park commission does not exist, construct and maintain along any road or highway where it touches upon a navigable stream, a public park for recreation purposes, as well as public docks and wharves, but the cost of the park and docks and wharves shall not exceed one hundred thousand dollars;

g. Vacate any road or highway under its control, or any portion thereof, that may be unnecessary for public travel;

h. Lay out and open or acquire limited access highways as defined in section 1 of P. L. 1945, c. 83 (C. 27:7A–1) and subject to the terms of that law; and

i. For roads and highways under its control adopt an access management code which satisfies the standards embodied in the access code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Managment Act of 1986," P. L. , c. (C.) (now pending before the Legislature as this bill).

Where any building or other structure has or shall have been erected or constructed upon any portion of a road or highway under its control, such portion of the road or highway may be vacated or the continuance of such building or structure in its location authorized for such period as may be deemed advisable, if the portion of such road or highway so occupied be declared by the board to be unnecessary for public travel.

23. Section 26 of P. L. 1975, c. 291 (C. 40:55D–35) is amended to read as follows:

26. Building lot to abut street. No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. Such street shall have been duly placed on the official map or shall be (1) an existing State, county or municipal street or highway, or (2) a street shown upon a plat approved by the planning board, or (3) a street on a plat duly filed in the office of the county recording officer prior to the passage of an ordinance under this act or any prior law which required prior approval of plats by the governing body or other authorized body. Before any such permit shall be issued, *(1)* such street shall have been certified to be suitably improved to the satisfaction of the governing body, or such suitable improvement shall have been assured by means of a performance guarantee, in accordance with standards and specifications for road improvements approved by the governing body, as adequate in respect to the public health, safety and general welfare of the special circumstance of the particular street *and (2) it shall have been established that the proposed access conforms with the standards of the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act of 1986," P. L. , c. (C.) (now pending before the Legislature as this bill) in the case of a State highway, with the standards of any access management code adopted by the county under R. S. 27:16–1 in the case of a county road or highway, and with the standards of any municipal access management code adopted under R. S. 40:67–1 in the case of a municipal street or highway.*

24. Section 29 of P. L. 1975, c. 291 (C. 40:55D–38) is amended to read as follows:

29. Contents of ordinance. An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall include the following:

a. Provisions, not inconsistent with other provisions of this act, for submission and processing of applications for development,

including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development:

b. Provisions ensuring:

(1) Consistency of the layout or arrangement of the subdivision or land development with the requirements of the zoning ordinance;

(2) Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map, if any, and the circulation element of the master plan, if any, and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map;

(3) Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants;

(4) Suitable size, shape and location for any area reserved for public use pursuant to section 32 of this act;

(5) Reservation pursuant to section 31 of this act of any open space to be set aside for use and benefit of the residents of planned development, resulting from the application of standards of density or intensity of land use, contained in the zoning ordinance, pursuant to subsection 52 c. of this act;

(6) Regulation of land designated as subject to flooding, pursuant to subsection 52 e., to avoid danger to life or property;

(7) Protection and conservation of soil from erosion by wind or water or from excavation or grading; **[**and**]**

(8) Conformity with standards promulgated by the Commissioner of Transportation, pursuant to the "Air Safety and **[**Hazardour**]** *Hazardous* Zoning Act of 1983," P. L. 1983, c. 260 (C. 6:1-80 et seq.), for any airport hazard areas delineated under that act;

(9) Conformity with the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act of 1986," P. L. c. (C.) (now pending before the Legislature as this bill), with respect to any State highways within the municipality;

(10) Conformity with any access management code adopted by the county under R. S. 27:16–1, with respect to any county roads within the municipality; and

(11) Conformity with any municipal access management code adopted under R. S. 40:67–1, with respect to municipal streets;

c. Provisions governing the standards for grading, improvement and construction of streets or drives and for any required walkways, curbs, gutters, streetlights, shade trees, fire hydrants and water, and drainage and sewerage facilities and other improvements as shall be found necessary, and provisions ensuring that such facilities shall be completed either prior to or subsequent to final approval of the subdivision or site plan by allowing the posting of performance bonds by the developer;

d. Provisions ensuring that when a municipal zoning ordinance is in effect, a subdivision or site plan shall conform to the applicable provisions of the zoning ordinance, and where there is no zoning ordinance, appropriate standards shall be specified in an ordinance pursuant to this article; and

e. Provisions ensuring performance in substantial accordance with the final development plan; provided that the planning board may permit a deviation from the final plan, if caused by change of conditions beyond the control of the developer since the date of final approval, and the deviation would not substantially alter the character of the development or substantially impair the intent and purpose of the master plan and zoning ordinance.

25. Section 49 of P. L. 1975, c. 291 (C. 40:55D–62) is amended to read as follows:

49. Power to zone. a. The governing body may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon. Such ordinance shall be adopted fter the planning board has adopted the land use plan element and the housing plan element of a master plan, and all of the provisions of such zoning ordinance or any amendment or revision thereto shall either be substantially consistent with the land use plan element and the housing plan element of the master plan or designed to effectuate such plan elements: provided that the governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan element and the housing plan element, but only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting set forth in a resolution and recorded in its minutes when adopting such a zoning ordi-

nance; and provided further that, notwithstanding anything aforesaid, the governing body may adopt an interim zoning ordinance pursuant to subsection b. of section [64] *77* of P. L. 1975, c. 291 [(C. 40:55D-77)] *(C. 40:55D-90)*.

The zoning ordinance shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land. The regulations in the zoning ordinance shall be uniform throughout each district for each class or kind of buildings or other structure or uses of land, including planned unit development, planned unit residential development and residential cluster, but the regulations in one district may differ from those in other districts.

b. No zoning ordinance and no amendment or revision to any zoning ordinance shall be submitted to or adopted by initiative or referendum.

c. The zoning ordinance shall provide for the regulation of any airport hazard areas delineated under the "Air Safety and Hazardous Zoning Act of 1983," P. L. 1983, c. 260 (C. 6:1-80 et seq.), in conformity with standards promulgated by the Commissioner of Transportation.

d. The zoning ordinance shall provide for the regulation of land adjacent to State highways in conformity with the State highway access management code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Managament Act of 1986," P. L. , c. (C.) (now pending before the Legislature as this bill), for the regulation of land adpjacent to county roads and highways in conformity with any access management code adopted by the county under R. S. 27:)6-1 and for the regulation of land adjacent to municipal streets and highways in conformity with any municipal access management code adopted under R. S. 40:67-1.

26. R. S. 40:67-1 is amended to read as follows:

40:67-1. The governing body of every municipality may make, amend, repeal and enforce ordinances to:

a. Ascertain and establish the boundaries of all streets, highways, lanes, alleys and public places in the municipalities, and prevent and remove all encroachments, obstructions and encumbrances in, over or upon the same or any part thereof;

b. Establish, change the grade of or vacate any public street, highway, lane or alley, or any part thereof, including the vacation of any portion of any public street, highway, lane or alley measured from a horizontal plane a specified distance above or below

its surface and continuing upward or downward, as the case may be; vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any part, has been actually opened or improved; accept any street, highway, lane, alley, square, beach, park or other place, or any part thereof, dedicated to public use, and thereafter, improve and maintain the same. The word "vacate" shall be construed for all purposes of this article to include the release of all public rights[.] resulting from any dedication of lands not accepted by the municipality. Any vacation ordinance adopted pursuant to this subsection shall expressly reserve and except from vacation all rights and privileges then possessed by public utilities, as defined in R. S. 48:2–13, and by any cable television company, as defined in the "Cable Television Act," P. L. 1972, c. 186[.] (C. 48:5A–1 et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated;

c. Prescribe the time, manner in which and terms upon which persons shall exercise any privilege granted to them in the use of any street, highway, alley or public place, or in digging up the same for laying down rails, pipes, conduits, or for any other purpose whatever;

d. Prevent or regulate the erection and construction of any stoop, step, platform, window, cellar door, area, descent into a cellar or basement, bridge, sign, or any post, erection or projection in, over or upon any street or highway, and for the removal of the same at the expense of the owner or occupant of the premises where already erected:

e. Cause the owners of real estate abutting on any street or highway to erect fences, walls or other safeguards for the protection of persons from injury from unsafe places on said real estate adjacent to or near such street or highway: and provide for the erection of the same by the municipality at the expense of the owner or owners of such real estate:

f. Regulate or prohibit the erection and maintenance of fences or any other form of [inclosures] *inclosure* fronting on any municipal street, highway, lane, alley or public place:

g. Prevent persons from depositing, throwing, spilling or dumping dirt, ashes or other material upon any street or highway or portion thereof, or causing or permitting the same to be done:

h. Regulate or prohibit the placing of banners or flags[.] in, over or upon any street or avenue:

i. Cause the territory within the municipality to be accurately surveyed and a map or maps to be prepared showing the location and width of each street, highway, lane, alley and public place, and a plan for the systematic opening of roads and streets in the future. Such map or maps may be changed from time to time;

j. Provide for the adoption and changing of a system of numbering all buildings and lots of land in such municipality, and the display upon each building of the number assigned to it, either at the expense of the owner thereof or of the municipality;

k. Provide for the naming and changing the names of streets and highways, and the erection thereon of signs, showing the names thereof, and [guide posts] *guideposts* for travelers;

l. Regulate processions and parades through the streets and highways of the municipality*; and*

m. For streets and highways under its control adopt an access management code which satisfies the standards embodied in the access code adopted by the Commissioner of Transportation under section 3 of the "State Highway access Management Act of 1986," P. L. , c (C.)(now pending before the Legislature as this bill).

27. (New section) If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

28. (New section) This act shall be interpreted liberally to effect the purposes set forth herein.

29. The following are repealed: Sections 4 and 7 of P. L. 1945, c. 83 (C. 27:7A-4 and 27:7A-7) and section 52 of P. L. 1951, c. 23 (C. 39:4-94.1).

30. This act shall take effect on the 90th day after enactment.

STATEMENT

The "State Highway Access Management Act of 1986" would provide for a comprehensive statutory and regulatory framework for managing access to State highways. The Department of Transportation would be required, within a year of enactment, to adopt a State highway access management code, which would prescribe standards for driveway design and spacing for specified classes of highways in the State highway system. Access permits would

only be issued under the code. Local development review procedures would be required to conform to the access code, so that a local planning board, for instance, could not approve a subdivision of property on a State highway which would yield lot frontages unable to meet the driveway spacing requirements.

The access code also would contain standards for access management suitable for county and municipal roads and streets, and counties and municipalities would be authorized, at their option, to adopt these local codes.

The bill would also improve access management in other ways, such as by empowering the Department of Transportation to build access roads along State highways to replace existing direct driveway access to those State highways.

Finally, the bill would revise P. L. 1945, c. 83 (C. 27:7A-1 et seq.) to provide that all State highways on new alignment would be built as limited access highways, to recognize that a limited access highway need not be a "freeway" (with all grade-separated interchanges) and generally to update the provisions of that law.

The "State Highway Access Management Act of 1986" would help New Jersey to cope with growth pressures in State highway corridors and would ensure that these highways serve as main transportation arteries, not as clogged, low-speed roadways servicing commercial strip development.

TRANSPORTATION—HIGHWAYS AND ROADS

(Bridges, Tunnels, Ports)

Establishes the "State Highway Access Management Act of 1986."

TABLE OF CONTENTS

	Page
Carolyn Bronson Member, Growth Management Study Committee New Jersey State League of Municipalities	2
Michael A. Pane, Esq. New Jersey State League of Municipalities	7
William B. Wahl Member, Town Council of Bernards Township Somerset County Freeholder	14
Linda Spalinski Assistant Executive Director New Jersey Association of Counties	27
Donald F. Anderson County Manager of Union County	33
Keith Wheelock Project Director Managing Growth in New Jersey	37
Robert Powell Executive Vice President D.K.M. Properties Corporation Representing Princeton Area Developers, Inc.	38
Anthony Pizzatullo Director of Government Affairs New Jersey Builders Association	43
George Ververides Middlesex County Planning Board Representing the New Jersey County Planners Association	52
B. Budd Chavooshian Member, Board of Directors Federation of Planning Officials in New Jersey	57
Martin Hofler Essex County Transportation Manager Representing the County Transportation Association	69

TABLE OF CONTENTS (continued)

	Page
Patrick J. Witmer Director of Legislative Affairs New Jersey State Chamber of Commerce	74
APPENDIX:	
Additional information submitted by Carolyn Bronson	1x
Memo addressed to Donald F. Anderson from Alfred H. Linden Director of Planning Division of Planning & Development County of Union, New Jersey	9x
Statement submitted by Princeton Area Developers, Inc.	13x
Statement submitted by the New Jersey Builders Association	25x
Statement submitted by Robert W. Clark, President New Jersey County Planners Association	30x
Statement submitted by B. Budd Chavooshian	37x
Statement and Thematic Book Outline, plus attachments, submitted by Keith Wheelock	39x
Statement submitted by Martin Hofler	85x

* * * * * * * * * * *

mjz: 1-78

ASSEMBLYMAN NEWTON E. MILLER (Chairman, Assembly Transportation, Communications and High Technology Committee): Good morning. We thank all of you for coming out on this beautiful day. It's a lot better than the last two meetings we scheduled, where we had snow and had to cancel out.

We are going to try to expedite this, so we can get out of here at a reasonable time. There are a lot of people who wish to testify -- to make comments. I think we all basically understand why we are here. We've got transportation problems; they have to be resolved. If we don't do something about them now, as I say, gridlock 2005 is in the wings. I have said many times before, the reason I call it gridlock 2005 is because Bo Sullivan says, "Give me $2 billion, and I'll fix up the Turnpike, and everything will be taken care of until the year 2004." I say, "What happens in 2005?"

This is the kind of thing, I think -- from what I have heard so far, and from what I am seeing -- that is of concern to all of us. Somebody has to do something to pull these pieces together and come up with a plan. This Transplan seems to be, in concept at least, an idea whose day has come. Through that Transplan, and through the input from you people here today, we will be able to bang together -- put together -- some plan that should, we hope, satisfy the overall purpose and the individual concerns.

Now, I chaired this meeting last time -- this is a Joint Committee meeting -- so this time I am going to turn it over to Jack to carry the ball. I am going to sit back and relax, and ask some questions once in a while. So, Jack -- Assemblyman Penn--

ASSEMBLYMAN JOHN PENN (Chairman, Assembly County Government Committee): Thank you, Newt. The first person on our list -- I am going to run right down the list -- is Carolyn Bronson, New Jersey State League of Municipalities. Carolyn, you're on. We have received copies of your testimony already. Are you planning to read it?

C A R O L Y N B R O N S O N: Yes, I was planning to do that, unless you talk me out of it.

ASSEMBLYMAN PENN: Well, I was going to say, since we have received copies of it, perhaps you could go through it, and highlight it, you know, address the specific areas of your concern, because I think you've got about 22 or 23 pages here. If you read through that, we are not going to have much time to ask you any questions.

MS. BRONSON: Okay. Just for the record, I would like to present Mike Pane, who is an attorney and a member of the League of Municipalities, and Barney Wahl, who is a member of the Town Council of Bernards Township and a Somerset County Freeholder. They are with me today because-- I wrote the testimony, but as a member of the Growth Management Study Subcommittee, this is really the testimony of the whole Committee. So, we figured we would have a Subcommittee come to present it. This is my point of view, also Barney's and Mike's.

Let's see. The testimony that I would like to present is not totally refined right now, just sort of reading from the copy here. The more the group got into the issue of how to amend the Transplan or how to make amendments or a separate bill that would somehow approach the transportation issue, the more larger questions came around. When we sort of put together piece "A," then piece "B" sort of seemed out of whack, and then piece "C" was there. So, what we are going to be presenting today are generally concepts. They are not refined. They are not, in a sense, ready to be written into something to be a law, but they are general ideas that we feel would run together as a group. So, if there seem to be holes in the logic along the way, that is the reason. It is not a totally finished product yet.

ASSEMBLYMAN PENN: Carolyn, I met with Assemblyman Franks yesterday, who is, as you know, the sponsor of the bill. He intends to put together workshop meetings with

representatives on both sides of the issue, similar to what I did on the wetlands bill, to try to come up with a comprehensive program eventually. After we have had our meetings, he wants to sit back and take the recommendations that come in from the League, and Jack, and from the development community, and try to come up with a substitute or compromise type of bill. That may be a point where some of your input will be needed also.

MS. BRONSON: Okay. The other thing I would just like to say before really getting into it is, the League is not here -- and I have this line in the testimony -- to do battle with the regional perspective. We are not here to say that we are anti-regional and we're anti-planning. We are here to say that we realize planning has to be a part of everything that goes on, but there are a lot of different things that are going on, and we just do not want to ignore them. We want to be part of them. We realize there have been two different sides of the issue going on a lot of the time, and we want to bring those sides together. We see this testimony as a way to bring the two groups together.

ASSEMBLYMAN PENN: Carolyn, I don't mean to interrupt you, but I would like to make sure that I introduce Assemblyman Pelly, who is on our Committee. I am remiss that I didn't introduce him before. I think you all know him anyway, but Frank will also be hearing your testimony. Thank you.

MS. BRONSON: The other thing is, we are only commenting today on the county-municipal planning bill -- A-3289. We are not going to be ready to comment on A-3290, the Transportation District Development Act, or A-3291, which is the access standards legislation. The League Subcommittee has to read through those things very intensely before we will be ready to comment on those. They are really more technical kinds of bills. So, today it is really just to focus on the county-municipal bill.

Let's see-- Mr. Penn, you have thrown me out of whack, because I was going to read my speech. I am trying to excerpt from it.

ASSEMBLYMAN PENN: Well, if it would be easier doing that, read it through. If that would be easier for you, just read it through, Carolyn.

MS. BRONSON: Okay, I would appreciate it. There are a lot of things I want to say, and I think I would just stumble a lot. Well, now I am on page 3 already.

ASSEMBLYMAN PENN: Okay, fine.

MS. BRONSON: The central concept which has been guiding the work of the League's Growth Management Subcommittee is straightforward. It is that municipalities will still plan for and review their own development, but the infrastructure capacity for a given municipality, as well as those that surround it, must be adequate to accommodate that development. A-3289 -- the planning bill -- not coincidentally is based upon this same concept. This is the result of League representatives having met with DOT officials in late September, before the bills were introduced. At this meeting, we all came to an understanding that DOT's legislative intent was not to diminish the powers of local government, but rather to provide a cooperative framework for decisions made on matters of mutual concern.

If you want to ask me questions as I am going along-- The League agrees that New Jersey's counties must be mandated to develop master plans which are general in nature and which reflect broad patterns of land use. But those county master plans should result from due consideration of each municipality's master plan, and the local policies which municipal plans reflect. Presently, this bill does strengthen county planning powers, but it does so without strengthening the ties that exist between municipal plans and the envisioned county master plan.

This is the basic difficulty we have with A-3289. The bill does not set up a system for counties to reach out to municipalities to use their master plans as the base for county plans. Section 1. k. (5), which forbids the county spending capital funds not accounted for in its own plan, is one example of the problem. Another is section 8, where developments of regional significance must be certified before any municipal reviews begin, but only certified according to county standards. This legislation, in effect, still allows us -- towns and counties -- to march to the planning beats of different drummers. To remedy this, the League proposes using the infrastructure elements of water supply, sewerage, drainage, and transportation systems to coordinate all our marching to the same planning beat. The following amendments result from this need to have county and municipal master plans work in concert to regulate infrastructure, and thereby control development.

The first amendment we propose sets up an 18-month-long process for achieving complete consistency between municipalities and counties which is limited to infrastructure planning and regulation. I believe in the package that was handed out to you there is a breakdown of the 18-month process -- month by month.

I will expand on this theme of consistency requirements applying only to the infrastructure elements of master plans in the next amendment. Here we would like to present a clearly defined 18-month-long cross-acceptance procedure for both municipalities and counties to follow. Through this procedure, we hope that compatibility on issues involving broad patterns of land use between municipalities and counties will also emerge.

Our rationale for establishing an 18-month-long procedure is this: We feel it is imperative that municipal master plans serve as the basic building blocks for the county

plan. Then, through the cross-acceptance process, county plans should become an accurate representation of future development patterns on a regional scale. As A-3289 is now written, the county is required only to look at municipal master plans and then to hold only one public hearing on their own plan. Our proposal ensures that counties and municipalities both follow a formalized procedure which gives each ample opportunity to address mutual concerns on regional development patterns.

ASSEMBLYMAN PENN: Carolyn, may I ask--

MS. BRONSON: Sure.

ASSEMBLYMAN PENN: --do you, in your master plan concept for the municipalities-- Do you envision the counties being involved in the formation of the municipal master plan, or not?

MS. BRONSON: In the sense that there would be a cross-acceptance going on. Like, each municipality would write its own plan. Well, each municipality has a master plan now.

ASSEMBLYMAN PENN: Yeah.

MS. BRONSON: They would write the IDP -- which I am going to be getting to later on; that's number two.

ASSEMBLYMAN PENN: But, do you envision input from the county regarding this master plan?

MS. BRONSON: After the plan is written. The municipality would take its completed plan and go to the county, and say, "Hey, what do you think?" The county would say, "Your plan conflicts with your neighbor's plan -- conflicts with our plan" -- and they would have to negotiate a settlement. That is where the consistency and the cross-acceptance would come in.

ASSEMBLYMAN PENN: It wouldn't be adopted until the county had commented on it, is what you're saying.

MS. BRONSON: Until the county approved it.

ASSEMBLYMAN PENN: Yeah.

MS. BRONSON: That is where the consistency is. The plans have to be consistent only in the infrastructure elements.

M I C H A E L A. P A N E: I think, though, in terms of the focus of this legislation, municipal master plans -- as Carolyn says -- are a given at this point. We are starting with a brand-new county effort in many respects, so the immediate thing that would happen would be, as the county developed its master plan, and within that, under our proposal, the infrastructure development plan, they would have to work closely with the municipalities; they would be getting input from the municipalities. So, the emphasis here, I think, is on the development of this new county planning effort, with municipal input into that.

ASSEMBLYMAN PENN: Excuse me. Go ahead.

MS. BRONSON: The second amendment proposes the concept of infrastructure development plans, which I will refer to as IDPs. These IDPs will serve as the framework to coordinate consistency in the areas of water supply, sewerage, drainage, and transportation systems. Consistency between municipal and county master plans in these four areas will result in more controlled, coordinated patterns of development. As part of the county master plan and municipal master plans, an IDP in each of the four functional areas would be required. These IDPs would evolve from land use plans just as infrastructure requirements evolve now from the different uses of land for development, agriculture, or conservation. The municipal and county IDPs would be the area in which a consistency requirement would be imposed. We see this consistency requirement as necessary in order to ensure that county and municipal infrastructure projects are aimed at the same needs for better use of taxpayer dollars. We also see consistency of plans as necessary to ensure that one community's development does not overburden another community's infrastructure.

Work on coordinating the infrastructure requirements of water, sewerage, and drainage systems is already proceeding. Witness the example of 208 planning by DEP. The real challenge with developing the IDPs will be with the transportation element. This may even involve setting capacity limits for roadways. Identifying roadway improvements and transportation management strategies needed for development, not only in the host community, but in neighboring municipalities as well, would also be a part of the IDP. Off tract improvements under this concept will take on a whole new meaning which can have far-reaching implications on the shared-cost ratios of public/private funding schemes. Needless to say, the coordination of our transporation system's capacity will not be for the faint of heart. Good luck!

The third proposed amendment is the creation of a land use arbitration board, or L.U.A.B. I love these little terms Land use courts or boards have been successful in other states in helping to resolve conflicts regarding land use. We think it would be helpful in New Jersey to have a forum for resolving those disputes which increasingly occur between towns and counties in our State over land use matters. Such disputes have become highly publicized, sometimes acrimonious battles among municipalities and higher governmental levels, which leave the public wondering why their officials can't resolve their conflicts more civilly.

A L.U.A.B. would also be the setting to finally resolve the more serious stumbling blocks to achieving consistency on the IDPs, which is something we anticipate may occur.

The League realizes the need for county planning boards to have the power to enforce consistency requirements in the IDPs among towns, so that the county plan has actual validity and effect. But there certainly is only slim evidence to date to indicate that counties can do any better than

municipalities in planning for an efficient and equitable development process. For this reason, New Jersey's municipalities would be somewhat uncomfortable in having a county planning board be the last word on their IDPs. We have built into the first of our amendments a three-month interval for formal mediation to resolve disputes. Only issues which remain after the three-month period would go to this board for binding arbitration.

We suggest there be one, central State L.U.A.B. with a team of arbitrators, or three to five L.U.A.B.s, each with a regional jurisdiction in New Jersey. The L.U.A.B. should be comprised of professional planners, engineers, and representatives of DEP and DOT, among others. The L.U.A.B. should utilize one set of statewide infrastructure capacity standards, thereby rendering consistent decisions. And, the L.U.A.B. could serve to arbitrate conflicting infrastructure issues between counties, as well as between towns. This idea is still in a very formative stage. We expect the concept to possibly change shape and evolve in definition as we study it more and as the legislative process inevitably refines it. Obviously, the creation of land use arbitration boards in New Jersey will involve extensive enabling legislation, and a clear, statutory definition of their role in relation to our court system. But we think it is a concept which should now become reality.

Our fourth and last major amendment deals with the procedure of preliminary review by county planning boards of "projects of regional significance." We feel that if municipalities' IDPs are mandated and, in fact, do become consistent with a county's IDP, then county preliminary review of such projects becomes unnecessary. Municipalities will always have the right to reject applications, so they should retain the right to deal directly, from the start, with the developer. This would eliminate time, money, and confusion,

which would needlessly result from the present DOT proposal. Consistency exemptions are now practiced by both the Pinelands and the D&R Canal Commissions, so the idea is not a new one. All development plans would continue to circulate through county planning departments to ensure consistency is maintained and to update capacity figures in the IDPs. If a certain development breaks consistency, then the county could interrupt a municipal review, or stop the MLUL clock -- as it is referred to -- for a 30-day period until the issue is resolved.

It should be remembered that the proposed requirement in the Transplan bill for a 45-day review period by county planning boards of all the projects of regional significance in that county, will create a tremendous burden on county planning staffs, especially in Bergen County, with 70 municipalities. A-3289, as it is now written, recognizes that problem by empowering staff to grant project certifications in order to speed the process. The League is quite uncomfortable with this situation which, in effect, lets non-elected and unaccountable staff people decide the fate of a development which could have major economic impacts on communities.

These four proposed amendments are, we realize, major additions to A-3289. It is for the Legislature to decide if these amendments ought to be drafted as separate bills or become part of the Transplan. The League has invested much effort in these four proposals, and we want to see them enacted at the same time as Transplan. Without them, our objections to A-3289 would be sizable.

Several complex questions have arisen in our consideration, which cannot be solved by the League alone. Some of these are: Will all of New Jersey's 21 counties want to regulate the IDPs, administer access standards, and set up and control transportation development districts?

Planning costs money. Will the counties be willing to pay for this after their $2 million of State funds -- as suggested in A-3289 -- is spent?

Could the Legislature, in an ultimate act of good will, grant funds to municipalities to help them to develop their IDPs as well?

What would the penalty be for counties and towns which do not proceed pursuant to the legislation -- assuming it is approved?

Who will establish statewide capacity standards for the functional areas of infrastructure?

Also, should county planning boards be restructured in some fashion to ensure a broad representation and direct accountability to the municipalities and the public?

Consistency of the IDPs may be achieved. But, who pays for a larger infrastructure element which serves the regional interest?

Lastly, there is a very fine line to walk between burdening new development with added infrastructure costs, and maintaining healthy economic growth. We realize that these proposals, combined with the extensive land use management regulations already practiced by DEP, will funnel growth into areas with existing infrastructure. Will that result in a State economy which starts to lose steam and begins to slide backward?

In summary, we feel these proposals of the League's Committee on Growth Management are providing the major framework for actual implementation of the State Planning Act. We define in detail a specific process for cross-acceptance, something the State Planning Commission is only working on now. We address the issue of conflict resolution by the creation of a mediation process and a land use arbitration board. We recommend a consistency requirement on the infrastructure development plans. This gives teeth to regional planning, something which many have lamented as missing from the State Planning Act. And the requirement within the IDPs that one town's development not overburden another's

infrastructure without paying the cost, should serve to channel development into areas of existing infrastructure. As we understand it, this is a major goal of the redevelopment aspect of the State Planning Act.

We have presented these amendments to the Transplan today because, while we wish to preserve each municipality's right to plan and control its own future, we also realize that the effects of modern development make each one of us a part of one complex interrelated whole. We have tried to devise a new system for land use administration which meets both of these concerns. Without that dual orientation, the debates, press battles, and polarized positions over New Jersey's growth will continue. Ultimately, that means we will become one large suburb with everyone drowning in traffic. We feel these amendments represent a compromise between those who would have counties totally control local land use, and those who would have towns grow with no regard for their neighbor. We see them as a new beginning for growth management in New Jersey. We hope you do, too.

In conclusion, we thought you would be interested in the composition of the League's Growth Management Committee which produced these recommendations. Included in the extra handout are three members of the League's Executive Board, and 11 members of the League's Legislative Committee, which comprises both elected and appointed officials from various parts of the State, several of whom serve, or have served on municipal planning boards. Two members, coincidentally, also currently serve on county freeholder boards, and one is a former county planning board member. You can read the biographies of the members yourselves.

Mr. Penn, since you allowed me to read that, thank you very much. We are ready for--

ASSEMBLYMAN PENN: Do you have any questions, Mr. Miller?

ASSEMBLYMAN MILLER: Well, just first a comment. Carolyn, I think the League did a tremendous job in pulling the pieces together. I think you have bisected and disected this thing to the point where there is some good meat here -- some good thoughts here.

Having been a mayor of a town, I cherish home rule. Sitting as the Chairman of the Assembly Transportation Committee, I recognize that it's got to go just a little bit -- it has to bend in order to take care of the overall situation, but, at the same time, not to the point that we sacrifice home rule for the sake of county development. I think what you are doing here is pulling that together, making an awareness of the problem. I think the members of DOT, in taking this back and trying to put the pieces together-- I think this will give them a good base to start from. I think you people did a tremendous job on this. I think it was worth the time -- although I read it before I came down-- It was worth taking the time to hear it. I appreciate it.

ASSEMBLYMAN PENN: Assemblywoman Joann Smith, a member of our Committee, has joined us now.

ASSEMBLYWOMAN SMITH: I'm sorry I was late. There was an accident on the back road, and traffic got tied up. Usually, I make good time on the back roads.

ASSEMBLYMAN PENN: Frank, do you have any questions?

ASSEMBLYMAN PELLY: No.

ASSEMBLYMAN PENN: In reading over your testimony, I think we have a couple of brief questions. On page 7, the League supports the coordination of transportation elements, as well as water, sewerage, and drainage systems in IDPs. You know, you are to be commended on that, but aren't IDPs duplications of county master plans, in a lot of ways?

MR. PANE: I think we want to try to make a distinction between the county master plan as a total plan involving general land use concepts, etc., from those areas in

which it is critical to have consistency between the county and the municipality. That is why we have chosen to suggest the term "infrastructure development plan" as being part of the master plan of the county, but yet something more significant, and it is that element -- the IDP -- which involves these four critical areas where there has to be consistency.

So, in other words, what we're saying by using this term and this concept, is that while the county has a general master plan, the area in which municipal and county master plans must dovetail is in these four critical areas, also known as the infrastructure development plan.

MS. BRONSON: Without that kind of an arrangement, it would seem to the municipalities that the county's master plan was superseding their own plans, and getting down to detail lot by lot.

ASSEMBLYMAN PENN: But, you don't want the county master plan, or the county planning board just to be a rubber stamp to the municipalities, though? You want them to have some teeth, too.

W I L L I A M B. W A H L: I don't think we have suggested that. I think the plan calls for the cross-acceptance, which would be a negotiated plan on IDPs on these four critical elements, in which the county and the municipalities would all have input.

MR. PANE: Maybe-- Sorry, go ahead.

MS. BRONSON: The county already has teeth in this on the 208 planning issue. For instance, municipalities can't get sewer extensions through DEP unless the municipal waste water management plan agrees with the county water quality management plan. This is already being done. Maybe a lot of towns in the State don't know that if they haven't tried to write a waste water management plan yet. West Windsor -- the town I am a Committeewoman in -- has done that. I understand that the county can say, "You can't have sewers unless we like the way

you're doing it," and the county will stop DEP from approving a sewer extension. So, that is already being done.

Sewerage and drainage are things that are necessary, and I think we all agree they could be done on an areawide basis. The transportation would be the difficult one.

ASSEMBLYMAN MILLER: Carolyn, how do you envision— Let's take the Route 1 Corridor, or something that goes through several counties. How do you envision-- This county brings in all their municipalities, and they set that master plan up based upon the municipalities' concepts and ideas. They bang it around, hammer it out, and they say, "Okay, this is great here. This county does its thing. Between the two counties, that road that is going through those two counties— They're doing more over here than they are doing over there." How do you envision handling a problem of that nature? It might be involved in three counties along Route 1, let's say.

MS. BRONSON: Well, hopefully, the county planning boards themselves would get together and coordinate the IDPs from county to county. If there were conflicts, we envision the county conflicts going to a L.U.A.B., the same way that conflicts between municipalities would.

ASSEMBLYMAN MILLER: Okay. Then it should be spelled out someplace.

MS. BRONSON: Yeah, that is sort of in the area where we talk about the L.U.A.B.s, but the L.U.A.B.— There are several states -- Oregon, Florida, North Carolina, Massachusetts -- which have land use courts, but they are extremely complicated sets of statutes, which New Jersey hasn't even started yet. But, if you are going to actually say that consistency is a must, then you have to establish some kind of a forum where the consistency is actually achieved, or else dictated. And we would rather have it be a composite kind of a thing resulting from mediation and arbitration, which would be the L.U.A.B.

Now, hopefully, the counties would get together themselves, and the townships bordering the different counties, such as West Windsor and Plainsboro -- West Windsor in Mercer and Plainsboro in Middlesex, or Montgomery in Somerset and Princeton in Mercer-- Hopefully, the towns would get together and look at each other's IDPs, and they would go back to their respective counties and do that. You know, we tried not to be extremely specific in this testimony, because these are concepts that we hope a lot of people will buy into. If we get real specific, it may slow the process down.

ASSEMBLYMAN MILLER: I see what you are trying to accomplish, but I can see all sorts of problems.

MS. BRONSON: There are a lot of problems. I see a lot of problems, too.

ASSEMBLYMAN MILLER: I can see problems here, where we are doing great in our county, and you're doing great in your county, but, hey, wait a minute, this county over here is contributing more in the line of, let's say, transportation. As you say, the other areas have been somewhat settled. They have to be redefined, but-- How does this county say, "Wait a minute, you are affecting us over here; you have to stop"?

Now, it would seem, again, that something has to be built in where one county is affecting, maybe, two counties down the road someplace. There has to be some mechanism whereby we can say, "You are giving us a problem over here that we have no control over, unless we can set the controls--" Now, you can't go into court until -- the court you're talking about -- until somebody decides, first of all, the structure, but how do you get into that court?

So I as a county planning board chairman, let's say, should be -- or whoever the exec is in that -- should be in a position to say, "Wait a minute," to this county down here, "we can stop you from doing what you are doing," and go into this arbitration bit. But, I think it has to be spelled out a little bit.

MR. PANE: If I may, first of all — although he isn't here — the League's general counsel, Fred Stickel, has indicated in his review of the legislation precisely that concern, almost to the point of saying, "In many areas, it shouldn't be on a county focus, it should be on an area focus, because of specific problems."

I think in terms of the current context of the bill — as Carolyn suggests — the process that is suggested would winnow down the issues until at least you know what you are arguing about.

Second, I think, with reference to the State Planning Act, the cross-acceptance procedure between the State and the county, in terms of their respective planning, may also be an alternative forum for handling those inter-county issues, in addition to any body that is set up within 3289.

ASSEMBLYMAN MILLER : How do you-- Excuse me, Jack. How can you separate the infrastructure that you discussed here from your land use concepts? In other words, unless the land use concepts are part of the instrument, you are not going to know what your infrastructure impact is going to be. I mean, I don't know how you can separate those two out.

MR. PANE: In a sense, you're right. Obviously, the infrastructure has a significant impact on the land use. From our perspective, though, we believe it is important to focus the dialogue and, frankly, to focus the county's role, on those things that truly regionally impact, which is the infrastructure, rather than trying to get around to having the county take a more active role in the other end of the spectrum — the land use regulation — where, after all, there is also a constitutional prohibition on their being too active.

So, infrastructure, perhaps, is the key to land use, but it is the place where the problems really arise. That is why we look at it that way.

ASSEMBLYMAN PENN: Well, actually, I think the constitutional question you are talking about is zoning. It rests with the municipality under the 1947-- But, it doesn't address land use or planning, which are two different things. We had an earlier hearing, and we had testimony from your counsel when we did the McEnroe bill. You testified on that, Carolyn.

MS. BRONSON: Yes.

ASSEMBLYMAN PENN: We got into the difference between land use, planning, and zoning. That question was addressed at that time. I think that is what this bill attempts to do -- to provide some coordination in the land use and planning, and the impact on the infrastructure.

MR. PANE: The closer, Assemblyman, that the bill gets to having binding regional land use powers, the more constitutionally suspect it becomes, and the more in conflict it becomes with our traditional method of local decision-making in this State, I believe.

MS. BRONSON: I think what you have to envision is the IDPs resulting from the land use, and then the IDPs having to coincide. You may say that-- Say in West Windsor, you know, the IDP on the transportation issue would allow for two million square feet of office space, which would generate a certain number of cars at a peak hour, and does the road hold that many people -- that many cars? If the road does not hold that many cars, then the town has to go back and take a look at where it is going to put that two million square feet of office space. How it is going to adjust its land use planning in order to have the infrastructure issues coincide with other municipalities.

If we have the county come in and be very integral in the land use planning -- how a town wants to develop -- rather than just focusing on what are the infrastructure effects, we are going to be mired for years and never get off square one.

MR. PANE: If I may, just one, perhaps, summary of that— I think we are looking here for a means of having municipalities and applicants for development be able to deal with the consequences of new development, not to be able to have a regional agency which can simply prohibit new development.

ASSEMBLYMAN MILLER: If I may summarize what you are saying here— As far as sewer capacity is concerned, we know how much flow a pipe will take. We know how much capacity a sewer plant has. If that is a reasonable type situation with all the several towns that are involved in it, we know what the contribution is going to be. At a certain point, it is cut off. You can't build any more because you don't have any more capacity.

Now, when you get into roads, a road has a certain amount of capacity at a peak hour. I am going to have to go back to Route 1. If you get to about the Princeton area, that capacity in that section may be less than the capacity on either end because of the flow coming it. It would seem to me that if you set up a capacity for a given area, each town, based upon some formula -- whether it be square footage, or whatever the case may be -- would have a certain number of vehicles that they would contribute to the flow of traffic on that road. After your allotment has been— You can put up a 20-story building if you want, with "X" number of cars going to it. That is so many out of your allotment for that particular path.

I can see something working in that particular direction, but not quite as simple as I make it. But, I have to agree with you. I don't think I would want to have to come to the county every time I wanted to put a building up. But if you knew that you had capacity for "X" number of homes for sewers, or for "X" number of homes for water, or "X" number of buildings for cars, and you worked within the framework of

that, I think that would be, perhaps, a direction that we should go in.

MS. BRONSON: There is a provision in the Act now, where you don't exactly say, "This road is going to stay at this size, so you can't put any more cars on it." The concept is, a developer could put more cars on the road, but he is going to be responsible. If his traffic brings the road over capacity, he is responsible for enlarging the road, not only in front of his development, but through the next intersection, maybe through the next town, because he is the developer who brings the road over capacity.

A lot of people may say that is unfair to that particular developer because he is losing his chance. The other guys have already put their traffic on the road, and he comes along and he is penalized. Somewhere in society, that is a question we have to face, because the infrastructure is not unlimited. It is a resource that has limitations, and it can't grow any further than a certain amount.

We could make Route 1 twelve lanes and put, you know, say, Tower Center all the way along Route 1, rather than just in East Brunswick, but that is not how we want to live. So, you have to make a value judgment somewhere.

ASSEMBLYMAN MILLER: I can see carrying it to an extreme, where you take the Garden State Parkway up around the Newark area -- the tunnel area and Hudson County -- and everybody in New Jersey would be contributing to that problem.

MS. BRONSON: Right.

ASSEMBLYMAN MILLER: You would get into a county type situation -- "Hey, wait a minute, there are too many cars coming up this way, so Salem County, you can't build down there because you would put so many more cars on the Garden State Parkway." I can see where it could be taken to great extremes.

MS. BRONSON: Well, the fairness idea is going to be a very tough one to broach, especially in the land use board, and

also in the courts. But, sooner or later, that is an idea that we are just going to come head to head with, which we will have to resolve.

ASSEMBLYMAN MILLER: Something has to happen.

MR. WAHL: The League — I don't think -- has come to grips with the details of that particular concept, but if I may follow up on what Carolyn was just saying, another approach might be that each developer would pay a fair share of the infrastructure — the roadway that has to go through the next intersection and the next town, as he came in, rather than the last guy in paying the full share. So, there would be some prorated formula based on car trips or something -- the little guy pays less, the big guy pays more -- and it may sit in a trust fund until the road is actually needed. That would be another approach that could be looked at.

The League hasn't looked at that in terms of coming up with specific recommendations.

MS. BRONSON: But, the Transportation Development District Act — the TDD section of the Transplan -- will need IDPs to make it work. You will not be able to have people contributing to a TDD unless you know how large the intersection is going to be at full built-out, what the capacity is going to be, and who is generating what, and that maybe two or three towns would have to get together in a TDD. So, somehow you would have to end up doing a transportation IDP in order to make that work; in order to assess back dollars to a certain developer for the cars he is generating at the intersection.

ASSEMBLYMAN MILLER: The more we talk about this, the deeper it gets. I can see where--

MS. BRONSON: That is why we said in the beginning, you know, when we started to talk about it--

ASSEMBLYMAN MILLER: I can see where actually you need a master plan for the entire State -- for every road in the

State, if you want to talk cars -- every road in the State as to what it would require at the ultimate, at its peak, and then work from there down. Big problems.

MS. BRONSON: That is where the State Planning Act comes in. When the State Development Guide Plan comes out, it will say, you know, certain areas can get as dense as a city, but we envision certain other areas staying relatively agricultural, which dictates the scale of the infrastructure in the agricultural areas. Hopefully, these things will all follow each other, and we will all end up on the same--

ASSEMBLYMAN MILLER: Dictates the contributions, also.

MS. BRONSON: It also funnels development back into the inner city, where there are already three-lane highways.

ASSEMBLYMAN PENN: Your Land Use Arbitration Board -- L.U.A.B., or whatever you want to call it--

MS. BRONSON: L.U.A.B., yeah.

ASSEMBLYMAN PENN: This is really another bureaucratic proposal, but are you picturing this as their authority being final?

MS. BRONSON: We have had several discussions about this. Mike and I sort of have differing opinions. It is no small coincidence that Mike and I are here together.

ASSEMBLYMAN PENN: The reason I ask that question-- We got into this under the new wetlands legislation. We talked about creating an appeals court also. It came back that-- It was recommended that we use the Office of Administrative Law judges. They usually only make procedural decisions, but this way would make a firm decision, and the decision would be binding. The only place you could then go on your appeal would be to the Supreme Court. This is why we built that into that legislation, so that we would not create a new level of it, but we would then give the power to the Administrative Law judges to make these decisions.

MR. PANE: I think, sir, that one of the issues here -- or two of the issues here are, first of all, volume, and second of all, expertise. We have had in New Jersey, for decades, a significant amount of dispute in the land use area in a variety of ways. Now, many people have long suggested that there be -- instead of having all our regular land use litigation going through the court system, that there be a separate land use court. Now, we are not saying that this will be the basis of it; what we are saying is, given the rather technical nature of the disputes here, and the number of them likely, and given the fact that you need engineering expertise, you need planning expertise, you need a variety of different kinds of technical input, that some sort of separate body which can develop cumulative knowledge, which can go to the arbitrators, could be part of those proceedings, will be what will serve the interests of the public best.

MS. BRONSON: We also wanted to have a body that made consistent decisions. Currently in New Jersey, in land use, you can go to a judge in Ocean County and get one kind of a decision regarding development, and go to a judge in Hudson County and get a totally different kind of a decision.

ASSEMBLYMAN MILLER: Mount Laurel?

MS. BRONSON: That's right.

ASSEMBLYMAN PENN: The areas are different, too.

MS. BRONSON: Well, yeah, but the infrastructure capacity shouldn't be. Why should a road in South Jersey be allowed to get to a certain level before it is declared peak capacity, when a road in North Jersey is functioning differently? That leaves the developers high and dry. They have a different set of standards to deal with all over. Maybe they would like that; maybe that makes it more difficult for them. But, if we have one set of capacity-- Certainly, sewer lines are a uniform capacity all over the State. So, you know, one set of capacity standards would made decisions much more

logical all around the State, and would also contribute to making the State Planning Act a more consistent document.

ASSEMBLYMAN PENN: I see where you are coming from. I think we had envisioned the fact that there hadn't been any changes to the County Planning Act since about 1964, and if we had a County Planning Act like the Municipal Land Act, maybe it wouldn't be here today -- if we had just as strong a County Planning Act as the Municipal Land Act.

Do you have any questions, Frank?

ASSEMBLYMAN PELLY: Mr. Chairman, I just have one comment. I want to say at the onset that I do appreciate the comments that all of you have brought forward this morning. I recognize very clearly that you are addressing one piece of legislation of the three.

I would request that the League and its representatives look into the other areas, that greater attention be paid to the issue of mass transit in these proposals. I have made that plea to Commissioner Gluck also, and the plea becomes even more substantial this morning than perhaps it did a month or so ago, due to the fact that not only should we be paying greater attention to mass transit, but the inevitable fact that we are going to confronted, as I understand it, by the national press with another gasoline shortage. That adds greater emphasis to the need to really deal aggressively with mass transportation. I have not heard that even mentioned this morning. Perhaps it is not appropriate that it be mentioned. Your response may well be, "It is not appropriate to mention it," but we are looking at conventional means of addressing these issues. If you contribute to the problem, you've got to contribute financially to its solution. I see the solution being something other than widening roads and those kinds of conventional responses to these critical issues.

I look forward to the League, and others, speaking deliberately on that particular issue.

MS. BRONSON: Well, certainly I think your point is very well taken. You know, I don't think we are really locked into roads and cars. I think if a developer came along and said, "Hey, I am going to make this intersection way past peak capacity, but I am going to set up a bus transit system that is going to go to where most of my employees are going to be living—" If you could somehow fathom some kind of an idea like that, that would be a substitute for him off-loading the road; that would be mass transit. Ride sharing, flex times, things like that. He would have to be able to prove that those would be utilized enough to take the load off the capacity on the intersection. But, those are alternate ways of doing it, certainly.

ASSEMBLYMAN PELLY: See, I see that differently. I see the need being, rather than widening roads-- I see the need being to, first of all, look at mass transit. If mass transit fails, then look at those other means, rather than looking at the widening of roads, the conventional things first, and then going to mass transit. I see the need to place the burden of proof upon those who are potentially going to contribute to the burden, to say that we can't use mass transit so we have to go to these other means, rather than the opposite.

ASSEMBLYMAN MILLER: If I might comment on your comments, Frank, I don't disagree with what you are saying, because in the hearings we are having on transportation throughout the State, it is evident that we have to get away from cars and get into mass transit. However, as a municipality is to the county planning board, the county planning board has to be to the State. I think what we're saying here is, we know what the road capacity is. If it comes into a county, and the county, for example, says, "Hey, we're at capacity. You can't build any more," someplace between county and State, the State has to decide where this mass transit should be and what has to be done to relieve the road problem, if you will, or the cars on the road.

I really can't see where a county is going to say, "Well, you can't build because you have to contribute to a monorail." Where are you going to put this monorail, just in one county? Where does it go? So, there has to be some overall master plan to govern this overall public transportation conveyance, if you will, which will fit into the county planning at that particular time, and the contributions towards that--

It is a point well taken, but I think it has to work from the top down, in this case, working to meet--

ASSEMBLYMAN PENN: I think another concern is the fact that if a road presently is at a 70% capacity, as determined by whoever may determine that, and a developer is going to come in, they are going to say, "Your project is going to bring us up to capacity." He actually hasn't really brought it up to capacity. The whole infrastructure was there before, so he shouldn't bear the entire cost, because other people were there before him. I mean, they are asking the person who comes in now to pick up -- because now he is the one who put it over, he has to pick up the entire cost of the improvement.

I think it has to be a total improvement project that goes back to the source. For instance, in the district where both Barney and I live, many of our towns have had a fantastic impact -- or a great impact -- of traffic with the opening of Route 78, on the local roads that we didn't have before. Now, to say to a developer working on one of these local roads that it is his responsibility to pick up that excess, is a problem. We are not sure that that is totally consistent with our overall planning in the thing. I think that as a member of the county planning board -- or you were a member -- that you are well aware of the problems that have been created.

That is something that is going on throughout the State, and where that impact comes from or where it ends, and who is to pay for it or who is not to pay for it, are things that I think we are constantly looking at.

MS. BRONSON: I don't think it would be such a problem if the State had enough available dollars in order to improve its part of the infrastructure and meet a developer, but the infrastructure is so incredibly expensive, that if you would assess a developer his fair share, you would still end up with a tremendous amount of money that isn't available in order to, say, build out Route 1.

ASSEMBLYMAN MILLER: Now you're getting to bill four and five.

ASSEMBLYMAN PENN: Yeah, we're getting to bill four and five. That's different. Does anybody have any more questions? (no response) I guess we're finished. Thank you for coming down. We have your testimony. I'm sure that we will—

MS. BRONSON: Thank you very much. I'm glad it didn't snow again.

ASSEMBLYMAN PENN: Yes. The last time I saw you, you were Deputy Mayor. Are you Mayor, or not?

MS. BRONSON: No, I'm not. I didn't have the fortune—

ASSEMBLYMAN PENN: Next year?

MS. BRONSON: Well, I don't think so next year.

ASSEMBLYMAN PENN: Okay.

MS. BRONSON: It was a lot of fun. But, you'll see me around a lot, actually.

ASSEMBLYMAN PENN: Okay, Carolyn. Thank you.

Linda Spalinski, New Jersey Association of Counties. How are you this morning, Linda?

L I N D A S P A L I N S K I: Fine, Mr. Chairman.

Good morning, Mr. Chairman, members of the Committee. My name is Linda Spalinski, and I am the Assistant Executive Director of the New Jersey Association of Counties. On behalf of the Association, I would like to thank you for your invitation to take part in this morning's hearing, and to offer you the county perspective with respect to the Transplan proposal. My remarks this morning will be very brief.

As you know, NJAC, along with other interested groups, has for some time now been discussing the need for a stronger regional planning role for the counties. The rapid growth in many areas of our State has made the need for effective regional planning abundantly clear. It is a challenge that we cannot shrink away from, because the problems inherent in our current planning process will only worsen.

By way of formality, I should tell you that two weeks ago, the Board of Directors of the New Jersey Association of Counties voted to conceptually support the Transplan legislation, but indicated its desire to maintain an open dialogue with the Legislature, the League of Municipalities, the County Planners Association, and other interested groups with regard to any suggested changes.

It is not my intention this morning to review the details of the legislation. That is perhaps best left to the County Planners Association, which I understand is prepared to offer its comments and suggestions for possible changes. Today, though, I think it would be helpful to try to give you a sense of the broad-based concerns of elected county officials in connection with Transplan and, in particular, the municipal-county planning partnership component of the package.

County sentiment on this issue can generally be divided into two basic areas: First, there is an acute concern with the cost implications of the mandates to the counties. Secondly, there is a fear that, in an effort to gain acceptance by all parties, the legislation will be so weakened that it will become meaningless, or even worse, become counterproductive.

Let me take a moment to elaborate on these two points. The proposed legislation will require the counties to establish county planning boards, develop comprehensive plans, and to hire the necessary staff to review development applications. These are responsibilities which the counties

want to accept. But, given the current fiscal environment, county officials are wondering where the money will come from to fund these added responsibilities. Several of our county governments are reeling from the loss of general revenue sharing. Layoffs and property tax increases are the order of the day. Given this reality, it is easy to understand why county officials are wary of any new mandates, even those which they recognize are needed. The municipal-county planning partnership bill currently contains a $2 million appropriation for the counties. It is a step in the right direction, but not nearly enough. Actual costs to the counties are likely to be 10 times that amount or more. I would, therefore, strongly urge that you consider a substantial increase in the appropriation.

My second point relates to the most controversial aspect of the legislation, and that is the new role for the counties in the development approval process. This is, in fact, the cornerstone of the Transplan proposal. Counties must be given the clear statutory authority to review developments of potential regional significance. Ideally, the legislation should broadly define regional impact, leaving maximum discretion with the counties to determine when county involvement is required. We recognize that the transfer of authority from one level of government to another will be difficult and will meet with resistance. But, by watering down this critical element, we risk not only failure in meeting our objectives to provide for effective regional planning and growth management, but we could also very well make matters worse.

What I mean is, we would be mandating the counties to provide a costly new service, without giving them the necessary tools with which to do the job. Unless the counties are given adequate statutory authority under this legislation, we will create false expectations about what can be accomplished

through this regional planning initiative. In other words, overburdened property taxpayers will pay twice for a poor job of land use planning and growth management. In all fairness, county officials cannot be expected to commit badly needed county dollars to an area where they can only perform in an advisory capacity.

Thank you very much for your interest. I would be happy to respond to any questions.

ASSEMBLYMAN PENN: Frank, do you have any questions?

ASSEMBLYMAN PELLY: No, I don't.

ASSEMBLYMAN PENN: Newt?

ASSEMBLYMAN MILLER: Just a comment. I think what you are saying here, Linda, certainly is more than worthy of consideration. I think that any plan that comes up to put money together to continue the Transportation Trust Fund-- Part of that money should be considered for what you are addressing right here. I get sick and tired of having legislation proposed that puts additional burdens on towns and counties, without-- In fact, I have a bill in that says you can't do that unless the State picks up the tab for it. It is not going to go anyplace, because nobody wants to do it I guess, but little things, such as saying that the volunteer -- or the specials on the police force now have to take a course for "X" number of days so they can carry sidearms-- You know, this sort of thing. That is an expense to the town, because the specials are not going to take the time to do it, which means that the regular police force has to go out and man the church crossings on Sundays. That means additional moneys the town has to pay -- this sort of stuff.

So, I can see what you're saying here. I think that should be part of the consideration as far as DOT is concerned, when they put this piece together. So much for public transportation, so much for roads, so much for bridges, and so much for the administration of what we are trying to accomplish here. That is where it belongs.

ASSEMBLYMAN PENN: I agree. I am tired of seeing this mandate — through either legislation or rules and regulations — costs, and there isn't any way of identifying how they are going to be paid for. This was something that was recognized in the Governor's original management study. I have had legislation in for two years which deals with this very question — this very topic. I agree, and I commend you on your presentation. Assemblywoman Smith?

ASSEMBLYWOMAN SMITH: I would just like to make one comment. My concern is with the counties working with the municipalities. The problem always seems to be money. Where does the county get the money when it is mandated to do certain specific things by the State of New Jersey? Yet, all of the onus goes back on the county via the municipality, becauce it becomes the culprit. The municipality says, "Well, the county is supposed to do it, and the county is supposed to help. We have to go to the county." But the county doesn't have the facility to do it. That is the problem we face, and yet back in the municipality, their zoning and planning boards are approving things, without really caring about the infrastructure in certain points. They are not looking 10 years down the road when the next development comes in. But it seems to be that the burden has been put on the counties.

I think these bills are probably a good step in the right direction, and maybe they have come about 20 years too late. But I don't feel that the counties or the builders should be taxed beyond reality, in order to handle the problems that were created by someone else. How do you resolve it now? The fair share from the past can't be allocated anywhere because it wasn't a fair share, and you can't go back to the people who have already completed what they have done. So, we have to look at the future.

But, I believe firmly that the State should pay if it is going to mandate. I don't know how we are going to come up with the money, but a trust fund--

ASSEMBLYMAN MILLER: Don't worry about it. Talk to the Governor.

ASSEMBLYWOMAN SMITH: Oh, sure, talk to the Governor.

ASSEMBLYMAN MILLER: Take it out of surplus. That is a favorite expression -- take it out of surplus.

ASSEMBLYWOMAN SMITH: But I have to agree, because the tax dollars come out of our pockets. I think we have to get our money back for it somehow. Thank you for coming.

ASSEMBLYMAN MILLER: May I just ask one question, Linda? Do we have any-- Every county has a planning board today, as I understand it.

MS. SPALINSKI: No.

ASSEMBLYMAN MILLER: They do not? What kind of problems are we getting into here in this area, if we don't have a planning board?

MS. SPALINSKI: Some of the counties will require very significant start-up costs for this legislation. I can't provide you any detailed information now, but I will at a later date as to which counties are going to have some problems in gearing up for this.

Other counties have very, very active and sophisticated planning staffs in place right now, so for those counties it would not present the kinds of problems that it would present to some of the other counties.

ASSEMBLYMAN MILLER: I see. What I see here is that-- I don't want to get into a DEP type situation, where you go for a permit and it may take you two years to get final approval. What I am looking at here is, if you are going to go before a county, you have 45 days or 90 days to give us an answer. If you don't, you've got approval. There has to be some sort of a time element involved here; otherwise, I can see this thing stretching out forever. Time is money, and you would bring the State to its economic knees. We don't want to do that either.

That is why I ask the question about your organization within your counties. That is something I think should be looked at, too.

MS. SPALINSKI: I think this is an issue that elected county officials want to be particularly responsive to. I believe that the County Planners will be prepared to offer some comments along those lines.

ASSEMBLYMAN PENN: I believe the testimony we had on the County Planning Act -- McEnroe's bill -- addressed a number of counties that do not have county planning boards, because that bill also mandates county planning boards as well.

Thank you very much, Linda. We appreciate it. Donald Anderson, Union County Administrator?

D O N A L D A N D E R S O N: Manager.

ASSEMBLYMAN PENN: Manager?

MR. ANDERSON: Right.

ASSEMBLYMAN PENN: You don't have the title of administrator?

MR. ANDERSON: No. We are the only charter county that has--

ASSEMBLYMAN PENN: That's right, that declares a manager.

MR. ANDERSON: Correct. Thank you for the opportunity to appear before you this morning. I am, as you mentioned, Don Anderson, County Manager of Union County.

My concern this morning is to underscore some of the things that Linda just mentioned to take it from a more personalized viewpoint of one county, and to look at its implication upon us and, in addition to that, to not get into the details of the plan, but rather to respond to the general thrust of what is attempting to be done.

I worked for a number of years for the State here in Trenton before I became County Manager in Union County. I traveled on a daily basis the Route 1 Corridor. I saw my

travel time go from 45 minutes to an hour and a half each way over a period of four years. I became very, very aware of the need to have a more coherent, more rational, more thoughtful process in terms of looking at all of our transportation needs, both in terms of vehicular traffic, as well as raising, periodically, my concern of what could we do, perhaps, if we did a more effective job with mass transit, to try to eliminate some of the cars on the road?

That is why when I heard the Department of Transportation last -- I believe it was November -- make a presentation to the county administrators, executives, and managers of the State, I was very fascinated by what they were trying to do, and was in complete agreement that there needed to be a more rational approach to planning on a regionalized basis, recognizing that we get into a variety of issues between home rule and trying to do things in a different way, and not trying to get into those kinds of details, but recognizing that there was a sincere attempt to address a very key issue, and that was, how can we do things on a more planned, more effective basis to benefit a regional area?

At the same time that I recognized that potentially within the Transplan legislation there are a variety of solutions, or potential solutions to issues, it also raised for me a series of other kinds of issues or concerns that have not been addressed yet. Let me give you a little bit of background, and particularly I am referring to the cost aspect of that. Let me give you a little background.

Currently, in my budget, which I have submitted, and which the Board of Freeholders is currently considering, $73 million out of a budget of $143 million are mandated or noncontrollable costs. Those are simply things that somebody else hands us the bill for; uses our credit card. We have no control over the spending; we just have to pay the bill. Our projections are that within six years, if the trends continue

the way they have the last six years, we will be paying over $100 million a year in mandated and noncontrollable costs. What that has meant for us over the last four years is that to deliver regular services which the counties, by code, are expected to deliver, we have had to hold that flat, while mandated and noncontrollable costs have taken over. It really is the tail wagging the dog.

As we looked at the impact of Transplan upon us as a county— First of all, back at that meeting, after everyone had expressed some real interest in terms of what was trying to be addressed, I polled a number of the key people there. Being relatively the new kid on the block -- I had taken my position last July as County Manager -- I asked them what they estimated it would cost them to bring their counties into conformity with what was being proposed. I had numbers from them that ranged from $400,000 to $700,000 to bring their plan into conformity and, in addition to that, requiring anywhere from two to seven full-time additional staff people, on a regular basis, to do the extra work that was being shifted down to the counties through this legislation.

I asked our folks to take a look at it, and my staff came up -- for Union County -- with an estimate of $500,000 to bring our master plan into conformity, and the addition of four full-time employees, plus overhead expenses and everything else to go along with that, for an additional annualized cost of someplace between $135,000 and $150,000. The proposed legislation has a one-shot pop of $2 million to accommodate every county in the State. I must very definitely raise a major concern. I was glad to hear, Assemblyman Penn, you mention that there was a real question in terms of how fair it would be to expect developers to pick up the cost of excess in terms of what was going on. I would submit that that same kind of concern can be raised about counties. What rationale is there for simply shifting additional responsibilities upon us,

without giving us the full freight of paying for that additional cost?

Where we are right now, government is in an identity crisis. We are trying to struggle to figure out what our role is. One of the things I am sure it is not, is simply a bill payer. Where we go beyond there, I am not sure. But, I wanted to come down on behalf of our Freeholders and myself and our administration, to raise that major concern, that although we are in support of the concept, we must raise severe reservations about any further attempt to shove additional costs upon us.

I would be glad to respond to any questions you may ahve.

ASSEMBLYMAN PENN: I think that is a very good point. I agree with you. Earlier testimony -- I think Linda addressed it -- was that $2 million is just not adequate to get this in place. You already have a planning board in place right now, and you are just talking about upgrading your planning board--

MR. ANDERSON: That's right.

ASSEMBLYMAN PENN: --and additional staff. There are many counties-- For instance, Hudson County doesn't even have a planning board. They have a long way to go.

MR. ANDERSON: I would suggest that the $2 million is a one-shot deal.

ASSEMBLYMAN PENN: I understand that.

MR. ANDERSON: What you are saying to-- As I look at this, it is $150,000 a year, approximately, just for the additional staff you are requiring -- for the first year.

ASSEMBLYMAN PENN: The first year; just the first year.

MR. ANDERSON: Right.

ASSEMBLYMAN PENN: Frank, would you like to ask a question?

ASSEMBLYMAN PELLY: No, thank you.

ASSEMBLYMAN PENN: Newt, do you have any comment?

ASSEMBLYMAN MILLER: The comment was just made, "Hudson County doesn't have a planning board." That's obvious.

ASSEMBLYMAN PENN: They have a great growth up there now.

ASSEMBLYMAN MILLER: Well, I think the overall concept here -- within the overall concept -- is that something has to be done to indicate what each county is going to have to have organization-wise. Then, that is going to have to go out to the counties to find out what the dollar side is to bring it up to that point and, of course, from that point what they estimate it is going to cost to run that, because we are getting back now to the same situation you have now where you have to pick up all the court costs, all the welfare costs. It doesn't make any difference-- They hire the people, and they set the dollar sign on them. You pick up the tab for it. This is the kind of stuff we have to stop.

MR. ANDERSON: The one thing that may be a bit different is, with the court costs, when we are trying to deal with them, the court always has the opportunity to give itself a court order requiring us to give them the money they request. That, to me, is a less equal branch of government.

ASSEMBLYMAN MILLER: You're right. I think your points are well taken. They certainly will be considered, I'm sure.

ASSEMBLYMAN PENN: Thank you, Donald.

MR. ANDERSON: Thank you very much.

ASSEMBLYMAN PENN: Keith (speaking to a gentleman sitting in the audience), didn't you testify once before?

K E I T H W H E E L O C K (speaking from audience): On the general basis, yes.

ASSEMBLYMAN PENN: I would like to put someone on first who hasn't testified at all. All right?

MR. WHEELOCK: All right; that's fine.

ASSEMBLYMAN PENN: Okay, thank you. David Goldberg?

R O B E R T P O W E L L: Mr. Chairman, my name is Robert Powell. I am here on behalf of the Princeton Area Developers. The agenda listed David Goldberg, who is our counsel, but we are here representing the group -- the Princeton Area Developers. I am Executive Vice President of D.K.M. Properties Corporation, in Lawrenceville, New Jersey. Joining me here this morning are -- to my left -- Eugene Biddle, Director of Marketing for Princeton Forrestal Center and, on my right, Anthony Rimikis of Nassau Park Limited, another major development organization in the Princeton area.

We appreciate the opportunity to be with you this morning. We will be brief. The Princeton Area Developers is an organization representing approximately 20 of the major development organizations in the Princeton area. We are active, frankly, in about four or five counties -- Mercer, Middlesex, Somerset, Monmouth, and Burlington -- in what is loosely known as the Route 1 Corridor. We have provided the Committee with a statement today which outlines in more detail our concerns about the Transplan Program. What I would like to do is briefly summarize our concerns for you now.

First of all, we are proud of the contribution that our group has made to the development and growth of New Jersey. We have attracted -- our group collectively -- a long list of high quality corporate employers to New Jersey. Our ventures and development projects have provided more than a billion dollars of new facilities that are employing thousands of people and providing tens of millions of dollars of tax revenues to local governments, county governments, and the State of New Jersey.

We are also proud of the kind of development that our organizations have been undertaking. They are, on the whole, well-planned and attractive, and I think have become, in many ways, the envy of our neighbors in other states. Governor Kean, in his annual message just last month, recognized that

much of the improvement that has occurred in New Jersey's economy has been the result of the investment and development that the private sector has done here in New Jersey in the last 10 years, including the development that has taken place in the Princeton area.

We share the concern that the Department of Transportation has about orderly planning and the importance of providing adequate transportation facilities. Our organization struggled with the process of land use planning and transportation probably as often and as much as public officials have to, because it is the nature of our business. We support, very strongly, those efforts that are aimed at providing a source of funding for transportation improvements in New Jersey, including the dedicated gas tax. We have indicated previously our support for that measure, because those infrastructure improvements are essential, not only for existing developments, but to provide a basis for additional future development that our State, we believe, can accommodate.

The question before your Committee, however, is whether Transplan represents an effective way to provide for the orderly development of land resources and to provide for the effective financing of transportation improvements. On this score we differ very strongly with the Department of Transportation. We believe that the Transplan bills will threaten existing investment and developments, and will make highly uncertain the price tag that will be required in order to carry out future development.

These bills, as you know, grant broad authority to the Department of Transportation and to county planning boards, without any certainty whatsoever as to how this authority will be exercised. They give to new and as yet unformed bureaucratic structures literally the power of life and death over virtually all significant development activities that may occur in New Jersey. They would authorize discretionary

administrative decision-making by county agencies which up to now have neither the experience, the tradition, or the competence to implement these extremely broad powers that would be delegated to them.

These bills will add to what is already now an extremely complex approval process for major developments in New Jersey -- yet another level and another layer of approval. We are not certain, as we look at the bills, that that new level of approval guarantees orderly planning, nor that it will ensure the provision of transportation facilities. The bills could cause legitimate and essential development to be halted because of an inability to comply with unrealistic planning goals, or because of the potential for exorbitant costs being put on developers to pay for transportation improvements.

As you may know from looking at the bills, they permit a shift in financing the cost of transportation improvements from the public sector to the private sector, without limitation. Future development could be halted by administrative agencies simply by making excessive demands for contributions for transportation improvements. That could become a vehicle for simply stopping development.

It is important, I think, to recognize that these bills are not simply an extension of the existing process. They would radically alter the ground rules for proceeding with land development in New Jersey by giving this rather blank check of authority and discretion to administrative agencies, without any clear guidelines as to how this power is going to be used.

We share -- as I have said before -- the Department of Transportation's concern about providing transportation improvements. Our organizations collectively are supporting and funding major transportation improvements in our development areas by providing the costs of overpasses, new road improvements, plus a host of other infrastructure

improvements that we pay for ourselves, but which are essentially public services — sewers, water lines, open space, and the like. We have no hesitancy in supporting traditional approaches that have ensured the production of these infrastructure improvements. That is why I said before that we support, very strongly, the Legislature's approval of the gas tax increase so that our highway improvement programs can go forward.

But, this legislation throws up some very significant uncertainties for all landowners — not just developers — but all landowners in New Jersey. Landowners are confronted with questions that really no one can answer at this point, and which are not likely to be clarified for years. How much will it cost? How long does it take? What is the limit of the authority that these agencies are going to be given?

We do not believe that there is sufficient information available at this point to justify the passage of the Transplan bills, in their present form. In our submission to you, we have suggested that a study committee should be created to meet with DOT, county and municipal officials, and the private sector, to try to develop the codes and plans that are contemplated by this legislation. The access bill, for example, requires DOT to develop a highway access code. It hasn't been drafted yet. Some standards have to be drafted for funding the transportation improvements — the cost sharing, the method of allocation, the extent to which it is retroactive to cover existing landowners. Those rules haven't been drafted, and, to our knowledge, no one has seen them. The drafting of these proposals would give form and shape to the Transplan concept, at the same time that a study committee could address the critical issues as to how we are to use our remaining land resources and how the necessary revenues are raised.

We believe that this is not a delaying tactic. We have significant issues we would like to address in terms of the planning process in New Jersey as well. We think we have some common interests with the Department of Transportation, and we believe that our proposal -- as I have just outlined it -- is the best way to address and resolve the concerns of the Commissioner.

We appreciate your time this morning, and we would be happy to answer any questions you might have.

ASSEMBLYMAN PENN: Thank you. The sponsor of the bill is Assemblyman Franks, and he informed me yesterday that he is going to have a study put together similar to what we have done on other legislation, where he would request input from the development community -- a representative to serve on it with the authority to make decisions-- maybe through either your organization, or some organization that would come forth with its proposals on it. He would also look to both county and municipal officials to sift through the whole entire bill to see where they are going, and then decide to move ahead with it, or what direction to go with it, or whether a new bill would be drafted, or a Committee substitute of some sort.

But, your concerns are real, and I am glad you took this opportunity to come and share them with us. Frank, do you have any questions?

ASSEMBLYMAN PELLY: No, thank you.

ASSEMBLYMAN PENN: Newt?

ASSEMBLYMAN MILLER: No, except that you are the people who have to live with whatever we do -- whatever comes out of us.

MR. POWELL: And pay for it.

ASSEMBLYMAN MILLER: You are on the bottom of the ladder, fellows, you know, and whatever they do to you, you have to live with it. I share your frustrations and your thoughts in this. I personally think the State has to pick up

a good portion of what is going on, both in the implementation of it -- that is, the administration of it, as well as the implementation of it. I even envision, perhaps, a way of handling this would be so much per square foot on development, which would go into a given fund, rather than in your town you're doing this, and in that town they are doing something else. I can see something that is uniform throughout, so you would know exactly where you were coming from and what the story is.

Again, I go back-- You have to go to these different groups for approval. If it is like DEP, you may never get approval. If you do, you may not know what the approval stands for, or you have done something wrong because they have changed the rules further on down the road a ways. We don't want that to happen with this. I mean, I think you should know exactly where you are going and exactly when you are going to come back, so there is no baloney in this. That is going to be up to DOT in rehashing this to put these pieces together, so when they are passed out and you see them, your complaints will at least be fewer, if not completely answered.

Thank you.

MR. POWELL: Good. Thank you very much.

ASSEMBLYMAN PENN: Thank you. Tony?

A N T H O N Y P I Z Z A T U L L O: Good morning.

ASSEMBLYMAN PENN: Tony, I think before you start you should tell us about your new baby. I understand you are a new father. A little boy, a little girl?

MR. PIZZATULLO: A little boy.

ASSEMBLYMAN PENN: Good, congratulations.

MR. PIZZATULLO: Thank you.

ASSEMBLYMAN MILLER: You look as though you have been up all night, Tony. Have you been walking the floor?

MR. PIZZATULLO: It hasn't been that bad.

ASSEMBLYWOMAN SMITH: You better not say that. I'll tell your wife. (laughter)

MR. PIZZATULLO: That's off the record, then.

My name is Tony Pizzatullo. I am Director of Government Affairs for the New Jersey Builders Association. The New Jersey Builders Association is a professional trade organization made up of approximately 27 residential developers and affiliated industry members.

Before I start, I have to say that I pretty much concur with the last speakers in their concern with the ultimate uncertainty of this package, especially with industrial and commercial development and the heavy up-front risks and long-term build-out that is involved with industrial and commercial, and with how they would be very much concerned with how this legislation may come down.

But, anyway, I want to start out by saying that Governor Kean stated, in his 1987 annual message, that New Jersey today is in the business of creating opportunity. "We are a paragon," he stated, "for what government can do to encourage economic growth." I agree with the Governor in that statement. I agree with him that we can encourage growth, but we also recognize that it is the private sector that produces that growth.

The development community is proud of our contribution to New Jersey' recent robust economy. The positive contributions that the development industry has made to the economy and general well-being of New Jersey in the last five to ten years is enormous. The benefits of the economic surge have resulted in low unemployment and the creation of a record number of new jobs. A healthy building industry has provided thousands of jobs and has contributed millions of dollars to counties and to the State in the form of tax revenues.

We urge the Committee not to take these accomplishments for granted, or presume that New Jersey can continue its economic expansion if overwhelming government obstacles are placed in the path of responsible and reasonable

development efforts. The Governor is correct when he notes that government can encourage economic growth. He would be equally correct were he to assert that it can discourage it.

The NJBA understands the necessity for adequate transportation facilities. We also understand the importance of adequare financing for transportation projects. That is why we have been in the forefront of those supporting the DOT Commissioner's request for increases in the motor fuels tax. Most people will agree that our State's transportation network needs significant enhancement and expansion. Further, I think most will agree that the process should entail — and I have outlined them: A thorough statewide assessment of the adequacy of our current roadways; projections of where growth will occur in employment and in population; an analysis of the communication patterns that will result; and finally, projections of our future transportation needs, including mass transportation, with phasing and cost schedules estimating the timing and costs of addressing those needs.

With such a plan in place, both sectors — private and public — and all levels of government, will be able to be in a position to respond in a concerted, coordinated effort. Financing could be planned, and production plans arranged in a way that would supply timely responses to the public need. Obviously, an analysis such as I have outlined will take time. It is our view, therefore, that the motor fuels tax increase should be considered immediately to finance our pressing needs.

Over the next few months, some of the critical data for a thorough examination will be available when the State Planning Commission announces its draft plan in July of this year. It is certainly premature to put forth a proposal as sweeping as Transplan, without the benefits of the Commission's work. The Transplan proposal does not address the foregoing, but instead introduces layers of review and poses added tax burdens on selected segments of the population and work force,

and grants sweeping discretionary authority to DOT, without previous adequate legislative guidance or oversight. It is not clear, however, if this bureaucratic superstructure were put into place that the transportation network of this State would be enhanced or expanded. The fundamental failure of Transplan is that it is a system, and not a solution. It is an example of how government can discourage economic growth.

Let me be a little specific by talking about each bill individually, if I may. With regard to the municipal-county planning partnership proposal -- A-3289 -- this legislation proposes a substantial change in the role of county government with regard to land use development. Currently, county planning board review is limited largely to the adequacy of drainage facilities and the impact of development on county roads. In New Jersey, with our tradition of home rule, the municipalities are the lead level of government for most land use and planning devices. Nevertheless, this legislation would significantly shift the responsibility of land use decisions to the county. Most existing county planning board staffs are not prepared to undertake the additional powers that this bill contemplates. The legislation will require projects with regional significance to conform to county master plan provisions relating to transportation, as well as water supply, sewerage, wetlands, recreation, and conservation.

I will stop for a second to state that many of those areas are already administered and controlled by the State. A developer has to apply to the State for many of the permits that are required, and there is a direct duplication there. We are currently working to put forth a statewide wetlands protection bill, which would guarantee that the developer would be able to go to the State, rather than to the Federal agency, to acquire that permit. To go to the county, in addition, would again put us back to step one, where we are currently dealing with the State and Federal authorities.

Towns would be stripped of their power to grant site plan approval, unless county planning boards permitted it. Counties would also be empowered to force municipalities to change their local master plans to conform with the land use element of the county plan. Why is a proposal supposedly addressing transportation issues causing such sweeping shifts of authority? Is this the optimum scheme? Is it one that all other agencies will embrace? We wonder; we wonder where the need is.

Specifically, section 7 of the bill expands the concept of review and approval on the county level. The county review provision in this legislation merely adds a new element of uncertainty, as our past speaker stated, new sources of delay, and increased costs, without, in any way, relieving developers of what is already a lengthy, expensive process. The existing approval process, in many areas of New Jersey, often extends to two or more years. That is very common. The delays and uncertainties involved add to costs of available places to live for those people who live and work in New Jersey. These costs are an invisible tax imposed on our citizens, and nowhere in Transplan can you find benefits that would justify these costs.

Section 29 of this legislation requires the county planning boards, annually, to prepare a capital improvement program consistent with the master plan. The program must inventory all proposed and recommended public improvements within the county, regardless of governmental jurisdiction. The initial five-year plan must be consistent with, and incorporate any transportation improvement programs which the county submits to DOT. The five-year plan must include all projects to be undertaken during that period and in the funding sources, including private funding. This capital improvement plan, which is not mandated to be actually undertaken or constructed, can be used as a justification for prohibiting

projects that would respond to market demands and social needs, without regard to the implications of such decisions.

Moreover, the program can be used as a mechanism whereby the county can justify substantial amounts of funding from developers in order to pay for improvements. Ironically, the fees taken from developers that are not used for the construction of transportation improvements can be used for the payment of debt incurred under, I quote, "any debt instrument which the county may be authorized by law to issue." Such provision hardly reassures developers that assessments will be reasonable, or that contributions, once made, will produce improvements.

Moving on to the New Jersey Transportation Development District Act, this bill will allow counties -- individually or in groups -- to establish TDD -- Transportation Development Districts. Upon establishment of TDDs, the county may adopt a district transportation improvement plan. This plan is to be incorporated into the county improvement plan. Upon the adoption of a transportation improvement plan, the county is then authorized to provide for the assessment and collection of development fees.

We agree that builders or developers should pay their fair share of the costs associated with needed capital improvements, when such improvements are directly related to the impacts of development. We recognize a responsibility to pay our way. This is set forth in the Municipal Land Use Law, which stipulates that a builder is required to pay his pro rata share of the costs of providing reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements, therefore located outside the property limits of the subdivision, as a condition for approval of the subdivision for a site plan. The current law is equitable.

Without spending time on its details, I call your attention to section 3 d.'s definition of a development

assessment liability date. Can we take seriously a proposal that would impose fees retroactively? Can any of us honestly answer how this is to be assessed and collected? Can anyone believe that the concept will stand judiciary scrutiny? And, since this concept of fees is at the heart of Transplan, how can the rest of the package be given credibility when it stands on such objectionable premises?

This legislation will create a mechanism that will permit an overzealous and inexperienced burcaucracy, and those opposed to development, to inject into legitimate land development activities the kinds of pressures, uncertainties, and costs that can do serious damage to economic development in New Jersey. The implementation of developers' fees and the assessment of fees on existing development will result in additional costs that can only be passed on to the home buyer, tenant, and corporate owner looking to expand and relocate in New Jersey. This will discourage development in New Jersey, and will result in the business community migrating to other places and other states where lower occupancy expenses exist.

The NJBA believes that there are alternative approaches that can meet the legitimate transportation objectives of this State and ensure proper and fair involvement of the private sector, financially and otherwise. We believe that an equitable solution would be to continue to dedicate the special fuels taxes, since these are directly related to use and more equitably distributed to the burdens that we must bear.

What I want to stop and say is, if you can just think and realize how a developer on the Route 1 Corridor in North Brunswick will basically be assessed for an improvement, or an impact that will improve a State highway, and therefore benefit the traffic flow in the Lawrence/Trenton area-- How can that be justified? How can a developer be faced with a cost that essentially will provide for the general welfare of those who utilize the State transportation system in a general sense? I

think the point that I am trying to make -- if I am not articulating it correctly -- is, developers must pay for impacts that are directly related to their development. The broader public policy issue has to be a burden of the entire public, rather than just to the specific segment of the business community that will be paying for it.

With regard to the State Highway Access Management Act, this bill is structured to permit DOT to limit, or exclude entirely, access to State highways and to minimize the extent to which financial compensation is payable for the denial of such access. This legislation will permit major projects to be denied access to State highways if alternative access can be attained through the local road network. Given the critical nature of the State Access Code and the fact that it must be prepared before this legislation can be implemented, we recommend that consideration of this legislation be deferred until DOT has produced a draft code. This will enable the Legislature, other governmental bodies, and the private sector to more fully understand what the DOT contemplates.

To expand on that, just like with the Uniform Construction Code, there should be a heterogeneous body of DOT, local government, county government, and private sector to sit down and discuss what should be the type of code that should be drafted. The inception should include that integral ingredient of the public sector with the private sector.

Similar to the creation of other codes, it is important to establish an advisory committee, which I just stated is needed in order for an effective code to be developed. It would not be specifically based on how the bureaucracy has stipulated it.

I wish to conclude on a positive note. While Transplan is conceptually flawed, the proposal has stimulated a long-needed debate. As I noted at the onset, the NJBA has been an advocate of long-term solutions to the infrastructure and

financing needs of the State. If we produce the type of plan I have outlined, we will be able to rally the citizens of this State behind our efforts to prepare ourselves for the 21st century.

Thank you very much.

ASSEMBLYMAN PENN: Thank you, Tony. Frank, do you have any comments?

ASSEMBLYMAN PELLY: No.

ASSEMBLYMAN PENN: Newt?

ASSEMBLYMAN MILLER: Tony, I think your points are well taken, but I think that in some instances you may be just a little overly concerned. Because of what you are saying here-- If I had those fears, I would be as concerned about it as you are, if, in fact, this is true. But I think the League of Municipalities, in their presentation, and their four areas, and the Princeton Area Developers -- who came just before you-- I think they are all addressing these things.

But, when you extend, as I say, the existing approval process, in many areas it often exceeds two or more years. That is absolutely uncalled for and should not be. No question about that.

MR. PIZZATULLO: Correct.

ASSEMBLYMAN MILLER: The capital improvement plan, which is not mandated to be actually undertaken or constructed, cannot be used as a justification for prohibiting projects. I think we do have to have the overall master plan that says you are allowed so much of this, and so many sewer entries, and so many car entries, and so many so forths and so ons set out, and like stock on a shelf, you pull off one thing at a time. I think that has to be, but when you reach a certain point where you have reached your capacity, then I think that is when you have to have a master plan that says, "Hey, wait a minute, guys, you can't go any further."

MR. PIZZATULLO: Yes.

ASSEMBLYMAN MILLER: But, someplace along the line the red flag comes up and says, "Hey, you are three years, or five years away from capacity here," and the State has to step in and start doing something to relieve that, either through public transportation or roads or overpasses, or whatever has to be done.

Your concerns are justified if, in fact, that is the way it is going. But, I don't really believe it is to that degree. I would hope not. In fact, I would be against anything like that.

MR. PIZZATULLO: Okay. Thank you.

ASSEMBLYWOMAN SMITH: What is the baby's name, Tony?

MR. PIZZATULLO: Daniel.

ASSEMBLYMAN PENN: Thank you, Tony. This meeting will conclude at 12:30. I am going to call the rest of the speakers but, as I say, we are going to conclude at 12:30. We are going to try to get everyone on, if we possibly can, so if you would--

Mr. Robert Clark?

G E O R G E V E R V E R I D E S: Ladies and gentlemen, my name is not Robert Clark. I am George Ververides of the Middlesex County Planning Board. Unfortunately, Bob Clark could not be here today because of last-minute commitments at the office, and I was charged -- at the meeting, as a matter of fact, via a telephone call -- to be here to at least summarize the presentation of the New Jersey County Planners Association.

Just to clarify the role of the Association, the Association is made up of the staffs of the county planning boards throughout New Jersey. Presently, there are 19 out of the 21 counties in the State. This, in no way, represents any official statements from individual county boards of freeholders or individual county planning boards, which I am sure you are going to be hearing from in future meetings. This statement summary represents the feelings and observations of the staffs and staff directors of the 19 counties represented in New Jersey at the present time.

Overall, we find Transplan to be positive, particularly from the point of view of development as it is occurring presently in the State, that development in one county or one municipality affects, in many ways, the development of another county or another municipality across boundary lines. We not only speak of transportation. We are also speaking of the need for water, sewerage, air, and what have you.

In reviewing the Transplan, under the State Highway Access Management Act, we are suggesting that the counties be given the opportunity also to incorporate standards into the criteria to be established, so that we, too, can have an opportunity to have our ideas and thoughts incorporated from a regional perspective, so that is added to whatever input is provided by the municipality, as well as the State.

We are also saying that we not only consider those developments that front on a road, but technically affect a county road or State road, because a development may be fronting on a State or county road, but, in turn, may not have any effect on that particular facility.

Under the Transportation Development District Act, we do go into some detail -- I am not going to take the time right now; you will see it in the prepared presentation -- concerning the review periods. We feel, in some cases, that the review time could be cut down in order to accommodate a faster review and get the process moving as quickly as possible.

We are saying in those cases where developments may not affect a county road, or may not affect a State facility -- a State road -- under the State access provision, that some simplified review procedure be incorporated whereby the counties do not have to go through the detail process. We can just say we will waive it, or we have just reviewed it, and we can pass it on.

In terms of the transportation development districts, we do show concern that this also include redevelopment areas in downtown urban areas. In entirely new areas we know we have to look at entirely new roads, road widenings, overpasses, and new infrastructure facilities, but we also ask that a TDD be developed for downtown redevelopment areas. Presently, you may have existing structures -- sewerage, water -- that may be inadequate. They, too, must be improved in order to accommodate any new development.

I look at the development that is taking place in our downtowns up and down the corridor -- the Trentons, the New Brunswicks, the Newarks. Those areas need infrastructure improvements badly.

Under the partnership arrangement, our primary comments there-- We attack, again, the infrastructure facilities situation. We are indicating that as far as the official map provision is concerned, we feel that the official map should be continued and be used as a permissive device so that we can have that as an added tool in the review process.

In the capital improvement programing, we feel that should continue and, again, that the county planning boards be given the opportunity to review those capital improvement programs so that they do tie in to established planning.

There is, in the statement, a procedure -- on page 5 -- that the Association is recommending -- a revision to the process -- that generally could be followed in terms of initiating a review. We are saying, however, as it is stated under the present enabling law, that the counties give the approval of the regional facilities prior to a municipality granting approval to an application, so that the municipalities will have the opportunity to see the concerns at the regional level before they give the final approval at the local level. We try to work collaboratively in the process.

Finally, regarding the fee structure, I think, as stated previously -- and I'm sorry I was not here to hear the Union County Manager's comments-- I raise concern about the fee structure. I think this has to be analyzed very, very carefully because of the impact it is going to place on county planning board staffs in the process. Again, I do not mean to cloud the issue of the importance of the concept of Transplan and the fact that we are now emphasizing regionalism, which I think is necessary in light of the development that is beginning to occur in the State, and particularly the impact it is going to have on our counties. But I do feel, at the same time, that the fee structure has to be looked at very, very carefully.

The County Planners Association feels that the formula in the distribution of the initial seed moneys should be based on two major factors, plus others that may be considered. The two major factors are: The rate of development that has occurred in a particular county in the previous year, and the density of population that is occurring in that particular county. They should be at least major factors considered in the distribution of those funds.

Finally, if I may make two other observations which we did speak about in the Association-- These are, in a sense, the Association, but I do not see them specifically laid out in the statement before you. One, the Partnership Act, I think, has now got to work very, very closely with the State Planning Commission's work. I think the Transplan works very well under DOT's auspices when it comes to questions of regulating developments along State highways, and in terms of developing transportation districts for improvement of highways and for improvement of transportation structures. But, I do feel that in the partnership arrangement between the counties and the municipalities that this has got to be worked out very, very closely now, as we get into and work with the counties, get

into and work with the State Planning Commission and the establishment of a statewide plan. I think this becomes a very, very important consideration.

Initially, when Transplan was conceived, the State planning work was, of course, at a very, very beginning stage. But now that we are getting to a point where State Planning is developing their draft plan in June, and the counties are going to be asked to cross-accept, or at least to tie into the State plan following the preparation of the draft, I think the Partnership Act, particularly, in the Transplan has got to be considered very closely with the work of the State Planning Commission.

A second observation-- I must echo the words of Assemblyman Pelly on the fact that mass transportation, ride sharing, staggered hours have got to be considered much, much more clearly in Transplan. I think there have to be incentives laid out in this program, whereby a developer will have the opportunity to look into other modes of transportation besides just road construction and overpasses because, let's face it, the money is not going to be there to do it. Look at the Route 1 Corridor at the present time. We heard Commissioner Gluck, in her initial comments to the Senate Subcommittee back in December, that in the Route 1 Corridor alone, we almost have a $500 million, or $600 million shortfall, in light of all of the development that is going to be proposed, and the potential development that is going to be occurring along the Corridor.

We must look at -- begin to look at other modes of transportation as part of the system, in order to alleviate that problem. Those are the areas that Assemblyman Pelly alluded to -- ride sharing, staggered hours, van pooling, and busing -- and I think these provisions also have to be made an integral part of this consideration that is before you today.

Again, on behalf of Bob Clark and the members of the County Planners Association, we thank you for giving us the

opportunity to make this presentation. We want to work very, very closely with the Assembly and the Senate and DOT, with the municipalities, the other counties, and the State, in seeing that regionalism is certainly going to have its place in the process and in the development that is going to occur in the State and in the counties.

Thank you very much.

ASSEMBLYMAN PENN: Thank you.

MR. VERVERIDES: You're welcome.

ASSEMBLYMAN PENN: Our next speaker will be Bud Chavooshian. Am I pronouncing that correctly?

B. B U D D C H A V O O S H I A N: Pretty close, thank you. An Armenian following a Greek. That's not very easy.

MR. VERVERIDES: No awards, just international cooperation.

MR. CHAVOOSHIAN: Thank you, Mr. Chairman. Good morning, ladies and gentlemen. My name is B. Budd Chavooshian, and I am a member of the Board of Directors of the Federation of Planning Officials in New Jersey. I appear before you today as a representative of that Board to present the Board's general support of the New Jersey League of Municipalities' position on A-3289.

The Federation, as you may know, is a statewide organization whose membership includes mainly planning board and board of adjustment members. It is dedicated to better planning in New Jersey. A little plug here, if I may-- Next year we will proudly celebrate its 50th anniversary.

The Federation believes that the local planning must be in concert with a larger areawide plan if it is to be sound, rational, and effective. In that regard, the Federation supports the general thrust of Assembly Bill 3289.

The Federation believes that the larger area should be the county, and that the county plan should be prepared through a joint effort -- a partnership, if you will -- of the county

and the municipalities. In that regard, the Federation endorses the general thrust and philosophies of the League of Municipalities' Growth Management Committee, as set forth by Ms. Carolyn Bronson this morning.

The Federation believes that a cross-acceptance process, including mediation and arbitration, is an essential element of this joint effort. In that respect, the Federation endorses the League's proposal as set forth by Ms. Bronson.

The Federation believes that an amended A-3289 which takes into consideration the general thrust of the amendments as proposed by the League would advance the art and science of planning significantly in New Jersey, and accordingly supports it.

In summary, the Federation believes that such an amended A-3289, coupled with the State Planning Commission's cross-acceptance process, will harmonize planning into a truly integrated planning system, with all three levels of government managing growth as equal partners within a statewide and county plan.

Thank you. May I say something?

ASSEMBLYMAN PENN: You certainly may, Budd.

MR. CHAVOOSHIAN: This does not represent the position of the Federation, but I would like to make two brief comments. One is, the summary I just mentioned of harmonizing planning, I think, is extremely important, and I think we are right at the leading edge of that. I think we are right on the threshold in New Jersey, with the State Planning Commission's cross-acceptance process about to go into -- at least this summer it will, by June, or July -- process, and the mediation activities of the Council on Affordable Housing group, which gave us considerable experience on how land use disputes can be mediated before they go into litigation. All that, coupled with what are being suggested as amendments to the Transplan by the League of Municipalities' Growth Management Committee, I

think puts New Jersey years ahead, and where it should be, because no state in the union is growing like New Jersey, and we need to do this. So, I think we're there, or almost there, and Transplan, with the amendments, would bring us there.

There is one important thing, however, which I think should be considered by the sponsors. There is a provision for some kind of a planning grant to the counties, perhaps even to the municipalities -- I hope that would be considered -- and it ought to be an annual grant. More importantly, I think that grant should be funneled somehow -- I don't know who it should be administered by -- but somehow it should be funneled through the State Planning Commission. As a former State Planning Director, I know how we were able to funnel money from the Federal government through State Planning to our municipalities, although the municipalities, I'm sure, received the so-called 701 grant in preparing their first master plans back in the '50s and the '60s.

But, the State Planning Division set the standards by which those funds would be used. I think they were proper and appropriate and got planning off on a good start back in the '50s and early '60s. I think the same sort of thing should be done by the State Planning Commission in setting standards and criteria on how the counties would get into the Transplan Program.

One other very brief comment, if I may, Mr. Chairman.

ASSEMBLYMAN PENN: Yes.

MR. CHAVOOSHIAN: In response to your question concerning county planning and a county master plan and the so-called IDP -- the infrastructure development plan -- as proposed by the League of Municipalities, in recent years, a number of counties -- Cape May, Monmouth, Sussex, Hunterdon, Warren -- have incorporated an IDP into their plan. They don't call their plan a master plan. They have avoided identifying and delineating specific and general land uses in their plans.

They call their plans Growth Management Plans. In essence, that is what the League is proposing. So, it is not something that would be a duplication of what is currently being done by at least those counties, and several others are considering similar approaches.

Thank you very much.

ASSEMBLYMAN PENN: Thank you. Budd, does the State Planning Commission-- Are they involved, in any way, as you read through this? Is there any tie-in with the Transplan?

MR. CHAVOOSHIAN: Are they now?

ASSEMBLYMAN PENN: According to what you read here, do you see any tie-in between the State Planning Commission and the Transplan? Is there any tie-in that you see?

MR. CHAVOOSHIAN: Oh, yeah. I don't know how it is going to be done. I am not a member of the--

ASSEMBLYMAN PENN: But I'm saying, this is the concept you have, that there should be a tie-in between the two?

MR. CHAVOOSHIAN: Absolutely.

ASSEMBLYMAN PENN: Okay. But, it is not now being addressed, as I read it.

MR. CHAVOOSHIAN: Not in Transplan.

ASSEMBLYMAN PENN: Okay. My next question would be, if the State Planning Commission is planning for the growth of the State and where we are going, why then wouldn't the Transplan become a part of the -- the State Planning Commission become a part of the Transplan -- the other way around -- so it all dovetails and fits in there? We got into a discussion before about three counties having problems with one road going through the three counties. How do you take and tie the three counties together so that they can resolve the problem generated by County #1 over to County #3. Maybe this is where the State Planning should become involved a little bit, too. The State Planning Commission might be the one to be the overall on that. I don't know.

I think DOT should take that into consideration when they are reviewing what we are doing here today. Okay, thank you. We appreciate your coming down today.

ASSEMBLYMAN PENN: Keith Wheelock? You're not going to read that whole thing, are you, Keith? (referring to prepared statement)

MR. WHEELOCK: I am going to give you a quiz in about 10 minutes.

ASSEMBLYMAN PENN: Okay; all right. Are these some of the things you didn't get to the first time?

MR. WHEELOCK: Yes, but also I have had an opportunity to reflect on some of the comments, particularly those by Chairman Miller. I agree with your conclusions. I was trying to figure out why, and I think I have.

ASSEMBLYMAN PENN: If you find out, let me know then.

MR. WHEELOCK: I will speak quickly. I am speaking as Project Director of Managing Growth in New Jersey, which is done for the Fund for New Jersey and the Center for Analysis of Public Issues. What I am giving you are some of my conclusions and recommendations based on a year's research for them.

New Jersey's growth is being badly managed. My preliminary draft, entitled, "Mismanaging New Jersey's Suburban Growth: Is it Too late?" provides some insight into the structural and operational nature of this mismanagement.

If observers wished to apportion blame, there is sufficient blame for us all. The operative question is, what, if anything, can be done in a timely and effective manner to manage New Jersey's growth better?

I applaud the creation of the State Planning Commission and the Office of State Planning. My assessment, as contrasted to my wish, is that the Commission's practical results are likely to occur over years, rather than months. Thus, timely efforts to cauterize New Jersey's hemorrhaging current growth rest principally with those who must craft final Transplan bills, especially the county-municipal A-3289 bill.

A non-New Jerseyan, observing current discussions, might summarize the process as follows:

There are "master stroke" proposals to provide dominant authority to currently insipid counties;

Some municipal "home rule" champions insist on preserving a local "sovereignty" that never has, nor ever should exist; and,

A few State Annex corridor power brokers seek unbridled power for such State fiefdoms as the New Jersey Department of Transportation.

From my limited experience as Montgomery Township Committeeman and Planning Board Member, I shall gladly defer to you on assessing the "politics" of Transplan-related issues.

It is from my perspective as a manager and, for seven years, the President of Dun and Bradstreet's Management Consulting Division, that I wish to comment on the management aspects of the draft legislation which is now under consideration.

A major shortcoming, in business, is when corporate strategists devise, then issue policy directives that bear no relationship to the company's corporate culture, existing personnel, and operating networks, and, in brief, with its ability to make the giant leap from "here to there."

Some management consultants refer to this common phenomenon as the "Pharaoh syndrome" in honor of Pharaoh Ramses, who was in the habit of pronouncing, "So let it be written; so let it be done." Whatever Ramses ordered to be written had little effect on what Moses actually accomplished in leading the Jews out of Egypt.

The Pharaoh syndrome can be described in terms of the distinction between determining what to do and who will do it. In the business world, this is the difference between strategic planning and actual implementation.

Permit me to relate the Pharaoh syndrome to the draft county-municipal legislation now before you. Reasonable people will agree that the present growth management structure in New Jersey is broke and needs urgent fixing. Reasonable people can also argue persuasively that drastic problems require drastic solutions.

As a management consultant, however, I begin to question the reasonableness of such drastic solutions when I look at the experience of others. Were the problems any less urgent when Florida, Oregon, and Montgomery County in Maryland sought to impose and implement effective growth management measures?

Why did John DeGrove, the principal architect of the Florida Growth Management Program, state that, six years into the Program, the Florida Legislature — and these are his words -- "threw up"? What was the background to the growth management-related court cases in Florida, Oregon, and Montgomery County? Why did the creation and implementation of effective growth management programs require a full decade in all of these areas?

Is it probable that New Jersey has a far greater growth management resolve than had they? Is it likely that New Jersey has in place a more effective implementation machinery than did they? Or, is there another lesson that we might learn from the decade-long growth management transition period endured by governments in which the executive exhibited a firm commitment to the process?

As a management consultant, I would need to assess the capabilities, as well as the short-term prospects for significant enhancement of the possible implementors of a bold growth management program.

Municipalities: They have professionals and members of local volunteer government who have many battle scars from their trench warfare on planning and zoning matters. Their

perspective, because of the master plan constraints and the nature of the Municipal Land Use Law, is principally focused within municipal borders.

While some municipalities are beginning to recognize that what occurs elsewhere within their region may have profound implications on their own future, municipalities generally lack both the mechanisms and the practical incentives to take regional growth management-related initiatives.

Counties: Counties, traditionally, have played no significant growth management role. In part, this has been a function of legislation, which has denied them such a role, except in peripheral areas. Also, in part, counties generally have refused to step into power vacuums in which they could have assumed considerable de facto authority.

The roles that Mercer County has assumed in reviewing and revising local 208 waste water plans and that Hunterdon County has exercised in dealing with county road impacts of proposed development are exceptions. More common has been the passive posture of both county planning staffs and of county freeholders and planning boards.

There are few people within the latent county growth management structure who have demonstrated both the desire and the ability to deal effectively with nitty-gritty growth management implementation matters. Indeed, the passive county planning environment has discouraged many prospective movers and shakers from seeking a career in county planning. Attracting a cadre of such persons would seem a many-year endeavor, once savvy county planning leadership were in place.

NJDOT: DOT ranks as an overachiever within New Jersey government. Even by private sector standards, NJDOT deserves plaudits for the efficiency with which it has transformed the mandate of the New Jersey Transportation Plan and the resources of the initial Transportation Trust Fund into tangible accomplishments.

Under the dynamic and impressive leadership of Commissioner Hazel Gluck, DOT has embarked on a second stage that might earn plaudits from master builder Robert Moses. The danger is that there is no equivalent counterforce to the fullcourt DOT press in legislative initiatives and the accelerated road-building process, from draft environmental impact statement to the actual laying of concrete.

The "can do and will do" attitude of DOT is especially laudable, if the overriding New Jersey growth management objective is to construct and maintain an expansive network of limited access highways. However, many would contend that the massive expansion of State highways, by itself, would not solve suburban traffic problems. Moreover, transportation is simply one of various primary elements that affect suburban growth management considerations. Others include relative quality of life, an appropriate tax base, and environmental, open space, farmland, waste water, and water quality, housing, labor market, and urban area issues.

A valid concern is that DOT could, and would dominate any growth management structure in which the intention is that the legitimate interests of the designated participants be the subject of good faith negotiations. Some persons who express such a concern recall how DEP has translated legislative intent into specific regulations and actions that appear to have a distinctly different end result.

I would welcome an opportunity to discuss with individual members of the Committee, or their designated legislative staff assistants, the section-by-section possible implications of A-3289.

As a management consultant, I believe that there are sections that, perhaps inadvertently, could permit mischievous interpretation. One such example is the proposed amendment to section 4 of P.L. 1968, which, among other things, refers to State Planning Act cross-acceptance and, later in the same paragraph, states:

"Where the board finds that a development does not conform with a plan as required by the ordinance or resolution, as appropriate, the board may, to the extent permitted by law, require in lieu thereof contributions or improvements to mitigate any regional impact resulting from the failure to conform with the plan, and it may require additional improvements, as necessary, to ensure that the development will be consistent with the objectives of the plan."

At least this non-lawyer wonders: 1) What, if any, nexus exists between the "cross-acceptance" reference and "the ordinance or resolution, as appropriate"? and 2), whether a primary intention of this section is to permit further imposition of "contributions or improvements" for nonconforming development applications?

Proposed amendments to section 6 of P.L. 1968 introduce intriguing further ramifications:

"The county planning board shall review each application for a development of potential regional significance and withhold certification if the development does not meet the standards previously adopted by the governing body in accordance with section 4 of this Act. In the event of the withholding of certification of an application for development of potential regional significance, the reasons for such action shall be set forth in writing and copies thereof shall be transmitted to the applicant and to the municipal approving authority."

Since section 4 refers to the county master plan, apparently the practical effect of amended section 6 above, would be to supersede earlier references to the county master plan as only a general guide and render meaningless references to "taking into consideration" and "encouraging the cooperation" of municipalities in a county master plan process in which the county ultimately can enact whatever it pleases.

As a management consultant, I would conclude that under this draft bill:

1) The county has the opportunity to exercise absolute decision-making authority, with no effective checks and balances from municipalities or developers;

2) DOT, in some areas, enjoys similar latitude; and,

3) While the preamble of A-3289 expresses some laudable growth management thoughts, the specific draft legislation establishes no criteria or incentives for counties to reject or reduce proposed developments of potential regional significance.

Indeed, a churlish person might point out that, since counties receive between 75% and 80% of their operational budget revenue from property taxes, and because proposed amendments to section 4 of P.L. 1968 permit the levying of additional contributions and improvements on certain developments, some counties, under this proposed bill, might prefer to encourage rather than restrict development.

As a management consultant and manager, I would like to make several implementation-related recommendations based on:

1) An objective to cauterize New Jersey's hemorrhaging current growth through timely and effective legislative initiatives;

2) My assessment of current and prospective capabilities of municipalities, counties, and NJDOT; and,

3) The ubiquitous Pharaoh syndrome.

Perhaps the fatal flaw in municipal land use planning is that, until recently, even the most forward-looking municipalities failed to calculate the cumulative traffic impact of full build-out. This failure, in turn, has contributed to potential zoned densities that would totally overwhelm existing and prospective infrastructure, most demonstrably in rush-hour highway-carrying capacity.

I believe that the Legislature, within draft Transplan legislation, should become a principal catalyst, with DOT, counties, and municipalities, in crafting and applying a regional transportation capacities/constraints approach.

The State Planning Commission, under State Planning Act sections 4 b., 5 b., and 13, has ample statutory authority to participate in such an initiative. Stated simply, significant municipal development feeds additional traffic into the regional State and county transportation network. At present, this occurs at virtually no cost to either the municipalities or the counties, both of whom benefit directly from the newly generated ratables.

In fact, the highway system is a massive transporation sewer into which municipalities currently are permitted, with no practical constraints, to dump additional traffic. Just as there are capacity limits and hook-up charges for those who seek access to a sewer plant, so, too, should firm ground rules exist for municipalities that seek to utilize more than their fair share of regional roadway capacity.

A combination of technical analysis and judgment could provide an equitable basis to establish capacities, on principal State and county roads in principal growth areas, then allocate municipal access credits and hook-up costs to each affected municipality.

I would be delighted to meet with the Committee's legislative staff to demonstrate how such a mechanism would affect an anomaly such as in Hillsborough Township, 58 square miles, where 71 million square feet of zoned, but as-yet-undeveloped commercial space could generate an additional 200,000 rush-hour vehicles. I calculate that would make Route 206 between 17 and 18 lanes.

I apologize for the Dr. Gloom aspects of my management assessment. I shall conclude on an upbeat note by sharing with you an op-ed article on "Miracle at Trenton."

Thank you for your time.

ASSEMBLYMAN PENN: Thank you. Martin Hoffler is our next speaker.

M A R T I N H O F L E R: Good morning. My name is Martin Hofler. I am Transportation Manager with Essex County. I am speaking on behalf of the County Transportation Association, which is composed of statewide county transportation planning officials. The paper you have here says "draft," but this paper was endorsed at the last CTA meeting.

We pretty much support all three bills known as Transplan. There are a number of provisions in the proposed legislation which would greatly improve the effectiveness of county planning statewide. We are glad to see that planning boards will be required. We are also glad to see that they must prepare master plans, official maps, and they also must review capital improvement programs. We feel it is time that this be legislated.

Regarding the specific bill -- A-3289 -- we just have a couple of comments on some of the technical aspects of it. We feel that not only should the Park Commission and other local regional neighboring government agencies receive county master plans, but they should also go to New Jersey Transit, DEP, and other authorities that may have some authority in accepting some of the provisions.

We agree with the County Planners Association that any plan of regional certificates should be looked at that also affects a county road, and not just fronts a county road. We feel there is some ambiguity in the word "certification" as noted in Transplan as it is right now. We feel that certification should be spelled out. Certification should have a certain designated number of days. In other words, some of the current language says that it is three days notification to State agencies, five days for adjoining counties and municipalities, and seven days for other counties. We feel

this should all be seven days, instead of various different days.

We also feel that the process can be improved as follows: Step 1, the county planning board receives a development application. Step 2, within seven days, the county planning board must review the application and deem it complete for review and for potential resource of significance, or incomplete, requiring additional information from the applicant. Step 3, upon certification that the proposed development is a potential resource of significance, the county planning board has 45 days to review the application and issue an approval, a disapproval, or an approval listing conditions required for final approval. Currently, it is just 45 days. Step 4, upon receipt of approval, disapproval, or conditional approval, the towns should be permitted to begin their approval. The current version appears to require that an applicant must submit the municipal review after county approval. We're saying that they can go on simultaneously, shortening the review process.

Step 5, final approval by the municipality can not be granted until final county approval. In other words, they still have to wait for county approval before the municipality does its final approval. The County Transportation Association also recommends that a provision be included in the proposed bill indicating that county approvals should extend for the same time period, with the same provisions for extension that are currently provided for municipalities in the Municipal Land Use Law. Specifically, this would require that county approvals would run for a two-year period, with three one-year extensions, if possible.

Regarding funding-- This is something where we also agree with a lot of the speakers here today and the County Planners Association. Funding should not only be based on the current criteria. You should also look at the amount of

applications received by county in the previous year; also, population density.

The CTA also recommends that each county carefully review the provisions in the new bill and require county planning boards to prepare the capital improvement programs. Just to explain that a little bit, we find that in Essex County, it is another department -- Administration -- that does the capital improvement program. This legislation is saying that the planning board should do the capital improvement program. We feel this may differ from county to county, and if you restrict each county to this one mechanism, there may be some problems in certain counties, especially Essex County. This should be worked out between the counties as to what mechanism should be used to review the capital improvement program.

Moving right along-- We feel that the State Regional Planning Commission and the Department of Community Affairs should also play a role in this legislation. Concerning Assembly 3291, the County Transportation Association agrees with CPA -- the County Planners Association -- that the counties should have input on this plan -- the State Highway Access Management Act plan -- as DOT is reviewing it. We should have input there.

Regarding Assembly Bill 3290 -- the TDD bill-- We agree with this bill also -- with the concept of it. We also feel that the days could be shortened from the present 90 days to 45 days. Also, we realize -- in reading the plan and coming from an urban county -- that the plan is directed basically toward growth counties. Counties like Hudson and Essex, which are not growth counties, are included in the wording. But, there should be something there for redevelopment, as well as development. You will have the Hudson waterfront developing soon. Now, that is an urban county that will have significant change. The City of Newark, although it won't be looking at

growth-- There are certain corridors within urban parts of counties that should be included in TDD legislation.

The legislation should also modify and eliminate the need for a specific agreement between counties and DOT for each project identified in their plan. Such agreements should only be required when a State highway is involved. If no State highway is involved, DOT should simply receive notification before a project commences.

For those districts which may be established which do not involve State highways, the plan should be exempt from the certification process, or at least have a more simplified review.

Lastly, the CTA recommends a provision in the bill to provide seed money to be used for developing initial district plans. If the counties could be funded for the initial cost of preparing these plans, any necessary revisions and updates could be funded from the moneys collected from the developers. Assuming a $100,000 cost for each county, an appropriation of $2.1 million would be required to provide the necessary seed money.

I would also agree with what Assemblyman Penn mentioned earlier, and Assemblyman Miller, that the Trust Fund should look at the administrative costs of these new proposals. We feel it is a burden on the counties. We welcome the burden, though, because we feel there is a need for regional planning, and the counties could be the mechanism which is already in place to provide this need. There should be some type of a mechanism to fund this additional work, although we are looking forward to it.

Finally, I would like to say that when you came up with Transplan, if it doesn't do anything else, it does bring the debate out to the public. It educates the public on regional planning. It is a concept that really has been obscured, especially in the State of New Jersey -- a strong

home rule State -- but it is something that really has to be addressed. With these bills, at least we have a chance to share with the public what regional planning is all about, and what I do in my town will affect what happens in another town. I really feel the time has come when we seriously have to take a look at it.

Thank you for inviting me here.

ASSEMBLYMAN PENN: Thank you, Mr. Hofler. We appreciate your testimony. Mr. Miller, do you have something?

ASSEMBLYMAN MILLER: Martin, I think Essex County should very definitely consider itself as a very important part of Transplan. Transplan will have an effect upon it. I will give you an example. In your County, your town of Newark, I have a constituent right now who wants to put a development up on I-78, I-1 & 9. I have met with your Mayor. I have met with DOT. We have one man in DOT who is holding a gun to the developer's head, because he wants the developer to do things that the State should have done originally. He wants the developer to pick up the whole thing. I think that is absolutely wrong. I am working with your town and with the developer and with DOT to try to compromise this thing to get it together, because it is a ratable for your town, and, at the same time, it helps to develop growth in the area. But, that is where Transplan would come in and where your county planning would come in, to decide why the developer should get stuck with $1.5 million or $2 million worth of improvements, when his share is $500,000 worth.

These are the kinds of things, I think, that would help the City of Newark out.

MR. HOFLER: I agree with you wholeheartedly. Thank you very much.

ASSEMBLYMAN PENN: Thank you. Peter Madison? Is Mr. Madison here, from BOMA? Is there anyone here from BOMA? (no response) All right. Then we have Patrick Witmer. I think he will be the last person to testify today.

P A T R I C K J. W I T M E R: I appreciate your squeezing me in. Thank you very much.

My name is Patrick J. Witmer. I am Director of Legislative Affairs for the New Jersey State Chamber of Commerce.

The Department of Transportation and the sponsors of the legislation have put forward a comprehensive proposal which would overhaul the transportation planning and management functions of State and local government in New Jersey. It is about time these areas are addressed by the State.

At the same time, however, the State Chamber urges caution in advancing this legislation too swiftly. These bills delegate broad new areas of authority to counties and the State to require land use plans, restrict development, and tax developers. We are concerned that the legislation is so far-reaching that no one can be certain of the effects it will have on development, jobs, and economic growth.

The State Chamber recognizes the explosive growth that certain areas of our State have experienced in recent years has placed huge burdens on existing transportation infrastructure. This growth and development has also generated enormous amounts of new employment, income, and tax revenues. We are hopeful that a balance can be reached in this legislation that will provide a better coordinated transportation planning system without threatening the continued economic advancement of our State.

I will address several major concerns the State Chamber has with regard to each of these bills:

1) The penalty and enforcement aspects of the bills appear to be virtually nonexistent. The municipal-county planning partnership amendments, for example, require counties to have planning boards and master plans, but there are no timetables for the establishment of those plans and no penalties for counties which do not comply. We foresee

situations similar to that which resulted with the enactment of the Solid Waste Management Act of 1970. Some counties still have not met the requirement under tht law to establish a suitable Solid Waste Management Plan. If the Legislature is serious about requiring county master plans, the State Chamber suggests that appropriate enforcement provisions be included in the bill.

I would warn, however, that developers are already suffering from overlapping and duplicative regulations and permit procedures. Simplification of the permit process in this bill is definitely in order.

2) The State Chamber is concerned that the State Highway Access Management Act directs the Commissioner of Transportation to adopt a State highway access management code within one year of the effective date of the Act, and following only one public hearing on the subject. The code seems to be retroactive, in that it would set forth alternative design standards for lots in existence prior to the adoption of the code. The State Chamber would strongly oppose granting exclusive authority to the State to mandate the redesigning of existing driveways or intersecting streets, without a provision for State funding to pay for these changes. We are also concerned that no limitations are set for permit fees in this bill.

Finally, the Commissioner is granted authority to revoke an access permit after determining that "reasonable alternative access is available for the property." No guidelines or definitions are provided for what constitutes reasonable alternative access. We view this sweeping authority to revoke existing access permits to be an unfair threat to responsible development interests. A major revision of this legislation is needed. If the Legislature determines that a State highway access code is called for, then definite guidelines for the development of such a code should be provided for the Commissioner to follow.

3) The State Chamber strongly opposes the provisions of the Transportation Development District Act, which grant counties the authority to assess open-ended developers' fees to fund transportation improvements in a designated development district. There is a serious constitutional question in allowing these fees to be assessed on existing developments in which construction permits were issued up to 10 years ago. The fair administration of these assessments would be impossible. We believe there is no justifiable reason to fund transportation improvements in a designated area -- benefiting all who travel through or live in that area -- through assessments only on new developments. We believe this would be tantamount to the State implementing an income tax applicable only to residents who have lived in the State for the past 10 years.

ASSEMBLYMAN MILLER: There's nothing wrong with that, Pat. An excellent idea. (laughter)

MR. WITMER: Are we really willing to punish new residents and investors in our State in such a fashion? I would hope not.

ASSEMBLYMAN PENN: You lost your case.

ASSEMBLYWOMAN SMITH: You didn't lose. Finish your statement.

MR. WITMER: The State Chamber also questions the provisions for a special State aid program to provide for matching funds for counties and municipalities undertaking transportation projects. The funding would be "subject to the availability of appropriations." We are concerned that a new State aid program is being called for without the provision for new revenues to pay for such a fund. I hope that will meet with Assemblyman Miller's approval.

As stated earlier, the State Chamber believes this legislation provides the basis for a program to improve our State transportation planning system, but a great deal of improvements need to be made before the proposals are workable.

Perhaps the most questionable aspect of the Transplan proposals is the availability of financing needed to implement such a plan. The State Chamber is not at all convinced that the appropriations called for to administer and fund this program are adequate. Furthermore, in light of the potential economic impact these bills could have on our State, we would urge that a fiscal note and an economic impact statement be prepared and made available to the Legislature prior to voting on the measures.

We would also support, and be willing to participate in the establishment of a study commission to review and make recommendations for a workable plan.

Thank you very much for your attention to these concerns.

ASSEMBLYMAN PENN: Thank you, Pat. Does anybody have any questions, other than about that income tax question you had, Mr. Miller?

ASSEMBLYMAN MILLER: I'll have a bill on that next session. I might just--

ASSEMBLYWOMAN SMITH: We're going to say it's his idea.

ASSEMBLYMAN MILLER: We'll make him cosponsor.

ASSEMBLYWOMAN SMITH: He can run for Governor.

ASSEMBLYMAN MILLER: I might say, Pat, that as of yesterday -- getting back to the financing-- I did put a bill in yesterday to dedicate the entire eight cents that we are now paying in New Jersey fuel tax toward the transportation plan, giving us some latitude as to whether we want to go that way or go by way of a five-cent, four-cent additional tax, or whatever the case may be. At least, it opens it up a little bit more as to what we should do.

But, your points are well taken as far as where is the money coming from to take care of the implementation of what we are trying to accomplish.

ASSEMBLYMAN PENN: Thank you. Is there anyone else who would like to briefly address us? We really don't have any time for any long testimony. Are there any brief remarks? (no response) Hearing none, if you do wish to be heard at our next meeting, please contact our staff. Thank you all for coming.

ASSEMBLYMAN MILLER: May I just point out to the representatives from DOT who are here that we heard a lot of testimony today. I think a lot of these points are being brought out not because the job wasn't done efficiently to start with, but because it was a concept put on paper. I think you've got to take what we have heard here today and apply sentence by sentence, if you will, the suggestions being made to particular sections, to see if we can't hammer something together to pull it back up so we can have another meeting like this after it has been distributed to all of the people who have participated in this thing, to get their additional input after that particular point.

Now, as far as-- We heard that the Commissioner would like to have this thing all bottled up and well on its way before summer. Well, I've got news for you. I don't know which summer she was talking about, but I would suggest that the sooner you people come back with a corrected version -- or an improved version, or a changed version -- of what you have presented so far, the sooner we are going to get back into this thing to pick it up from that point and carry it on. All right?

ASSEMBLYMAN PENN: I would like to just expand on that a little bit. As I said earlier, Bob Franks, who is the sponsor of the bill, intends to hold meetings with representatives to try to sort out a compromise bill. I think he plans -- probably during the appropriations break -- to start scheduling those meetings. I am sure he will be in touch with the Commissioner's office.

Thank you.

(MEETING CONCLUDED)

APPENDIX

THE COMMITTEE IS COMPRISED OF BOTH ELECTED AND APPOINTED OFFICIALS FROM VARIOUS PARTS OF THE STATE, SEVERAL OF WHOM SERVE, OR HAVE SERVED, ON MUNICIPAL PLANNING BOARDS. TWO MEMBERS, COINCIDENTALLY ALSO CURRENTLY SERVE ON COUNTY FREEHOLDER BOARDS AND ONE IS A FORMER COUNTY PLANNING BOARD MEMBER.

THE MEMBERS ARE:

KELLOGG G. BIRDSEYE

Chairman, Economic Development Committee, Lawrence Township (Mercer); Chairman, Legislative Committee, N.J. Federation of Planning Officials; Chairman, Land Use, Environment and Community Development Sub-committee, League Legislative Committee.

CAROLYN BRONSON

Member of Township Committee, West Windsor; Member, League Legislative Committee.

IX

PETER BUCHSBAUM, ESQ.

Special Counsel, Lawrence Township (Mercer); Municipal Attorney, High Bridge; Member, League Legislative Committee.

B. BUDD CHAVOOSIAN

Extension Specialist in Land Use, Cooperative Extension Service, Cook College; Member, Legislative Committee, N.J. Chapter, American Planning Association.

MARTIN T. DURKIN

Municipal Attorney, Ridge Field Park; Past President, N.J. Institute of Municipal Attorneys.

STEPHEN ELLIOTT

Mayor, Ewing Township; Member, League Legislative Committee.

GRETEL GATTERDAM

Deputy Mayor, Lawrence Township (Mercer); Executive Board Member, New Jersey State League of Municipalities; Member, League Legislative Committee.

LESLIE HOLZMANN

Township Engineer, Branchburg; Member, League Legislative Committee; Representing N.J. Society of Municipal Engineers.

VIRGINIA D. HOOK

Mayor, Delaware Township; 3rd Vice-President, N.J. State League of Municipalities; Member, League Legislative Committee.

CHARLES J. O'DOWD, JR.

Mayor, Bergenfield; Chairman, Bergen County Board of Freeholders.

MICHAEL A. PANE, ESQ.

Member, League Legislative Committee; Member, Board of Trustees, N.J. Institute of Municipal Attorneys; Planning Board Attorney, Millstone.

PETER H. RAYNER

Township Administrator, Montgomery; Member, League Legislative Committee.

JACK C. SHEPPARD

Mayor, Wenonah.

JUDITH P. SCHLEICHER

First Vice-President, N.J. Federation of Planning Officials; Planning Board Chairman, Denville.

FRED G. STICKEL, III, ESQ.

League General Counsel; Past President, N.J. Institute of Municipal Attorneys; Co-chairman, League Legislative Committee.

WILLIAM B. WAHL

Committee Member, Bernards Township; League Second Vice-President; Member, Somerset County Board of Chosen Freeholders; Member, League Legislative Committee.

THANK YOU.

TIME TABLE FOR ADOPTION OF INFRASTRUCTURE DEVELOPMENT PLANS (IDP'S)

Day one: The county notifies all its municipalities that the process is beginning. The 18 month clock starts now. With the notice, the county explains the 18 month process in detail. It specifically states what data will be required from the municipality for the county to start its plan basis.

First and second months: During the first two months, county staff will meet with municipal officials, planning boards and/or staff as often as necessary to explain process, answer questions, assist municipalities in assembling data, and providing technical assistance where requested. The county will also be assembling its data base.

Third and fourth months: The county will analyze all data, hold formal meetings (formal denotes meeting all requirements of the open public meetings act) with the municipalities to obtain initial input into the general shape of the County Infrastructure Development Plan (IDP). This is a period for tagging areas of obvious, impending conflict, for identifying areas of mutual concern and of agreement and for discussion of issues, process and problems in the IDP's evaluation.

Fifth month: The county submits to the municipalities at the start of this month its tentative position on the policies relating to the four infrastructure elements. This is the draft IDP. The county should tentatively identify issues to be resolved and proposals to solve them.

Sixth month: During this month, the county will hold not less than 4 formal regional hearings in different areas of the county on its draft IDP. The IDP should by this point be somewhat detailed, but clearly a draft open for public comment, not a final document presented for ratification or rejection.

Eighth month: By the end of this month the municipalities shall submit to the counties, written critique of the four draft policy documents which comprise the IDP.

Ninth month: The counties shall hold formal meetings with each municipality to clarify any outstanding issues. The cross-acceptance process starts here. If substantial conflicts are evident one party may request the initiation of mediation by a third party - possibly a "master" appointed by a Land Use Board of Appeals who would be versed in land use matters.

Twelfth month: By the end of this month, the county submits its tentative detailed IDP to all municipalities, having taken into account and evaluated all municipal comments thus far.

Thirteenth month: Municipalities submit comments on the tentative plan, still working on resolving areas of conflict into expanded areas of agreement.

Fourteenth month: The county submits its final IDP to all municipalities who have 30 days for written comment.

Fifteenth to Eighteenth months: County plans may be adopted during this time by municipalities and counties which have reached consistency on the four elements. Conflicts which have been unresolved by mediation would be resolved during this time by the Land Use Board of Appeals.

COUNTY OF UNION new jersey

COURTHOUSE, ELIZABETH, N. J. 07207 (201) 527-4233

Department of Engineering and Planning

DIVISION OF PLANNING AND DEVELOPMENT

DONALD F. ANDERSON
COUNTY MANAGER

ARMAND A. FIORLETTI
DIRECTOR

RICHARD S. MULLER
ACTING DIRECTOR

MEMO TO: Donald F. Anderson, County Manager

FROM: Director of Planning, Division of Planning & Development

SUBJECT: Review of Proposed Transplan Legislation

DATE: December 4, 1986

In accordance with your request I have reviewed the proposed legislation and the impact that passage may have on Union County. In my opinion the proposed legislation would improve the capacity of state and county government to plan for and control areas of rapid growth within the state. County planning is significantly strengthened over current law. However, one piece of the proposed legislative package, namely S2626, mandates specific long and short term planning measures which will have a significant impact on Union County in terms of the financial resources which will be required to be appropriated in order to conform to the requirements contained in the proposed law.

1. S2627 - State Highway Access Management Act

This proposed legislation requires the N.J. Department of Transportation to adopt a State Highway Access Management Code which would establish design standards, driveway spacing requirements and administrative procedures to control access on state maintained highways. Municipalities must conform to state requirements, including driveway spacing on state highways. In essence, enactment of this proposal into law would give state control over lot frontage size on state highways.

The major impact of the act on Union County is that it permits counties and municipalities to adopt an access management code which satisfies those standards adopted by the Commissioner of Transportation. At the present time Union County has such standards and regulations which may be found in the Site Plan Review Resolution, Subdivision Review Resolution, Road Opening Permit Resolution and the Curb Cut Permit Resolution.

2. S2628 - N.J. Transportation Development District Act of 1986

The proposed legislation authorizes counties to apply to the Commissioner of Transportation for the establishment of a transportation development district within its boundaries. The county's application must include: 1) the district's boundaries, 2) evidence of growth to justify the creation of the district, 3) a description of the transportation needs arising from that growth, 4) certification of the existance of a county master plan and that creation of the district would be in conformance with the plan and the State Development Plan, and 5) any additional information required by the Department of Transportation. The Act requires a joint planning and financing process between the public and private sectors and further empowers counties with established transportation districts to assess, by ordinance, development fees to finance transportation improvements in accordance with an approved transportation improvement plan.

With respect to the Act's impact on Union County it is my opinion that, due to our developed nature, no such districts would need to be created. One possible exception might be the "Airport City Corridor" if a mass transportation link is established between the center of Elizabeth, Newark International Airport and Newark's Penn Station.

3. S2626 - An Act Concerning County & Municipal Planning

The proposed legislation amends R.S. 40:27 (County & Regional Planning Enabling Act), R.S. 27:7 (Dept. of Transportation laws), R.S. 40:55D (Municipal Land Use law), and R.S.46:23 (Map Filing law). Adoption of this proposed legislation would mandate the following upon county government:

A. Requires county master plans and that they be prepared in cooperation and participation of each municipality within the county. Also requires the master plan to take into consideration the proposals contained in the local master plans.

B. Specifies the elements to be contained in the county master plan:

(1) Land Use element
(2) Development strategy
(3) Population and employment projections
(4) Circulation element (including a classification by function in accord with NJDOT procedures).
(5) Mandates county review of local master plans, official maps, capital improvement programs, and amendments thereto. If any inconsistency with county master plan the county must notify the municipality, describing the nature of the inconsistency.
(6) Mandates an Offical County Map (present law is permissive). (Note: the drafter of the legislation appears to be unaware of the technical difference bewtween a master plan which is a document, and an official map which is an implementation tool).
(7) Mandates review of developments which meet or potentially meet the definition of a development of regional significance.
(8) Mandates county responsibility to insure adequate drainage facilities on state highways or to insure no adverse impact on state drainage facilities.
(9) Mandate conformance to state highway access standards.
(10) Requires cross acceptance of county master plans with the state plan and also requires conformity with Solid Waste Management Plans, Water Quality Plans, or plans developed in conjunction with the Agricultural Retention and Development Act.
(11) Permits waiving the requirements under the ordinance governing developments of regional significance.
(12) Mandates detailed procedures for all development review, including those on state highways.
(13) Mandates a general reexamination of the county master plan and development regulations every six years.
(14) Mandates Capital Improvement Programs and specifies its content.
(15) Mandates that the Capital Improvement Program inventory all proposed capital projects regardless of jurisdiction.

In my best estimate, using approximately one dollar per capita for consulting services for the master plan elements required under the proposed law, about $500,000 would need to be appropriated.

In addition, the development related mandates, plan cross acceptance requirements, capital improvement program requirements, and official map requirements will require additional planning staff as follows:

Personnel		
2 Planners @ $18,000	$36,000	
1 Draftsman @ $16,000	16,000	
1 Clerk/Steno @ $14,500	14,500	
		$66,500
Fringe Benefits @ 31%		20,615
Indirect Cost (32% S+W & Fringe)		27,877
Furnishings & Equipment		15,000
Other Expenses		6,000
TOTAL:		$136,042

If there are any questions please feel free to call.

Alfred H. Linden

cc: County Planning Board

STATEMENT BY PRINCETON AREA DEVELOPERS, INC.
SUBMITTED TO THE ASSEMBLY COMMITTEES ON
TRANSPORTATION AND COUNTY GOVERNMENT REGARDING
TRANSPLAN PROPOSAL

PUBLIC HEARING - JANUARY 26, 1987

TO THE HONORABLE COMMITTEE MEMBERS:

The Princeton Area Developers appreciate the opportunity to appear before the assembly committees on Transportation and County Government to express our concerns about certain aspects of the Transplan proposal set forth in Assembly bills 3289, 3290 and 3291.

Our group previously submitted a written statement at the hearings held by these committees on January 8, 1987. We will not repeat the material in our earlier statement but we do want to again emphasize the positive contributions that the developers within our group have made to the economy and general well-being of Central New Jersey in the last five to ten years. Collectively, our group has attracted to New Jersey a long list of high quality corporate clients. The facilities to house these operations have resulted in excess of one billion dollars in new investment in this area. These ventures have provided thousands of new jobs and contributes millions of dollars to the communities in which they are located and to the state in tax revenues.

The corporate development that has occurred in the Princeton area is the envy of our neighboring states. Governor Kean, in his annual message on January 13th, emphasized that the State of the State is good and recognized that much of the improvement in New Jersey's economy is tied directly to the investment and development that has resulted from efforts such as ours in the Princeton area and similar efforts by high quality developers in many other areas of New Jersey.

We urge your committees not to take these accomplishments for granted or presume that New Jersey can continue to obtain its fair share of economic development if overwhelming obstacles are placed in the path of responsible and reasonable development efforts.

Commissioner Gluck recognized in her testimony before these committees on January 8th that New Jersey "is now in the middle of an economic boom that seems little short of miraculous". She further acknowledged that this "economic resurgence has been enormously beneficial to our citizens, giving them opportunities for better jobs and for a brighter future for themselves and their families". The Commissioner recognized, and we as responsible developers agree, that growth does not automatically bring with it all the benefits we seek. We understand the importance of adequate transportation facilities as well as intelligent planning. We also understand the importance of adequate financing for transportation projects and support the Commissioner's request for additional gas tax revenues.

The concept of a more organized approach to the planning and production of needed facilities, including transportation facilities, is an objective that few, if any, can quarrel with. We certainly do not. The Transplan bills before this committee, however, are so broad in scope, so ambiguous in detail, and so far-reaching in delegation of power to the bureaucracies of government, that these bills in their present form have the ability to halt future development. Even development of the highest quality such as that occurring in the Princeton area, which in other programs the state is spending substantial sums of money to attract to the state of New Jersey, can be jeopardized. Transplan threatens existing investment in existing developments and makes highly uncertain the price tag that will be required in order to carry out future development. The price of this uncertainty, coupled

with what are likely to be the unreasonable demands that can be expected under this legislation, can undermine the one sector in New Jersey which has contributed the most to the economic resurgence that has occurred in the last five years.

With regard to all three bills in the Transplan package, there is a pattern of blanket delegation of vast powers which makes it virtually impossible to predict how these bills will be implemented. For example, the heart of the Highway Access Management, A-3291, is the state access management code which the Commissioner of Transportation is to adopt within one year after the law is enacted. Until this code is produced, an understanding of this law is impossible.

Similarly, the county planning bill in A-3289 cannot be evaluated before each individual county undertakes the preparation of a county master plan, and a capital improvement plan setting forth the transportation improvements that are to be financed at least in part through private contributions.

A-3290, which provides for transportation development districts is equally meaningless until counties propose to NJDOT the establishment of specific transportation development districts which, in turn, produces NJDOT review and approval followed by the adoption of ordinances for the assessment and collection of development fees.

No member of this committee can tell a single landowner in any county of this state what these bills mean in terms of an owner's ability to proceed with existing or proposed projects. Everything will be left in limbo. The rules for access to state highways, the areas where transportation development districts will be established, and the boundaries of such districts, the transportation projects to be financed and the extent to which landowners

individually or collectively are expected to contribute to the financing of such projects; none of this information is available.

With regard to each of these bills, we can be more specific in our concerns and objections.

1. State Highway Access Management Act - S-2627, A-3291.

a. As we have already noted, the manner in which DOT would implement this act cannot be determined before the adoption of a state access code. The bill, however, is structured to permit DOT to limit or exclude entirely access to state highways and to minimize the extent to which financial compensation is payable for the denial of such access. This legislation would permit major tracts of land to be totally denied access to state highways if alternative access to the state highway system can be obtained through the local road network. Depending on the provisions finally incorporated into the state access code, the bill indicates a clear intention that under such circumstances compensation would not be payable for denial of direct access to state highways.

Given the critical nature of the state access code and the fact that it must be prepared before this legislation can be implemented, we recommend that consideration of this legislation be deferred until the department has produced a draft code. This will enable the legislature, other governmental units and the private sector to understand more fully what DOT contemplates doing under this legislative proposal.

b. This legislation is not limited in its impact to future developments. Section 4, for example, provides that any person seeking access to a state highway must have an access permit from DOT. The permit remains

valid only until revoked or replaced. Sub-section (d) provides that a permit shall expire "when the use of the property served by the access permit changes or is expanded". How can normal commercial transactions proceed with any assurance or certainty when a state bureaucratic structure retains the right to revoke existing access to an existing developed area simply because the use of the property has changed or has been expanded?

Section 6 goes even further with regard to existing developments. It permits DOT to revoke an access permit if it determines "that reasonable alternative access is available". There are no assurances that the exercise of such vast bureaucratic power, which can have a tremendous impact on investment, will be carried out in a responsible or predictable fashion. Such a delegation of power can threaten or jeopardize property values and the transferability of developed parcels.

Section 7 has a similar thrust permitting DOT to revoke existing permits if in "conflict" with the access code where the use of the property has changed or been expanded.

The notion of denying landowners all accesses to state highways if there is physical access to local roads must be frightening to land owners and of concern to county and local officials as well. The relocation of traffic from state highways does not guarantee that the local road network will be able to carry these increased traffic loads and intersect properly with the state highway network.

At the most, DOT can only assure the public that this vast power will be handled responsibly. These assurances, however, can have little persuasion when it is understood that these decisions will not be made

by the commissioner or the highest administrative levels of the department but within the deepest level of a bureaucracy which does not even exist today and which must be created to carry out the virtually unlimited power granted to DOT.

This legislature should not decide a policy decision as important as whether major segments of our state highway system are to be converted into limited access highways by a blanket delegation of such power to DOT. Such decisions should be made with high visibility and should include legislative involvement. At the very least, the bill should include minimum standards that will insure the retention of access by developments to the state highway system except under the most extreme circumstances.

2. Municipal-County Planning Partnership Proposal - S-2626, A-3289

This legislation substantially alters the traditional role of county government with regard to land use development. County review at the present time is limited largely to the adequacy of drainage facilities and the impact on county roads. Needless to say, the existing staff of county governments are not now prepared to undertake the additional powers that this bill contemplates.

The function of the county master plan is radically changed, becoming the measuring rod for proposed developments which are defined to be of "regional significance"; although the county has little responsibility to provide most of the transportation facilities that would be incorporated within the county master plan. The legislation would force developments of regional significance to conform to the county master plan's provisions relating to transportation as well as water supply, sewage, wetlands, etc. Municipalities would be stripped of

their power to grant site plan approval unless a county planning board permits it. Counties may also be empowered to force municipalities to change their local master plan to conform with the land use element of the county plan.

Under section 3 of the bill, the master plan must include a circulation element describing a transportation system which can adequately support projected development as well as an implementation plan. Under this section, the county is not only permitted but is actively urged to develop a wish list, the cost of which could be astronomical. It mandates that the plan be adequate to provide for future development and to contain provisions for "public transportation, highway circulation, aviation services, freight movement and the special transportation needs of the handicapped, the poor, the young and the aged".

Such planning may be laudatory in concept. When a landowners ability to use his property, however, is tied to implementation of planning that may be unrealistic or unattainable, the basis for our concern is obvious.

Section 29 requires the county planning board annually to prepare a capital improvements program consistent with the master plan. It must inventory all proposed and recommended public improvements within the county regardless of governmental jurisdiction. The initial five year plan must be consistent with and incorporate any transportation improvement program which the county submits to DOT. The five year plan must include all projects to be undertaken during that period and the funding sources including private funding. This capital improvement plan, which is not mandated to be actually undertaken or

constructed, can be used as a justification for denying any landowner the right to proceed. Moreover, the program is to be used as the mechanism whereby the county can justify demanding substantial amounts from landowners in order to pay for these improvements. Ironically, if the amounts taken from developers are not used for the construction of transportation improvements, these contributions eventually go to the general treasury of the county. Such provisions hardly reassure landowners that assessments will be reasonable or that contributions once made will produce improvements.

The concept of review and approval on a county level, in and of itself, is not necessarily objectionable. The county review provided for in this legislation, however, merely adds a new element of uncertainty into the development process without in any way relieving landowners from what is already a lengthy and expensive pursuit for permits and approvals.

If the legislature wants projects of regional significance reviewed and approved on a county level, the legislation should provide that such approval carries with it the approval that ordinarily would have been required from the municipality. To insure local involvement in the approval process, the county planning board could provide for the addition of several members from the municipal planning board who would participate in the approval process. This would insure that local considerations are not neglected. The consolidation of the review and approval process in this fashion could protect both county and municipal interests without extending an already cumbersome process.

Such a consolidation, however, would not resolve the concerns expressed about obligations for an almost endless list of transportation improvements and the uncertainty as to the financial obligation to be imposed on the private sector. These concerns become more apparent when the third bill in this package is examined.

3. New Jersey Transportation Development District Act of 1986 - S-2628, A-3290

This bill would allow counties, individually or in groups, to establish transportation development districts (TDD). Upon establishment of TDD's, the county may adopt a district transportation improvement plan. This plan is to be incorporated into the county capital improvements program already commented upon. Upon the adoption of a transportation improvement plan, the county is then authorized to provide for the assessment and collection of development fees.

This bill along with the others in the package provides a mechanism for establishing a list of transportation improvements and passing all or a portion of the cost of constructing such improvements onto the private sector. We are troubled by the prospect of yet another special assessment on a small segment of the business community to fund projects which benefit the entire general public. Municipalities already assess landowners developing property for such varied projects as low income housing, sewers, municipal road improvements, parks and similar local improvements.

Developers as part of the private sector, do not necessarily oppose paying their fair share to construct necessary capital improvements. We do seek a "level playing field". We are concerned when an assessment program creates the competitive disadvantages which is

clearly inherent in this legislation. Those within districts pay and those outside do not. We are also concerned when the extent of financial involvement is as ill-defined and uncertain as it is in this legislation. The bill permits counties to charge landowners 100% of the costs of these improvements. The legislation does not guarantee any state financial support for these improvements.

Section 3 defines "development assessment liability date" to mean the date specified in the ordinance adopted by the county in Section 7 and permits such date to be immediate or "a specific date not more than ten years prior to the effective date of the ordinance". Such uncontrolled and unregulated discretion of retroactivity cannot be justified. There are no standards to guide such a decision.

The bill also leaves to discretion whether the assessment is imposed annually or on a one-time basis. The criteria in Section 8 for the assessment of the development fees are so broad as to give no meaningful guidance, no assurances to landowners and no limitations on the amount of the assessment. It is a carte blanche grant of power with no meaningful restraints.

It cannot be determined from this legislation which counties will establish TDD's. Given the attention that has already been focused on the Route 1 corridor, we presume that the area in which our group operates will be a prime candidate for the establishment of such a district. We have no notion, however, whether it will be created by Mercer County, Middlesex County or both. It is not known where the district will commence in the north or in the south or what areas on either side of Route 1 are to be included. And, we are one of the more clearly defined districts as of today. This information will

only be available when one or more counties decide to submit a proposal to DOT and only after DOT has completed review of the application received.

Assuming that a district is created, the county is empowered to produce a draft district transportation improvement plan and a draft financial program. Again, it is unknown what these plans will be. Indeed, it is doubtful that the counties themselves have a clear idea of how they would proceed and what they would include.

Whether done well or poorly, these plans will create real obligations for landowners and are likely to result in real obstacles to even the most desirable type of development within a district.

We share DOT's concern about the necessity for providing transportation improvements. We support the DOT request for additional gas tax revenue.

We find it difficult to understand how reasonable and responsible use of privately owned property in this state can proceed in the face of the obstacles that this legislation can create. Landowners are confronted with questions that no one can answer and which are not likely to be clarified for years. At the same time, this legislation will create a mechanism that will permit an over zealous, and inexperienced bureaucacy and those opposed to any development to inject into legitimate land development activities the kind of pressures, uncertainties and costs that can do serious damage to an activity which the State of New Jersey desires and requires.

We believe that there are ways to meet the legitimate transportation objectives of the state and to insure proper and fair involvement of the private sector financially and otherwise. We do not believe,

however, that these bills are the way to meet these objectives. There must be a better way and we are prepared to work cooperatively to see that such legislation is developed.

We suggested on January 8th that a study committee, with representation from state, county and municipal governments as well as the private sector be included. This should not be viewed as a delaying tactic. DOT and the counties can proceed with the development of the codes and plans which would give form and shape to the proposals set forth in Transplan. We would support appropriations to both county and municipal governments so that master plans, capital improvement programs, transportation improvement plans, financial plans and delineations of transportation development districts can be developed on a draft basis at the same time that a study commission considers how to best integrate such specific concepts into an appropriate legislative program.

The implementation of this proposal is the best way to address and resolve the concerns expressed by the Commissioner in her Transplan proposal. It will insure a more equitable approach to these problems.

TESTIMONY

OF

THE NEW JERSEY BUILDERS ASSOCIATION

ON

TRANSPLAN

(S-2626, A-3289, S-2628, A-3290, S-2627, A-3291)

PRESENTED

TO THE ASSEMBLY COMMITTEES ON TRANSPORTATION AND COUNTY GOVERNMENT

ON

FEBRUARY 20, 1987

25X

Good morning, my name is Anthony Pizzutillo, I am Director of Governmental Affairs for the New Jersey Builders Association. The NJBA appreciates the opportunity to appear before the Assembly Committees on Transportation and County Government to express our views on the Transplan proposal set forth in Assembly bills A-3289, A-3290 and A-3291.

Governor Kean stated in his 1987 annual message that, "New Jersey today is in the business of creating opportunity. We are a paradigm for what government can do to encourage economic growth." I agree with the the Governor that government can encourage growth, but we all recognize that it is the private sector that produces it. The development community is proud of our contributions to New Jersey's recent robust economy. The positive contributions that the development industry has made to the economy and general well being of New Jersey in the last 5 to 10 years are enormous. The benefit of this economic surge has resulted in low unemployment and the creation of a record number of new jobs. A healthy building industry has provided thousands of jobs and contributed millions of dollars to localities and to the state in the form of tax revenues.

We urge your committee not to take these accomplishments for granted or presume that New Jersey can continue its economic expansion if overwhelming government obstacles are placed in the path of responsible and reasonable development efforts. The Governor is correct when he notes that government can encourage economic growth; he would be equally correct were he to assert that it can discourage it.

The NJBA understands the necessity for adequate transportation facilities. We also understand the importance of adequate financing for transportation projects. That is why we have been in the forefront of those supporting for the Commissioner's request for increases in the motor fuels tax.

Most people will agree that our state's transportation network needs significant enhancement and expansion. Further, I think most will agree that the process should entail:

1. A thorough, statewide assessment of the adequacy of our current roadways (state, county and municipal);

2. Projections of where growth will occur in employment and in population, and an analysis of the commutation patterns that will result;

3. Projections of our future transportation needs (including mass transit), with phasing and cost schedules estimating the timing and costs of addressing those needs.

With such a plan in place, both sectors -- private and public -- and all levels of government will be in a position to respond in a concerted, coordinated effort. Financing could be planned and

25X(a)

production plans arranged in ways that will support timely response to the public's needs.

Obviously, an analysis such as I have outlined will take time. It is our view, therefore, that the motor fuels tax increase should be considered immediately to finance our pressing needs.

Over the next few months, some of the critical data for a thorough examination will become available when the State Planning Commission announces its draft plan in July of this year. It is certainly premature to put forward a proposal as sweeping as Transplan without the benefit of the Commission's work.

The Transplan proposal does not address the foregoing, but instead:

- introduces new layers of review;
- imposes added tax burdens on selected segments of the population and workforce; and
- grants sweeping discretionary authority to the DOT without previously adequate legislation guidance on oversight.

It is not clear, however, if this bureaucratic superstructure were put in place, the transportation network of this state would be enhanced or expanded! The fundamental failure of Transplan is that it is a system, not a solution. It is an example of how government can discourage economic growth.

Let me turn to the specific bills in the package.

(1) Municipal County Planning Partnership Proposals - S2626,A-3289

This legislation proposes a substantial change in the role of county government with regard to land use development. Currently, county planning board review is limited largely to the adequacy of drainage facility and the impact of development on county roads. In New Jersey, with our tradition of home rule, the municipalities are the lead level of government for most land use and planning devices.

Needless to say, this legislation would significantly shift the responsibility of land use decisions to the county. Most existing county planning board staffs are not prepared to undertake the additional powers that this bill contemplates. The legislation would require projects with "regional significance" to conform to county master plan provisions relating to transportation as well as water supply, sewage, wetlands, recreation and conservation. Towns would be stripped of their power to grant site plan approval unless a county planning board permits it. Counties would also be empowered to force municipalities to change their local master plan to conform with the land use element of the county plan.

Why, is a proposal supposedly addressing transportation issues, such sweeping shifts of authority? Is this the optimum scheme; is it one that all other agencies will embrace?

Section 7 of the bill, expands the concept of review and approval on the county level. The county review provision in this legislation

merely adds a new element of uncertainty, new sources of delay and increased costs without in any way relieving developers from what is already a lengthy and expensive process for permit and approval. The existing approval process in many areas of New Jersey often extends to two or more years. The delays and uncertanties it involves add to the costs of available places to live and work in this state. These costs are an invisible tax imposed on our citizens and no where in Transplan can you find benefits that would justify its costs.

Section 29 of this legislation requires the county planning boards annually to prepare a capital improvement program consistent with the master plan. The program must inventory all proposed and recommended public improvement within the county, regardless of governmental jurisdiction. The initial five year plan must be consistent with and incorporate any transportation improvement programs which the county submits to the DOT. The five year plan must include all projects to be undertaken during that period and the funding sources, including private funding. This capital improvement plan, which is not mandated to be actually undertaken or constructed, can be used as a justification for prohibiting projects that will respond to market demands and social needs without regard to the implications of such decisions.

Moreover, the program can be used as a mechanism whereby the county can justify substantial amounts of funding from developers in order to pay for improvements. Ironically, the fees taken from developers that are not used for the construction of transportation improvements, can be used for the payment of debt incurred under "any debt instrument which the county may be authorized by law to issue." Such provision hardly reassure developers that assessments will be reasonable or that contributions once made will produce improvements.

(2) New Jersey Transportation Development District Act of 1986, S-2628,A-3290

This bill would allow counties, individually or in groups, to establish transportation development districts (TDD). Upon establishment of TDD's, the county may adopt a district transportation improvement plan. This plan is to be incorporated into the county improvements program. Upon the adoption of a transportation improvement plan, the county is then authorized to provide for the assessment in collection of development fees.

We agree that builders should pay this fair share of the costs associated with needed capital improvements when such improvements are directly related to the impacts of development, we recognize our responsibility to pay our way. This is set forth in the Municipal Land Use Law (Chapter C.40:55D-42) which stipulates that a builder is required to pay his pro rate share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefore, located outside the property limits of the subdivision in order as a condition for approval of the subdivision for a site plan. The current law is equitable.

Without spending time on its details, I call your attention to Section 3D's definition of a "development assessment liability date". Can we take seriously a proposal that would impose fees retroactively? Can any of us honestly answer how this is to be assessed and collected. Can anyone believe that the concept will stand judicial scrutiny? And since this concept of fees is at the heart of Transplan, how can the rest of the package be given credibility when it stands on such objectionable premises?

This legislation will create a mechanism that will permit an overzealous, and inexperienced bureaucracy and those opposed to development to inject into legitimate land development activities the kind of pressures, uncertainties and costs that can do serious damage to economic development in New Jersey.

The implementation of developers fees and the assessment of fees on existing development will result in additional cost that can only be passed on to home buyers, tenants and corporate owners looking to expand and relocate in New Jersey. This will discourage the development in New Jersey and will result in the business community migrating to other states with lower occupancy expenses.

The NJBA believes that there are alternate approaches that can meet the legitimate transportation objectives of the state and to ensure proper and fair involvement of the private sector financially and otherwise. We believe an equitable solution would be to continue to dedicate the special fuel taxes since these are directly related to use and more equitably distribute the burdens that we must bear. It is through the dedication of this tax that additional gas tax revenue can be used to meet the future transportation improvement projects of this state.

(3) State Highway Access Management Act, S-2627, A3291.

This bill is structured to permit DOT to limit or exclude entirely access to state highways and to minimize the extent to which financial compensation is payable for the denial of such access. This legislation would permit major projects to be denied access to state highways if alternative access can be attained through the local road network.

Given the critical nature of the state access code and the fact that it must be prepared before this legislation can be implemented, we recommend that consideration of this legislation be deferred until the DOT has produced a draft code. This will enable the legislature, other governmental bodies and the private sector to understand more fully what the DOT contemplates. Then, rather then blindly deferring all authority to an administrative agency, the legislature could enact a law that provides the agency with appropriate policy direction.

Similar to the creation of other codes, it is important to establish an advisory council consisting of state, county, local and private sector representatives who would have input in drafting the proposed limited access highway code. This will encourage the development of a

reasoned, balanced code -- rather than one that is rigid and bureaucratic.

I wish to conclude on a positive note. While Transplan is conceptually flawed, the proposal has stimulate a long-needed debate, As I noted at the outset, the NJBA has been an advocate of longer term solutions to the infrastructure and financing needs of the state. If we produce the type of plan I outlined earlier, we will be able to rally the citizens of this state behind our efforts to prepare for the twenty-first century.

Thank you for this opportunity to speak before you today.

TESTIMONY

by the

NEW JERSEY COUNTY PLANNERS ASSOCIATION

regarding

"TRANSPLAN" LEGISLATION

(A-3289, A-3290 and A-3291)

before the

NEW JERSEY ASSEMBLY COMMITTEES

Transportation, Communications and High Technology Committee

and

County Government Committee

Presented by

Robert W. Clark

President

New Jersey County Planners Association

Friday, 20 February 1987

State House Annex

Room 418

Trenton, New Jersey

GOOD MORNING. MY NAME IS ROBERT CLARK. I AM THE CURRENT PRESIDENT OF THE NEW JERSEY COUNTY PLANNERS ASSOCIATION. I AM ALSO THE MONMOUTH COUNTY PLANNING DIRECTOR. I AM VERY PLEASED TO HAVE THIS OPPORTUNITY TO TESTIFY CONCERNING THE PROPOSED TRANSPLAN LEGISLATION ON BEHALF OF THE NEW JERSEY COUNTY PLANNERS ASSOCIATION.

THE COUNTY PLANNERS ASSOCIATION REPRESENTS THE PROFESSIONAL STAFF PLANNERS CURRENTLY EMPLOYED IN COUNTY PLANNING IN NEW JERSEY. THE ASSOCIATION HAS BEEN ACTIVE IN NEW JERSEY SINCE THE 1960'S, AND ITS MEMBERSHIP REPRESENTS 19 OF THE 21 COUNTIES.

THE ASSOCIATION HAS ADOPTED A POSITION PAPER REGARDING COUNTY PLANNING ENABLING LEGISLATION WHICH GENERALLY SETS FORTH OUR ASSOCIATION'S RECOMMENDATIONS CONCERNING COUNTY PLANNING AND ITS RELATIONSHIP TO PLANNING AT THE STATE AND LOCAL LEVEL. THIS POSITION PAPER WAS ADOPTED IN MAY OF 1986. I HAVE ATTACHED A COPY WITH MY REMARKS FOR YOUR CONSIDERATION.

WITH THE ANNOUNCEMENT OF THE NEW JERSEY TRANSPLAN LEGISLATION PROPOSAL BY COMMISSIONER GLUCK, THE COUNTY PLANNERS ASSOCIATION MET WITH NJDOT STAFF TO REVIEW AND DISCUSS THE THREE PROPOSED BILLS AND AT THE ASSOCIATION'S DECEMBER 1986 MEETING, THE ASSOCIATION VOTED TO SUPPORT THE PROPOSED STATE HIGHWAY ACCESS MANAGEMENT ACT, THE NEW JERSEY TRANSPORTATION DEVELOPMENT DISTRICT ACT, AND THE MUNICIPAL AND COUNTY PLANNING PARTNERSHIP AMENDMENTS.

I WOULD LIKE TO OFFER ON BEHALF OF OUR ASSOCIATION SEVERAL RECOMMENDATIONS WHICH THE COUNTY PLANNERS FEEL WOULD CLARIFY AND IMPROVE THE PROVISIONS OF THE PROPOSED BILLS.

STATE HIGHWAY ACCESS MANAGEMENT ACT

THE ASSOCIATION WOULD SUGGEST THAT THE LEGISLATION PROVIDE COUNTY PLANNING BOARDS AND COUNTY ENGINEERS WITH AN OPPORTUNITY TO HAVE INPUT IN ESTABLISHING THE RULES

REGULATIONS AND PROCEDURES OF THE STATEWIDE ACCESS MANAGEMENT CODE. THE LEGISLATION, AS DRAFTED, DOES NOT PROVIDE FOR PUBLIC HEARINGS CONCERNING THE CODE OR ANY FORMAL OR INFORMAL PROCEDURE FOR ASSURING INPUT FROM COUNTY OFFICIALS OR FROM THE PUBLIC FOR THAT MATTER.

THE ASSOCIATION WOULD RECOMMEND THAT SECTION 3, PARAGRAPH F, OF THE BILL BE CHANGED TO PROVIDE FOR COUNTY PARTICIPATION IN DEVELOPMENT OF SITE SPECIFIC ACCESS PLANS SINCE THEY MAY DIRECTLY IMPACT COUNTY ROADS. THE CURRENT LANGUAGE IN THE BILL PROVIDES ONLY FOR THESE PLANS TO BE DEVELOPED BY NJDOT AND THE MUNICIPALITY IN WHICH THE HIGHWAY SEGMENT IS LOCATED.

THE ASSOCIATION WOULD RECOMMEND THAT THE PROVISIONS OF THE BILL WHICH PERMIT COUNTIES TO ESTABLISH THEIR OWN HIGHWAY ACCESS MANAGEMENT CODES SHOULD ALSO CLEARLY INDICATE THAT IT IS PERMISSIBLE FOR COUNTIES TO ESTABLISH A FEE STRUCTURE SO THAT REVENUES COULD BE RAISED TO OFFSET THE COST FOR MAKING THE NECESSARY REVIEWS AND ISSUING THE PERMITS.

TRANSPORTATION DEVELOPMENT DISTRICT ACT

THE ASSOCIATION WOULD RECOMMEND THAT THE PROVISIONS IN THE BILL WHICH OUTLINE THE PROCEDURES TO BE FOLLOWED IN ESTABLISHING A DISTRICT AND ADOPTING THE REQUIRED PLAN SHOULD BE STREAMLINED. FOLLOWING ARE OUR SUGGESTIONS.

- THERE IS A PROVISION PROVIDING 90 DAYS FOR NJDOT REVIEW OF COUNTY RESOLUTIONS ESTABLISHING A DISTRICT. THE ASSOCIATION FEELS THIS COULD BE SHORTENED TO 30 DAYS. THERE IS A SECOND PROVISION PROVIDING NJDOT WITH 180 DAYS TO REVIEW AND APPROVE THE COUNTY'S PLANS FOR THE DISTRICT. THE ASSOCIATION FEELS THIS COULD EASILY BE REDUCED TO 60 DAYS.
- THE ASSOCIATION WOULD RECOMMEND MODIFYING THE LEGISLATION TO ELIMINATE THE NEED FOR A SPECIFIC AGREEMENT BETWEEN THE COUNTY AND NJDOT FOR EACH PROJECT IDENTIFIED IN THE PLAN. THE ASSOCIATION FEELS THAT SUCH AGREEMENTS SHOULD ONLY BE REQUIRED WHEN A STATE

HIGHWAY IS INVOLVED OR IF STATE FUNDING IS INVOLVED. IF A STATE HIGHWAY IS NOT INVOLVED OR IF STATE FUNDING IS NOT BEING USED, THE ASSOCIATION WOULD RECOMMEND THAT THE COUNTY SIMPLY NOTIFY NJDOT BEFORE COMMENCEMENT OF THE PROJECT.

- THE ASSOCIATION FURTHER RECOMMENDS THAT FOR THOSE DISTRICTS THAT MAY BE ESTABLISHED THAT DO NOT INVOLVE STATE HIGHWAYS, THE PLANS SHOULD BE EXEMPT FROM THE CERTIFICATION PROCESS OR AT LEAST HAVE A MORE SIMPLIFIED REVIEW.

THE LEGISLATION IS DIRECTED TOWARD ESTABLISHMENT OF TRANSPORTATION DEVELOPMENT DISTRICTS WITHIN THE MAJOR GROWTH CORRIDORS OR DISTRICTS OF THE STATE. HE ASSOCIATION RECOMMENDS THAT PROVISIONS BE INCLUDED IN THE BILL TO PROVIDE THAT SUCH DISTRICTS COULD BE ESTABLISHED IN REDEVELOPMENT AREAS OF THE STATE AS WELL.

LASTLY, THE ASSOCIATION RECOMMENDS THAT A PROVISION BE INCLUDED IN THE LEGISLATION TO PROVIDE "SEED MONEY" TO BE USED IN DEVELOPMENT OF THE INITIAL DISTRICT PLANS. BASED ON EXPERIENCE IN ATLANTIC COUNTY, IT APPEARS THAT SUCH PLANS RANGE BETWEEN $30,000 AND $40,000 TO COMPLETE. IF THE COUNTIES COULD BE FUNDED FOR THE INITIAL COST OF PREPARING THESE PLANS, ANY NECESSARY REVISIONS AND UPDATES COULD BE FUNDED FROM THE MONIES COLLECTED FROM DEVELOPERS. ASSUMING A $100,000 COST FOR EACH COUNTY, AN APPROPRIATION OF $2,100,000 WOULD BE REQUIRED TO PROVIDE THE "SEED MONEY".

MUNICIPAL COUNTY PLANNING PARTNERSHIP

THERE ARE A NUMBER OF PROVISIONS IN THIS PROPOSED BILL WHICH THE ASSOCIATION FEELS WOULD GREATLY IMPROVE THE EFFECTIVENESS OF COUNTY PLANNING STATEWIDE, AND THE ASSOCIATION WOULD, THEREFORE, VERY MUCH ENCOURAGE THE LEGISLATURE TO MAKE THIS BILL A PRIORITY. THE PROVISIONS OF THE BILL WHICH WOULD REQUIRE ALL COUNTIES TO ESTABLISH A PLANNING BOARD AND ADOPT A MASTER PLAN ARE VERY POSITIVE ASPECTS OF THIS BILL. IN ADDITION, THE LEGISLATION CLEARLY ESTABLISHES

THE ROLE AND THE RESPONSIBILITY OF THE COUNTY REGARDING REGIONAL INFRASTRUCTURE PLANNING. THIS, IN THE OPINION OF THE ASSOCIATION, IS AN APPROPRIATE ROLE FOR COUNTIES TO PLAY AND PRESERVES THE LOCAL HOME RULE TRADITION WHEREBY MUNICIPALITIES ARE PERMITTED TO MAKE DECISIONS REGARDING THE SPECIFIC USE OF LANDS WITHIN THEIR BORDERS.

REGARDING THE MANDATORY OFFICIAL MAP REQUIREMENTS IN SECTION 40:27-5 THE ASSOCIATION SUGGESTS KEEPING THE OFFICIAL MAP AS PERMISSIVE AND ADDING A SECTION THAT WOULD MAKE IT MANDATORY THAT STATE HIGHWAY RIGHTS-OF-WAY BE MADE A PART OF ANY DULY ADOPTED COUNTY LAND DEVELOPMENT STANDARDS.

LIKEWISE THE NEW SECTION REGARDING THE MANDATORY PREPARATION OF A CAPITAL IMPROVEMENT PROGRAM BY COUNTY PLANNING BOARDS SHOULD BE CHANGED TO A PERMISSIVE FUNCTION, HOWEVER IT SHOULD BE MANDATORY THAT COUNTY PLANNING BOARDS REVIEW ALL CAPITAL IMPROVEMENT PROGRAMS FOR CONSISTENCY WITH DULY ADOPTED COUNTY MASTER PLANS.

IN THE SECTION OF THE LEGISLATION WHICH OUTLINES PROCEDURES TO BE FOLLOWED IN ADOPTING A COUNTY MASTER PLAN, THERE IS A PROVISION THAT CERTIFIED COPIES OF THE PLAN SHOULD BE PROVIDED TO THE COUNTY GOVERNING BODY, COUNTY PARK COMMISSION AND TO EVERY MUNICIPALITY WITHIN THE COUNTY. THE ASSOCIATION WOULD RECOMMEND THAT THIS BE EXPANDED TO REQUIRE NOTIFICATION TO INFRASTRUCTURE-RELATED AGENCIES SUCH AS WATER COMPANIES, THE STATE DOT AND HIGHWAY COMMISSIONS AND PUBLIC AND PRIVATE UTILITIES COMPANIES WHICH PROVIDE SERVICES IN THE COUNTY. IN ADDITION, NOTICE TO THE STATE PLANNING COMMISSION AND OTHER STATE AGENCIES SHOULD ALSO BE REQUIRED.

IN THE PROVISION DEFINING DEVELOPMENT OF POTENTIAL REGIONAL SIGNIFICANCE, THE ASSOCIATION WOULD RECOMMEND CHANGING THE PHRASE "FRONTS ON A COUNTY ROAD" TO "AFFECTS A COUNTY ROAD".

IN THE SECTION OF THE PROPOSED BILL WHICH OUTLINES DVELOPMENT REVIEW PROCEDURES, THE ASSOCIATION WOULD RECOMMEND THAT A DEFINITION WOULD BE PROVIDED FOR THE TERM CERTIFICATION. IN ADDITION, THE ASSOCIATION WOULD RECOMMEND THAT A

SEVEN DAY PERIOD BE REQUIRED FOR NOTIFICATION TO THE NJDEP, NJDOT, ADJOINING COUNTIES AND MUNICIPAL APPROVING AUTHORITIES. THE CURRENT LANGUAGE REQUIRED VARYING TIME PERIODS RANGING FROM THREE DAYS FOR NOTIFICATION TO STATE AGENCIES, FIVE DAYS FOR ADJOINING COUNTIES AND MUNICIPALITIES AND SEVEN DAYS FOR COUNTIES TO CERTIFY WHETHER THE DEVELOPMENT IS OF REGIONAL SIGNIFICANCE. THE ASSOCIATION FEELS THAT THESE VARYING TIME PERIODS WILL CREATE UNNECESSARY DIFFICULTY IN PROVIDING PROPER NOTIFICATION.

THE ASSOCIATION ALSO FEELS THAT THE SECTION OF THE BILL OUTLINING THE DEVELOPMENT REVIEW PROCEDURES COULD CAUSE CONFUSION BETWEEN DEVELOPERS AND MUNICIPAL OFFICIALS CONCERNING THE COUNTY REVIEW AND APPROVAL PROCESS. THE ASSOCIATION WOULD RECOMMEND THAT THE COUNTY DEVELOPMENT REVIEW PROCESS GENERALLY BE AS FOLLOWS:

- COUNTY PLANNING BOARD RECEIVES DEVELOPMENT APPLICATION.
- WITHIN SEVEN DAYS THE COUNTY PLANNING BOARD MUST REVIEW THE APPLICATION AND DEEM IT TO BE COMPLETE FOR REVIEW AND OF POTENTIAL REGIONAL SIGNIFICANCE OR INCOMPLETE REQUIRING ADDITIONAL INFORMATION FROM THE APPLICANT. (THE LANGUAGE IN THE PROPOSED BILL IS CONFUSING REGARDING COUNTY CERTIFICATION OF COMPLETENESS.)
- UPON THE CERTIFICATION THAT THE PROPOSED DEVELOPMENT IS OF POTENTIAL REGIONAL SIGNIFICANCE, THE COUNTY PLANNING BOARD HAS 45 DAYS TO REVIEW THE APPLICATION AND ISSUE AN APPROVAL, DISAPPROVAL OR APPROVAL LISTING CONDITION FOR FINAL APPROVAL. (THE CURRENT LANGUAGE SEEMS TO REQUIRE FINAL COUNTY ACTION WITHIN THE 45 DAYS WITH ADDITIONAL EXTENSIONS POSSIBLE.)
- UPON RECEIPT OF APPROVAL, DISAPPROVAL OR CONDITIONAL APPROVAL, THE TOWNS SHOULD BE PERMITTED TO BEING THEIR APPROVAL. (THE CURRENT VERSION APPEARS TO REQUIRE THE APPLICANT TO RECEIVE FINAL APPROVAL

BEFORE A MUNICIPALITY COULD BEGIN ITS REVIEW.)

- FINAL APPROVAL BY THE MUNICIPALITY CANNOT BE GRANTED UNTIL FINAL COUNTY APPROVAL. (THIS IS REQUIRED IN THE PROPOSED BILL.)

IN REFERENCE TO THESE DEVELOPMENT REVIEW PROCEDURES, THE ASSOCIATION FEELS THAT THE BILL LANGUAGE MUST BE CLARIFIED TO DISTINGUISH BETWEEN "FINAL APPROVALS" AND "CONDITIONAL FINAL APPROVALS". LIKEWISE, WE FEEL IT NECESSARY FOR THE BILL TO ADDRESS A PROCEDURE FOR DEVELOPMENT APPLICATIONS THAT REQUIRE A "USE VARIANCE".

THE ASSOCIATION WOULD RECOMMEND THAT A PROVISION BE INCLUDED IN THE PROPOSED BILL INDICATING THAT THE COUNTY APPROVALS SHOULD EXTEND FOR THE SAME TIME PERIOD, WITH THE SAME PROVISIONS FOR EXTENSION, THAT ARE CURRENTLY PROVIDED TO THE MUNICIPALITIES IN THE MUNICIPAL LAND USE LAW. SPECIFICALLY, THIS WOULD REQUIRE THAT THE COUNTY'S APPROVAL WOULD RUN FOR A TWO YEAR PERIOD WITH THREE, ONE YEAR EXTENSIONS POSSIBLE.

AND FINALLY, REGARDING THE PROVISIONS OF THE BILL WHICH PROVIDE FUNDING TO THE COUNTIES TO BE USED IN MEETING THE RESPONSIBILITIES OF THE ACT, THE ASSOCIATION WOULD RECOMMEND THAT THE FORMULA TO BE USED BE EXPANDED TO INCLUDE CONSIDERATION OF THE NUMBER OF DEVELOPMENT APPROVALS ISSUED IN THE PREVIOUS YEAR AND OF THE POPULATION DENSITY OF THE RESPECTIVE COUNTIES.

ON BEHALF OF THE COUNTY PLANNERS ASSOCIATION, I WOULD AGAIN LIKE TO THANK YOU FOR THE OPPORTUNITY TO COMMENT CONCERNING THESE IMPORTANT BILLS. THE COUNTY PLANNERS ASSOCIATION IS CERTAINLY WILLING TO MEET WITH LEGISLATIVE STAFF TO CLARIFY ANY OF THE POINTS THAT WE HAVE RAISED IN OUR TESTIMONY.

Statement by the New Jersey Federation of Planning Officials

before the

Assembly Committee on Government

and

Assembly Committee on Transportation, Communication and High Technology

February 20, 1987

My name is B. Budd Chavooshian and I am a member of the Board of Directors of the New Jersey Federation of Planning Officials. I appear before you today as a representative of the Board to present the Board's general support of the New Jersey League of Municipalities' position on Assembly Bill 3289.

The Federation, as you may know, is a statewide organization whose membership includes mainly planning board and board of adjustment members, and is dedicated to better planning in New Jersey. Next year it will proudly celebrate its 50th anniversary.

The Federation believes that local planning must be in concert with a larger area-wide plan if it is to be sound, rational and effective. In that regard, the Federation supports the general thrust of Assembly Bill 3289.

The Federation believes that the larger area should be the county, and that the county plan should be prepared through a joint effort, a partnership, of the county and the municipalities. In that regard the Federation endorses the general thrust and philosophies of the League of Municipalities' Growth Management Committee as set forth by Ms. Carolyn Bronson.

The Federation believes that a cross-acceptance process, including mediation and arbitration, is an essential element of this joint effort, and in that respect the Federation endorses the League's proposal as set forth by Ms. Bronson.

The Federation believes that an amended A-3289 which takes into consideration the general thrust of the amendments as proposed by the League would advance the art and science of planning significantly in New Jersey, and accordingly supports it.

In summary, the Federation believes that such an amended A-3289 coupled with the State Planning Commission's cross-acceptance process will harmonize planning into a truly integrated planning system, with all three levels of government managing growth as equal partners within state-wide and area-wide plans.

TRANSPLAN Hearing Public Statement February 20, 1987

County-Municipal Planning Partnership Amendments(A-3289)

I first developed a tremendous admiration for the personal sacrifices and the rock-and-hard-place responsibilities of part-time legislators when, as a career Foreign Service Officer, I served as Country Political Officer in Chile from 1966 to 1969.

Chile was at a crossroads. My task was to seek to negotiate a consensus among middle-of-the-road groups who shared basic common interests. My failure to achieve such a consensus contributed to the ultimate destruction of what once was a marvelous country.

I have made a personal commitment to Managing Growth in New Jersey because, at a less dramatic level, I find New Jersey at a landmark crossroads. And in New Jersey I am a resident, not simply an observer.

New Jersey's growth is being badly managed. My preliminary draft on Mismanaging New Jersey's Suburban Growth: Is It Too Late? provides some insight into the structural and operational nature of this mismanagement.

If observers wished to apportion blame, there is sufficient blame for us all. The operative question is what, if anything, can be done in a timely and effective manner to manage New Jersey's growth better.

I applaud the creation of the State Planning Commission and the Office of State Planning. My assessment, as contrasted to my wish, is that the Commission's practical results are likely to occur over years, rather than months.

Thus, timely efforts to cauterize New Jersey's hemorrhaging current growth rest principally with those who must craft final TRANSPLAN bills, especially the County-Municipal A-3289 bill.

A non-New Jerseyian, observing current discussions, might summarize the process as follows:

- o there are "master stroke" proposals to provide dominant authority to currently insipid counties;
- o some municipal "home rule" champions insist on preserving a local "sovereignty" that never has nor ever should exist; and
- o a few State Annex corridor power brokers seek unbridled power for such State fiefdoms as the New Jersey Department of Transportation.

From my limited experience as Montgomery Township Committeeman and Planning Board member, I shall gladly defer to you on assessing the "politics" of TRANSPLAN-related issues.

It is from my perspective as a manager and, for seven years, the president of Dun & Bradstreet's management consulting division, that I wish to comment on the management aspects of the draft legislation which is now under consideration.

A major shortcoming, in business, is when corporate strategists devise, then issue policy directives that bear no relationship to the company's corporate culture, existing personnel and operating networks, and, in brief, with its ability to make the giant leap from "here to there".

Some management consultants refer to this common phenomenon as the "Pharaoh Syndrome" in honor of Pharaoh Ramses, who was in the habit of pronouncing "So let it be written; so let it be done". Whatever Ramses ordered to be written had little affect on what Moses actually accomplished in leading the Jews out of Egypt.

The "Pharaoh Syndrome" can be described in terms of the distinction between determining what to do and who will do it. In the business world, this is the difference between strategic planning and actual implementation.

Not so many years ago, corporations "discovered" strategic planning and established separate departments to draft imaginative plans that promised extraordinary return on investment(ROI). That these were seldom linked to the ongoing implementation process resulted in predictably dismal results.

Now such leaders in strategic planning as General Electric have dismantled much of their strategic planning department and pursued a "bottom up" approach of engaging line managers("implementators") at the outset of any long-range business planning endeavor.

Permit me to relate the "Pharaoh Syndrome" to the draft county-municipal legislation now before you.

Reasonable people will agree that the present "growth management" structure in New Jersey is "broke" and needs urgent fixing. Reasonable people can also argue persuasively that drastic problems require drastic solutions.

As a management consultant, however, I begin to question the reasonableness of such drastic solutions when I look at the experience of others. Were the problems any less urgent, when Florida, Oregon, and Montgomery County in Maryland sought to impose and implement effective growth management measures?

Why did John DeGrove, the principal architect of the Florida growth management program, state that, six years into the program, the Florida legislature "threw up"? What was the background to the growth management-related court cases in Florida, Oregon, and Montgomery County? Why did the creation and implementation of effective growth management programs require a full decade in all of these areas?

Is it probable that New Jersey has a far greater "growth management" resolve than had they? Is it likely that New Jersey has in place a more effective implementation machinery than did they? Or is

there another lesson that we might learn from the decade-long growth management transition period endured by governments in which the Executive exhibited a firm commitment to the process?

As a management consultant, I would need to assess the capabilities, as well as the short-term prospects for significant enhancement, of the possible implementators of a bold growth management program.

Municipalities. They have professionals and members of local volunteer government who have many battle stars from their trench warfare on planning and zoning matters. Their perspective, because of the Master Plan constraints and the nature of the Municipal Land Use Law, is principally focussed within municipal borders.

While some municipalities are beginning to recognize that what occurs elsewhere within their region may have profound implications on their own future, municipalities generally lack both the mechanisms and the practical incentives to take regional growth management-related initiatives.

Counties. Counties, traditionally, have played no significant growth management role. In part, this has been a function of legislation, which has denied them such a role, except in peripherial areas. Also, in part, counties generally have refused to step into power vacuums in which they could have assumed considerable de facto authority.

The roles that Mercer County has assumed in reviewing and revising local 208 wastewater plans and that Hunterdon County has exercised in dealing with county road impacts of proposed development are exceptions. More common has been the passive posture of both county planning staffs and of County Freeholders and Planning Boards.

There are few people, within the latent county "growth management" structure, who have demonstrated both the desire and the ability to deal effectively with nitty-gritty growth management implementation matters. Indeed, the passive county planning environment has discouraged many prospective "movers-and-shakers" from seeking a career in county planning.

Attracting a cadre of such persons would seem a many-year endeavor, once savvy county planning leadership were in place.

NJDOT. NJDOT ranks as an "overachiever" within New Jersey Government. Even by private sector standards, NJDOT deserves plaudits for the efficiency with which it has transformed the mandate of the New Jersey Transportation Plan and the resources of the initial Transportation Trust Fund into tangible accomplishments.

Under the dynamic and impressive leadership of Commissioner Hazel Gluck, NJDOT is embarked on a "second stage" that might earn plaudits from Master Builder Robert Moses.

The danger is that there is no equivalent counterforce to the full-court NJDOT press in legislative initiatives and the accelerated road-building process, from Draft Environmental Impact Statement to the actual laying of concrete.

The "can do and will do" attitude of NJDOT is especially laudable, if the overriding New Jersey "growth management" objective is to construct and maintain an expansive network of limited access highways.

However, many would contend that the massive expansion of State highways, by itself, would not "solve" suburban traffic problems. Moreover, transportation is simply one of various primary elements that affect suburban growth management considerations. Others include relative "quality of life", an appropriate tax base, and environmental, open space, farmland, wastewater and water quality, housing, labor market, and urban area issues.

A valid concern is that NJDOT could(and would) dominate any growth management structure in which the intention is that the legitimate interests of the designated participants be the subject of good faith negotiations. Some persons who express such a concern recall how DEP has translated "legislative intent" into specific regulations and actions that appear to have a distinctly different end result.

I would welcome an opportunity to discuss with individual members of the Committee, or their designated legislative staff assistants, the section-by-section possible implications of A-3289.

As a management consultant, I believe that there are sections that, perhaps inadvertently, could permit mischievous intepretation. One such example is the proposed amendment to Section 4 of P.L. 1968, c. 285(C.40:27-6.2) (c) which, among other things, refers to State Planning Act "cross acceptance" and, later in the same paragraph, states:

> Where the board finds that a development does not conform with a plan as required by the ordinance or resolution, as appropriate, the board may, to the extent permitted by law, require in lieu thereof contributions or improvements to mitigate any regional impact resulting from the failure to conform with the plan, and it may require additional improvements, as necessary, to ensure that the development will be consistent with the objectives of the plan.

At least this nonlawyer wonders 1) what, if any, nexus exists between the "cross acceptance" reference and "the ordinance or resolution, as appropriate"; and 2) whether a primary intention of this section is to permit further imposition of "contributions or improvements" for nonconforming development applications.

Proposed amendments to Section 6 of P.L. 1968, c.285(C. 40:27-6.4) introduce intriguing further ramifications:

> The county planning board shall review each application for a development of potential regional significance and withold certification if the development does not meet the standards previously adopted by the governing body in accordance with section 4 of this act. In the event of the witholding of certification of an application for development of potential regional significance, the reasons for such action shall be set forth in writing and copies thereof shall be transmitted to the applicant and to the municipal approving authority.

Since section 4 refers to the county master plan, apparently the practical affect of amended Section 6(above) would be to supersede earlier references to the county master plan as a "general guide" and render meaningless references to "taking into consideration" and "encouraging the cooperation" of municipalities in a county master plan process in which the county ultimately can enact whatever it pleases.

As a management consultant, I would conclude that, under A-3289:

- the county has the opportunity to exercise absolute decision-making authority, with no effective checks-and-balances from municipalities or developers;
- NJDOT, in some areas, enjoys similar latitude; and
- while the preamble of A-3289 expresses some laudable "growth management" thoughts, the specific draft legislation establishes no criteria(or incentives) for counties to reject or reduce proposed developments of "potential regional significance".
- Indeed, a churlish person might point out that, since counties receive between 75-and-80% of their operational budget revenue from property taxes and because proposed amendments to Section 4 of P.L. 1968, c.285(C. 40:27-6.2) permit the levying of additional "contributions and improvements" on certain developments, some counties, under A-3289, might prefer to encourage rather than restrict development.

As a management consultant(and manager), I would like to make several implementation-related recommendations based on:

- an objective to cauterize New Jersey's hemorrhaging current growth through timely and effective legislative initiatives;
- my assessment of current and prospective capabilities of municipalities, counties, and NJDOT; and
- the ubiquitous "Pharaoh Syndrome".

Perhaps the fatal flaw in municipal land-use planning is that, until recently, even the more forwarding-looking municipalities failed to calculate the cumulative traffic impact of full build-out. This failure, in turn, has contributed to potential zoned densities that would totally overwhelm existing and prospective infrastructure, most demonstrably in rush-hour highway-carrying capacity.

I believe that the Legislature, within draft TRANSPLAN legislation, should become a principal catalyst, with NJDOT, counties, and municipalities, in crafting and applying a regional transportation capacities/constraints approach.

The State Planning Commission, under State Planning Act Sections 4b, 5b, and 13, has ample statutory authority to participate in such an initiative.

Stated simply, significant municipal development feeds additional traffic into the regional State and county transportation network. At present, this occurs at virtually no cost to either the municipalities or the counties, both of whom benefit directly from the newly-generated ratables.

In fact, the highway system is a massive transportation "sewer" into which municipalities currently are permitted, with no practical constraints, to dump additional traffic.

Just as there are capacity limits and hookup charges for those who seek access to a sewer plant, so too should firm ground rules exist for municipalities that seek to utilize more than their "fair share" of regional roadway capacity.

A combination of technical analysis and judgment could provide an equitable basis to establish capacities, on principal State and county roads in principal growth areas, then allocate "access credits" and "hookup costs" to each affected municipality.

I would be delighted to meet with the Committee's legislative staff to demonstrate how such a mechanism would affect an anomaly such as Hillsborough Township, where 71 million square feet of zoned, but as-yet-undeveloped, commercial space could generate an additional 200,000 rush-hour vehicles.

I apologize for the Dr. Gloom aspects of my management assessment. I shall conclude on an upbeat note by sharing with you an op-ed article on Miracle at Trenton?.

Keith Wheelock
Project Director
Managing Growth in New Jersey
(609) 466-3229

Thematic Book Outline January 22, 1987

MISMANAGING NEW JERSEY'S SUBURBAN GROWTH: IS IT TOO LATE?

Preface

Introduction

I. Growth Patterns in Suburban New Jersey

II. How Suburban Residents Perceive "Their" Municipality or County

III. Managing at the Municipal Level

IV. Managing Through the Master Plan

V. Managing at the County Level

VI. Managing at the State Level

VII. (reserved)

VIII. Managing Suburban Traffic

IX. Suburban Growth Management Power Elites

X. Conclusions(pending)

XI. Implications(pending)

XII. Recommendations(pending)

MISMANAGING NEW JERSEY'S SUBURBAN GROWTH: IS IT TOO LATE?

Thematic Book Outline(January 22, 1987)

Preface Nature of study; experiences from conceptualization through implementation, and how these affected the scope and thrust; acknowledgements.

Introduction The emergence of my suburban service business approach; why it was necessary to establish a central core for the fragmentation that permeates the suburban management process; how the "business" of suburban government places in focus the disparate activities of the public and private sectors(including the press and academic community); the significance of establishing goals and objectives, then matching these to direct authority, responsibility, and accountability.

I. Growth Patterns in Suburban New Jersey

Suburban growth is not new in New Jersey. There was spotty suburban growth a century and two ago, as transportation or some other commercial advantage fed the development of areas that otherwise would have remained rural.

The first major wave of suburban growth occurred in those areas that were adjacent to New York City(Bergen) and to Philadelphia(the greater Camden area). This occurred long after the emergence of New Jersey's core cities.

The initial pattern was the creation of residential bedroom communities to a metropolitan workplace. In northern New Jersey, the establishment of public transportation, then the construction of major bridges, tunnels, and roadways, fueled the expansion of close-in residential suburbs that primarily were dependent on the New York City job market.

The social and economic dynamics of the post-World War II society quickened both the pace and nature of New Jersey's suburban development.

This was part of the new American "dream" of owning a house in the suburbs. This was also stimulated by the robust post-depression economy of the late 40s and 50s and by the deteriorating middle-class living conditions in such central cities as New York, Newark, Trenton, Camden, Jersey City, and Elizabeth.

New Jersey was still a dominantly manufacturing economy. Upwardly mobile white-collar employment for Jersey residents principally remained in the major urban centers(especially in New York City, but also in such cities as Newark and Philadelphia).

The growth in residential development during this Post-World War II period occurred primarily in close-in suburban areas that provided easy access to white-collar jobs. Moreover, these were the areas that tended to have an infrastructure of roads and sewers, together with public transit, that could accomodate a commuting population.

The major Federally-funded highway programs, commencing in the late 50s, swiftly began to open up New Jersey's suburban interior. The first phase of the New Jersey Turnpike was completed in 1952. More important, the Garden State Parkway, an expanded Route 80, the massive Route 287 circumferential highway, and other arterial road systems provided the basic grid for the development of New Jersey's suburban hinterlands.

This occurred during a prolonged period of national economic expansion, which tended to mask the long-term implications of the deterioration of major center cities and the white flight to suburban life and suburban schools.

It also paralleled the commencement of a profound structural business change. Modern communications and the decentralization of business organizations permitted both corporate headquarters and operating offices to relocate from center cities to a suburban working and living environment.

Much of the initial suburban "urbanization" occurred in those communities closest to the traditional metropolitan centers. Corporate headquarters sprouted along the Palisades, as only the more venturesome corporations relocated to Route 10 and beyond. Prudential's decision, in 1966, to decentralize its operations from Newark to the New Jersey suburbs and elsewhere throughout the country was a hallmark of this dispersion-from-center-cities-to-suburbs business redeployment.

What had begun, many years earlier, as swift residential suburban growth in close-in areas, was now complemented by significant commercial development which, in turn, accelerated residential demand.

One of the initial "exurban" pioneers was AT&T. In addition to two early headquarters complexes on the outerreaches of Route 287(the 1970 3,000-employee Long Line building in Bedminster and the 1973 3,300-employee corporate headquarters building in Basking Ridge), AT&T established Bell Lab headquarters in Berkeley Heights and satellite New Jersey facilities to accomodate over 15,000 Bell employees.

The pace and pattern of suburban development was overshadowed, in the early 70s, by two national economic recessions. New Jersey experienced unemployment of more than 10%, an unabated decline in manufacturing jobs, and a loss of anticipated budgetary revenue, which precipitated fiscal crises.

At a time when New Jersey's suburban heartland was beginning to experience massive structural change, the State was neither psychologically nor physically prepared to confront the infrastructure or policy implications of this seminal transformation.

A small band of civil servants in the Division of State and Regional Planning (of the recently-created Department of Community Affairs) found slight interest for their rudimentary "growth management" blueprints. The New Jersey environmental movement ranked among the most progressive throughout the United States. However, the Department of Environmental Protection's start-up focus was apart from suburban considerations.

The newly-consolidated Department of Transportation, forced to absorb a steady decline in the percentage of total State funds allocated to transportation requirements, was ill-equipped to cope with the burgeoning suburban-oriented vehicular traffic surge.

The voters rejected four transportation bond issues in the 70s, before finally approving a 1979 bond issue that permitted a melding of State and Federal funds. During the 70s, the construction of new highways lagged, and maintenance and reconstruction of existing highways and bridges fell increasingly in arrears.

It seemed ironic that the same regional spirit that encouraged establishment of the Hackensack Meadowlands Development Commission in 1968, the Coastal Zone Management Act of 1972, and the Pinelands Protection Act of 1979 could, during the same period that voters approved the Bridge Rehabilitation and Improvement Bond Act of 1983 and the Transportation Trust Fund of 1984, abolish the Division of State and Regional Planning.

Thus there was no focal point for State land use planning when, during the early 80s, a tidal wave of office development swept across New Jersey's suburbs. In earlier times, residential development normally provided the cutting edge. Now office buildings in vast quantities and dimensions were being carved into the countryside.

Though there is no accurate count, perhaps 150 million square feet of new suburban office space(more than half the <u>total</u> office space that existed in Manhattan just a few years before) was under construction or in the Planning Board-application process.

This fueled short-term prosperity. The construction trades flourished. The housing market sought to play catch up. New Jersey unemployment, during the national recession of the early 80s, remained at an uncharacteristically low level.

It also highlighted how grossly unprepared suburban New Jersey was for responsible growth management. Local municipalities were overwhelmed by developer applications. Housing costs soared far beyond the pocketbooks of many prospective suburban residents. Citizens and public officials began to focus on the implications of such precipitous growth on both the "quality of life" and the existing and prospective infrastructure of those close-to-400 municipalities that comprise non-urban New Jersey.

New Jersey, despite being the most densely populated of American states, historically had been accustomed to vast areas of open space. During the generation after the New Jersey Constitution of 1947, the State Government devoted much of its attention to urban problems.It did not bother to address what, at the time, seemed the theoretical possibility that precipitous growth could sweep through the suburban-exurban hinterlands.

When this indeed occurred, the basicly passive structure of New Jersey suburban government was woefully ill-equipped to respond.

Those, who have fought tenaciously for "spirit of home rule" local government, can now provide no cohesive and effective action plan.

Those, who spoke of the more appropriate regional role that New Jersey's 17 suburban counties might play, still are faced with many counties that have demonstrated scant capability in the nitty-gritty of "growth management".

Those, who hoped that the State might provide leadership and cohesion in suburban "growth management", find a State Government that is rift by jealous fiefdoms and, to date, lacks a functional framework that might mobilize a timely response to the development assault that is affecting much of suburban New Jersey.

In retrospect, earlier occurrences in northern New Jersey should have alerted policymakers in government, the Legislature, and throughout the private sector to the necessity for a comprehensive approach to the problems of prospective regional suburban growth.

One State agency, the New Jersey Department of Transportation(DOT), did, in fact, forecast the potential magnitude of suburban growth and, in its 1984 New Jersey Transportation Plan, set forth a transportation program to accomodate it.

Unfortunately, in the absence of coordinated efforts by other government agencies---at the State, county, and local level---the swiftness of DOT's implementation, in extending I-78 and other major arterial highways, has served to accelerate this pace of growth, without broad attention given to appropriate regional capacities and constraints.

It is, of course, possible that New Jersey suburban government, State, county, and local, will lay aside its "turf battles" and form a broad coalition to address, in a timely and effective manner, the immediate regional implications of out-of-control suburban municipal development.

There is little, however, in the history of New Jersey's structure of government on which to base such a prediction. Those who hope for a bold "master stroke" government initiative look to the State Planning Commission for timely action. This Commission, which was seven months late in getting off the starting blocks, must circumvent the "cross-acceptance" obstacle, if it is to impose short-term mandates, rather than guidelines.

Others see, in the County-Municipal Planning Partnership Amendments of the DOT-initiated TRANSPLAN bills, a bold end run that could provide important de facto regional planning authority to counties(and to DOT).

Reasonable people would agree that, at present, no one is responsible for suburban regional growth management in New Jersey. Some suburban areas are already devastated. Others, within another 3-to-5 years, may achieve a similar disbalance.

It is unclear who might establish a timely agenda for effective implementation of a crisis-inspired tactical "growth management" program. On the one hand, there is continued strong pressure for short-term economic development and job generation. However, there is also a rising suburban resident opposition to the scope and thrust of development that destroys the "quality of life" that they had sought in their suburban communities.

II. How Suburban Residents Perceive ""Their" Municipality or County

Where by choice or circumstances, very few suburban residents understand "their" municipality, much less their county.

Some long-time residents have a perception of what their suburban community was. Seldom, however, can they grasp the specific implications of their current and prospective community, except to lament that things "aren't what they used to be".

Newer suburban residents has scant opportunity to appreciate the heritage of their municipality. Those who reside in townships have no municipal ZIP. Identified with diverse neighborhood ZIPs(which may, in fact be in a different municipality), many newcomers tend to belong to a narrow sector or neighborhood of a municipality, rather than to the municipal entity.

A number of newer residents are transient, either as rentors or homeowners at the whim of business opportunities or corporate relocation policies. A significant portion of residents have shallow roots in "their" municipality.

They have their home and tend to establish ties to the public school, Little League, and, perhaps, a church and other desired community services. Many are perfectly content to exist as bedroom commuters. If a proposed development or street improvement infringes on their non-involved world, they may be willing to investigate and take some momentary action, but, on balance, they are laissez-faire residents.

A relatively small number of residents sincerely wish to be informed and, possibly, involved in local municipal affairs. Some pursue this interest in an issue-oriented manner, others actually endeavor to participate in the local municipal process.

Even for the most concerned local resident, it is extremely difficult to become, then remain intelligently informed.

Seldom do municipal publications provide a comprehensive overview of municipal happenings, much less a concise assessment of the municipality's 1) recent heritage; 2) current situation; and 3) major issues and real-world alternatives that shape the municipality's future prospects.

Even those within local volunteer government have a tough time grasping how the municipality functions and how it interrelates with surrounding municipalities, much less the county.

A handful of municipalities publish annual reports and annual calendars, which provide relevant information to those who profess interest. It is virtually impossible, without becoming an intense participant, to comprehend the implications of ongoing actions by the governing body, Planning Board, and others.

Some municipalities seek to schedule annual gatherings for volunteer participants within a suburban community. A very few celebrate founder's day, or some such, in order to stimulate a broader sense of community.

Newspaper coverage of a municipality generally is spotty and superficial. Major regional newspapers are professionally derelict in their coverage(perhaps they conclude that few people are interested). Rotational reporters assigned to local municipalities seldom master the fundamentals. Apparently it is acceptable for them to report the highlights of public meetings, and give banner headlines to those participants who provide juicy critical comments.

Some communities are fortunate to have local weekly papers. These tend to include more personal flavor, and the writer/writers have an opportunity to dig behind the headlines better to appreciate the community's dynamics.

Even so, it seems unlikely that a majority of subscribers read with regularity the articles on major municipal happenings---and if they did, they almost certainly would lack an adequate perspective within which to assess such reporting.

Only a municipal resident who is a "political junkie" could name the county Freeholders(indeed, relatively few residents could name the members of the municipal governing body). Those elected officials who have a highly personal style are most likely to be remembered.

It seems unlikely that municipal residents know or care what the county does. Certainly the basic regional newspaper reporting on county activities provides slim insight. Other than building or expanding administrative facilities, courthouses, hospitals, and parking lots, acquiring park land, repairing bridges, and being involved in assorted social services, most municipal residents are not exposed to county affairs. The solid waste imbroglio is a recent exception.

There are some "fashionable" municipalities and counties. In northern New Jersey, Bergen County has achieved a panache. Many Bergen residents identify with the county rather than with one of 70 municipalities(unless they reside in a Saddle River or Ridgewood). The same has become true in a county such as Morris(which has 39 municipalities).

Nearly two million rsidents live in townships, which are not listed on everyday maps Often such residents identify with some recognizable and fashionable nearby landmark. For example, the "Princeton area" is far larger than the 18 square miles of the Borough and Township of Princeton. In fact, residents often describe their locale differently to a local resident than to someone who lives some distance away.

Many residents haven't a clue as to the boundaries of their municipality or their county. There is no reason for them to know which municipalities are included in their county. Regional newspapers(The Hunterdon County Democrat being a notable and distinguished exception) cover portions of several counties. Within a municipality, residents often identify with a section. It is not uncommon, at public meetings, to hear them speak with emotion on something that might affect their neighborhood, then be completely ignorant of and indifferent to a similar discussion affecting another section of their municipality.

In brief, residents have no cohesive perception of "their" municipality. Save for a very few, there is little comprehension of what specifically occurs within a municipality and how this affects them as residents. Little information is synthesized; most is oral or comes from spot newspaper reporting.

Perhaps the most common personal municipal perception is "visceral": e.g. the taxes are too high, the services are inadequate, and, increasingly, there is too much development, which is "spoiling my community".

Virtually no one, except for identification or panache purposes, identifies with, much less has a clear, positive perception of, their county.

III. Managing at the Municipal Level

New Jersey has 567 municipal governments. This amounts to one for every 13,500 inhabitants. For non-urban municipalities, the median population is less than 8,000.

Suburban municipalities provided basic services such as fire and police, real estate tax assessment and collection, public works, health functions, and other tasks related to running an orderly community. Several generations ago, these municipalities were obliged to assume zoning responsibilities.

Suburban municipalities have various stages of growth. Many have progressed beyond having a handful of volunteers dealing informally with municipality matters. Some have become highly sophisticated. The great majority retain many of the attributes of a "ma-and-pa" operation, when confronting the problems of a complex, multimillion dollar annual service business.

Historians refer to the "spirit of home rule" in describing why authority and responsibility not specifically accorded to the State or the counties remains vested at the local municipal level.

In fact, as an aftermath of the 1947 New Jersey Constitution and the strengthening of centralized State authority and supervision, Executive and legislative actions have sharply circumscribed significant traditional municipal powers.

Today the State places sharp constraints on the size of an annual municipal budget and of a municipality's debt. Many municipal employees must meet State-imposed qualifying standards. Their performance is then subject to State review.

While local zoning matters remain the responsibility of the individual municipality, the ground rules are firmly established in the Municipal Land Use Law(as revised by the Legislature). On occasion the Supreme Court(on such matters as zoning for low-and-moderate income housing and tax base financing for public schools) has intervened directly in what had been considered municipal perogatives.

The State establishes legal standards on sewage treatment, solid waste disposal, and on environmental and health matters. Municipal schools are subject to State supervision and, increasingly, to State remedial action. Municipalities can not install traffic lights and stop signs, without prior State approval.

Municipalities remain the lowest level of elected government in New Jersey. This is the level at which the greatest interaction with citizens occurs.

Having so many hundreds of small, fragmentary government units is inefficent. Only one consolidation has occurred over the past forty years. Further consolidations seem unlikely.

The nature of municipal government has not kept pace with its increased responsibilities. This is especially true of those municipal activities that affect, and are affected by, the surrounding region and subregion.

Traditionally, in suburban municipal government the governing body(with or without a separately-elected mayor) assumed full responsibility for municipal policymaking and administration. There have been Charter Reform initiatives to modernize this structure.

The most useful innovation is the evolution of the Strong Ordinance Administrator. This permits the governing body to select a professional administrator who has direct responsibility for the day-to-day administration of a municipality's affairs. To date, nearly half of the suburban municipalities have availed themselves of such an administrator.

The basic management issue, in a municipality that may have up-to-18 legal, semi-judicial, and advisory boards, committees, and commissions, is: who is directly responsible for determining what should be done, then doing it?

The answer, in a distressingly large number of instances, is: no one. The diffusion of responsibility and authority is compounded by the essentially oral nature of much of municipal government. Moreover, the volunteers who serve local government are part-timers, seldom with any compensation, who generally have a full-time occupation as well as family responsibilities.

Such a system functioned reasonably well back when local municipal government performed generally passive functions and when a handful of long-established residents dealt with these informally.

Today's suburban municipal government, however, is a profoundly different management environment. What is required is managerial leadership of a complex business that operates in an uncertain environment. Many municipal governments, with their disparate autonomous bodies, still end up coping in a fragmentary manner, rather than initiating, then implementing a cohesive business program.

Municipal government still attracts a surprisingly high caliber of professional employees and volunteers. After a relatively short time, however, relatively few retain their initial zeal.

Very small municipalities probably can not afford a full-time administrator. Most medium-sized or large suburban municipalities function inefficiently without a Strong Ordinance Administrator.

The complexity of modern suburban government includes:

- o negotiating with diverse State and county agencies;
- o the responsibilities of managing effectively a staff of some dozens;
- o the process of assisting the governing body and others towards appropriate policy decisions; and
- o following through on timely implementation within a consensus environment.

This seems ample justification for a full-time, professional business manager. On occasion a surrogate may adequately fill this position. When some municipalities first voted for a Strong Ordinance Administrator, they chose to elevate the Municipal Clerk to the position. What they gained in convenience seldom offet their failure to seek out the requisite professional management skills.

The role of a Strong Ordinance Administrator is much akin to the general manager in a moderate-sized family business. He(there is also an increasing cadre of highly competent female Administrators) often is tacitly held responsible for matters over which he has no clear-cut authority.

He is obliged to seek policy direction from a group that may be relatively unfocussed, only casually involved in the business, and divided by personality differences and jealousies. He may seek common cause with a group(governing body) member who is willing to assume a leadership position. A realinement of group loyalties could swiftly result in his unemployment.

The most successful Strong Ordinance Administrators tend to be "pull" rather than "push" persons. Relative anonymity and quiet behind-the-scenes consensus building are helpful characteristics in dealing with publicly-elected governing body members.

The challenges and opportunities for a Strong Ordinance Administrator differ by the nature of a suburban municipality. This depends, in part, on its position on the growth cycle. Mature municipalities may have experienced the white heat of accelerated growth. They must deal with appropriate in-fill development and the provision of community services funded from a relatively stable tax roll. In such a community, an Administrator often has a seasoned staff to assist in managing a sizable ongoing operation and to plan and initiate incremental, though still significant, enhancements.

By contrast, a first-time Administrator may start in a reasonably small municipality that has experienced limited growth. The moderate starting salary often belies the difficulty of transforming an informal operation into a more structured business. Particularly vexing is the task of persuading members of volunteer government that the "old ways no longer suffice".

Without doubt the most difficult working environment is that of a suburban municipality beset by rapid growth and ill-equipped to address the attendant problems.

Under any circumstances, the role of Administrator is not an easy one. While the highest paid professional municipal employee(seldom more than $45,000-to-$55,000), he enjoys neither tenure nor the authority to command any of the members of volunteer government. He is expected to administer a municipality well, whatever the level of funding available. He may feel strongly what should be done in a timely fashion, without the ability to obtain appropriate authorization.

In addition to supervising professional employees and working with an ever-changing complement of volunteers, he is dependent on outside professionals(whether selected by him or others), who deal with some of the more volatile aspects of municipal government. The Municipal Attorney, Municipal Planner, Municipal Engineer, and occasional consultants form part of the municipal professional cadre, but can act independently of the Administrator.

In the private sector, the position of Administrator might be equated to a professional manager who is experienced in managing complex operations within an environment of uncertainty. However, there are several sharp distinctions. The seasoned private sector manager often earns considerably more than his public sector counterpart. He also enjoys a range of career opportunities more expansive than a municipal Administrator.

Who, then, seeks a career as municipal Administrator? Though the backgrounds are diverse, a majority, at an early adult age, choose a public service career. Some enter from the military or from the private sector, and a few, once tasting volunteer government, choose to pursue the municipal administrative path.

The "perks" include high personal status in a community, an opportunity to command(albeit with exasperating restrictions), and the prospect of making a significant public service contribution.

In New Jersey, the cadre of seasoned municipal Administrators is quite small. It is a relatively new position for many New Jersey municipalities. Some simply burn out under the constant pressures. Others are dismissed, with or without professional cause, and have difficulty in finding a similar position. Still others, after successful Administrator positions, tire of dealing with an unending succession of volunteers in local government.

There is moderate mobility between municipal Administrators in New Jersey and in other states. Some gravitate to other levels of government. A few make the successful transition to the private sector, though business tends, unjustly, to undervalue their experience. Many competent Administrators, after perhaps a 5-to-7-year tour in a community, are ready to seek a fresh opportunity.

There are both good and not-so-good-Administrators. As in any profession, those who are successfully multi-talented are widely recognized and offered recruitment enticements.

Administrators commonly are underappreciated(or simply taken for granted) for the multiple services that they perform. Few in local volunteer government take the time to fathom the human dimensions of their Administrator. Fewer still accept their responsibility to facilitate, by timely decisions, the Administrator's execution of his duties to the community.

The saying that problems and blame focus on the mayor and the Administrator has considerable validity. Often the mayor, as well as others in volunteer government, gladly pass on both problems and public criticism to the Administrator.

Virtually every sizable suburban municipality would benefit from a Strong Ordinance Administrator. Clearly, however, this, by itself, is no panacea.

The Administrator's relative strengths and weaknesses need to be appreciated, as in any business organization. The governing body(and mayor), as well as other key members of volunteer government, should treat the Administrator as a nonpartisan member of the senior management team.

They should provide him ample opportunity to express his professional views both in public forums and in more informal surroundings. Volunteers in local government should remember that, while they are judging the Administrator's performance, he, as a professional, also is judging theirs.

Suburban municipalities are a service business. Roads must be maintained, the health, welfare, and safety of municipal residents watched over, and the legal documentation of the community kept current. Taxes are assessed, then collected. Garbage collection is provided or supervised. Water and sewerage is made available and regulated.

Most municipalities now have their own police departments. Fire protection and first-aid squads often are still volunteer-staffed. Parks and recreation become an increasing municipal responsibility, as do senior citizen services and other "quality of life" enhancements.

Any "wish list" of possible municipal services for its residents far exceeds available resources. Discretionary expenditures have been sharply limited since 1976, when the Legislature imposed a legal "cap" on the permitted annual increase of a municipal budget. During budget time, there are tough trade-offs between funding basic services(which tend to be considerably lower than available in urban centers) and providing some of the special services that are responsive to specific resident requests.

In contrast to the operating budget, suburban municipalities have far greater latitude in appropriating capital expenditures. Revenue-related services such as sewer are readily funded. Other essential infrastructure expenditures, especially municipal road reconstruction and expansion, are frequently deferred indefinitely. The capital budget, by law, is intended to be a comprehensive six-year assessment of likely municipal capital investments. In fact, it has scant practical utility. Many "discretionary" capital allocations have an almost casual history.

A suburban municipality's day-to-day service functions are performed by a staff of professional employees. A typical 8,000-resident suburban municipality may have a payroll of 80 persons and an operating budget in the magnitude of $4 million. This excludes public education, which is separate from municipal government. has far more personnel, and an annual budget that exceeds that of a municipality.

The most volatile aspect of the suburban municipal service business is the role of volunteer government. By law, a municipality is extraordinarily dependent upon part-time volunteers. Elected officials(the mayor and the governing body) may receive a stipend of a few thousand dollars. All other volunteers in municipal government are unpaid.

Today, suburban municipal government is a complex business with increasing uncertainties and sophisticated specializations. The proliferation of State and Federal regulations now complicates once-simple tasks. The work load of the governing body, the Planning Board, and perhaps 18 other autonomous and ad hoc municipal committees and commissions has expanded tremendously. The basic management information system of most suburban municipalities has advanced little from the days of a "ma-and-pa"-type operation.

Volunteer participation overwhelmingly occurs at public meetings. In a process that remains principally oral, part-time volunteers find it increasingly difficult to remain moderately well-informed.

Membership on Planning Board, Zoning Board of Adjustment, and Board of Health involves listening to many hours of "expert witness" and public testimony, with additional input from municipal professionals. The presumption is that the members are familar with the technical and policy-related antecedents and retain full recall of past proceedings.

Governing bodies(whether committee or council) and the mayor(who, under the township committee-form of government has no greater legal authority than any of his colleagues) confront problems of a distinct dimension.

Collectively, they are the elected municipal representatives empowered to establish municipal policy by ordinance, resolution, and majority action. Among their many duties is the authorization of any municipal expenditure and the appointment of professional officials and volunteer government representatives(the mayor, in fact, makes many of the latter independently).

In a private sector service business of similar size, senior management would have a formal reporting system in which:

- o they received scheduled management reports on key segments of the business;
- o important issues would be separately assessed, with alternatives explored by a management subgroup; and
- o policy matters would be considered within the context of a formal strategic plan and the current operating and capital budget.

Few suburban municipalities come within a country mile of this sort of business procedure. Only a handful of municipalities prepare an annual report. Even fewer have a comprehensive municipal strategic plan, a meaningful capital budget, and action-oriented management policy memoranda.

A hallmark of most suburban municipal government is the fragmentary nature of its information flow. Some intensely-involved volunteers develop a rather extensive informal information network. Most are restricted primarily to what they recall from public meetings. Volunteers seldom have a systematic method of keeping in touch and informed, away from the scheduled night meetings.

It is not uncommon for governing body members to receive significant information from local newspapers, especially when there is a weekly publication in the community. The casual conversation is also an important information source, though less so for volunteers who do not work and live in the municipality.

The structure of suburban municipal government is primarily passive. There is not, built into the system, a direct and measurable accountability of what is being done and a periodic assessment of what should be done. Thus the process tends to be incremental.

The one legally-scheduled policy review relates to the Master Plan(which is the legal responsibility of an autonomous Planning Board). Only when there are Master Plan changes that require a new or revised municipal ordinance must the governing body become directly involved in the Master Plan review process.

Today zoning-related matters rank among the principal issues that affect municipal policies. These include: the actual magnitude and density of commercially and residentially-zoned land; the water, sewer, environmental, traffic, and "quality-of-life" impacts of rapid build-out of these zoned areas; municipal obligations for providing supportive infrastructure; and the fiscal impact, both on anticipated ratables and projected operating and capital expenditures, of changes in the local property tax base.

In a business, such issues would receive a cohesive and integrated assessment prior to extensive management consideration of strategic alternatives. Such rarely occurs in any suburban municipality.

The Planning Board, from its perspective, engages in prolonged public hearings on proposed changes in the land use and traffic circulation elements of the Master Plan. The Board of Health pursues its own policies and procedures. The Zoning Board of Adjustment functions independently in considering exceptions to established zoning. The Environmental Commission, operating in an advisory capacity, typically has a distinct point of view.

The governing body is vested with municipal policymaking responsibilities. It is also dependent upon policies established by other municipal bodies. Individual members of the governing body, on their own initiative or in reaction to stimulus from local residents, can exercise some influence over key zoning matters. Such action seldom is part of an integrated municipal strategic program.

Many of the major policy decisions made in a municipality occur: in reaction to some incident or situation; or as a result of a relatively undocumented initiative by one or a few persistent individuals. Some are shaped by the public hearing process, in which a small, cohesive group can often exert effective pressure.

In private business, a key factor to success in anticipating and managing change is the openness with which existing and prospective policies, together with their implications, can be discussed.

Such frankness is severely constrained in the public management of suburban municipalities. Nearly all municipal governing body elections are partisan. Thus the political aspect is present, even in communities where unopposed slates are presented.

Perhaps more important, however, is the public nature of suburban government. Governing bodies, with rare legally-approved exceptions, can only meet in public sessions. Under the Sunshine Law, it is illegal for a majority to meet in private and discuss municipal business. Neither the common business practice of informal management working sessions nor the traditional legislative caucus is permitted.

Governing body sessions typically have an agenda that includes a number of fairly routine, though time-consuming items. On occasion, a major(or minor) policy matter excites a segment of the community. The resultant public debate before the governing body can extend over weeks or months. Commonly, only one public viewpoint is amply represented.

Seldom are such sessions constructive dialogues. At times they are personally abusive, as a group of residents may press vigorously for their own particular interest with minimal regard for municipal-wide considerations. During the political campaign season, such sessions can become extremely acerbic. Often the resultant decision either accedes to the pressure group's wishes or negotiates a compromise that may, or may not, reflect the best interests of the entire municipality.

Occasionally a strong leader, by dint of personality and intense time commitment, will impose his will on a governing body. This is occurring less frequently, because of the cumulative personal burn-out involved, changing political coalitions, and the tradition, in many townships, to rotate the mayor's position on an annual or biannual basis.

Who are the residents who choose to serve in local volunteer government, and why do they do it?

There no single answer. Overwhelmingly, suburban volunteers, often at considerable personal inconvenience, basically wish to serve their community. To some, the sense of belonging and participating is important. Power and prestige attracts others. Also, there is a good feeling from visibly performing a civic duty. A few see an opportunity for political advancement or useful professional connections.

A surprisingly large number of residents, if asked, are willing to consider at least a modest role in local volunteer government. A relatively low threshold is participation on some ad hoc committee. This might require a modest or intense time commitment over a finite period. The subject could range from shade trees to community goal setting or strategic fiscal planning.

There are also a number of low-public-profile-committees and commissions, meeting monthly or bimonthly, that suit residents' desire to make a modestly taxing civic commitment.

Far fewer residents have both the professional qualifications and the willingness to serve a lengthy apprenticeship required for adequate representation on such legally-constituted bodies as the Board of Health, the Zoning Board of Adjustment, and the Planning Board. In active communities, the Planning Board typically has the most exhausting workload and deals with issues that draw spirited public participation.

Selection to some of the principal municipal bodies is part of the local political process. A few residents, whatever their political affiliation, may serve for a decade or more. Many of these same people flatly refuse to be considered for elected office.

Even in communities with uncontested elections, service as an elected member of the governing body can be a physical and mental drain. In communities with contested elections(often about fifty per cent of suburban voters are listed as Independents), the process of being nominated as candidate, then months of door-to-door campaigning, is a debilitating prelude for those who are elected to the governing body.

In recent years, relatively few persons serving on governing body in an actively bipartisan community choose to run for more than two terms. An increasing number step down(or are defeated) after a single term. Some may then agree to serve their community in a lesser capacity.

The cumulative fatigue, for those governing body members who are continuously involved, is unavoidable. Scheduled nights out may reach fifteen a month for governing body members who also sit on the Planning Board. There are numerous other meetings, and most issues and initiatives become highly personalized and time consuming.

Even when there is the satisfaction of significant accomplishments, effective governing body members, once they step down, are almost unanimously delighted that they have completed their full-involvement civic service. Only rarely have such persons, after a break, been persuaded to run again for municipal office. Conversely, some governing members, in mid-term, are now resigning because of business and family pressures.

IV. Managing Through the Master Plan

Municipalities were drafting land-use ordinances long before the State established legal zoning guidelines. Formal Planning Boards were established under 1930 legislation.

In 1975, the basic regulations for municipal planning and zoning were codified in the Municipal Land Use Law(MLUL). The MLUL is the land-use "bible" both for municipalities and for developers.

Federal assistance during the 50s impelled numerous suburban municipalities to draft their first rudimentary Master Plan. This was intended to provide a comprehensive, municipality-wide land-use plan.

The Master Plan is required to establish the rationale and specific delineations for land-use planning and zoning throughout a municipality. By law, all private property must be accorded either a commercial/industrial or residential zoning classification.

The Planning Board, through a public hearing process, is obliged to reexamine its Master Plan, and the accompanying development regulations, no less frequently than every six years. The Zoning Board of Adjustment is empowered to grant variances to Master Plan zoning. Under specific circumstances, the governing body may enact zoning ordinances that conflict with the Master Plan.

Suburban Master Plans, in the late 50s and 60s, varied widely in scope, depth, and competence. In the absence of a seasoned cadre of professional municipal planners, municipalities called upon university professors and others for assistance in preparing this document.

Fiscal considerations played a significant role in determining initial Master Plan policies. Since municipalities received only modest State financial assistance, they were heavily dependent upon the local property tax to fund both municipal government and school expenditures. Early Master Plans placed strong focus on the balance between commercial/industrial tax ratables and the more municipal-services-dependent residential properties.

Successive Master Plans reflected the rising sophistication of the municipal planning profession. These plans were still strongly influenced by contemporary perspectives. The nascent environmental movement had not yet documented environmentally-sensitive concerns at the municipal level. Traffic generation was not, then, a primary consideration. The tax ratables balance remained a major municipal officials' preoccupation. The planning focus was within a municipality's borders.

Some clever municipalities, perhaps anticipating the possible impact of major build-out, zoned the great bulk of their commercial/industrial ratables close to their borders.

Many municipalities directed considerable attention to detailed internal traffic circulation plans. These were drafted without the benefit of technical assessments by traffic consultants. Since there was no direct linkage between planning and implementation, virtually all of the projected new and expanded roads remained unconstructed fifteen years later.

Even those Master Plans that were state-of-the-art in the mid-70s did not address the possible implications of a precipitous pace of build-out. Two successive major economic recessions provided an unlikely basis to project the likelihood of massive short-term development. Since a number of suburban municipalities anticipated that residential development would antecede significant commercial/industrial development, a common planning technique was to "protect" some land areas with a commercial/industrial zoning classification.

Most suburban Master Plans provided useful guidelines for the moderate development that was occurring. Those municipalities that actually complied with the legal requirement to reexamine this document periodically approached such as an incremental task. At times, this entailed imaginative fine-tuning. A fundamental revision of the underlying Master Plan principles seldom occurred.

To many, the basic planning principles seemed fully appropriate. Moreover, dramatic rezoning of commercial/industrial to residential, or sharp density reductions of existing zoning, courted "arbitrary and capricious" law suits from developers and property owners.

Membership on suburban Planning Boards was a position of considerable civic responsibility. A number of highly talented people dedicated extensive time to Planning Board activities. Those communities fortunate to have the continuity of several knowledgeable, long-time members managed the planning and zoning process with sensitive effectiveness.

Important to these ongoing functions were the Planning Board Attorney, who was well-versed in land-use law and practice, and the Municipal Planner, often an outside consultant who served both municipalities and private sector clients. The Municipal Engineer(generally a consulting engineer to the municipality) was particularly valuable during the Subdivision and Site Plan review process.

As the specifics of planning and zoning became increasingly complex, new Planning Board members(appointed by the mayor) and governing body representatives(the mayor and one other) on the Planning Board found it more difficult quickly to achieve a level of functional competence.

A careful reading of the Master Plan had little meaning to the neophyte Planning Board member. The nearly 300 pages of a typical Land Ordinance provided scant insight to a newcomer. The cumulative learning curve from participating in successive development application reviews was often slow and uneven. Frequently, two or three of the seasoned Planning Board members, together with the Board's professionals, served as the principal teachers and planning-related implementators.

Several events, during the 70s, served as harbingers of possible structural changes to the traditional precepts of suburban municipal planning. The 1973 Robinson v. Cahill New Jersey Supreme Court decision altered the traditional practice of financing public schools overwhelmingly from local property taxes. Then, in 1975, the first Supreme Court decision on Mount Laurel ruled that municipalities were obliged to zone for low-and-moderate income housing, even if this conflicted with their Master Plan.

Concurrently, the accelerated pace of suburban commercial and residential development in northern New Jersey was revealing possible glitches in the municipal Master Plan process. Cumulative development in neighboring municipalities was creating regional infrastructure and environmental problems that were beyond the authority and responsibility of counties. These were not addressed in individual municipal Master Plans.

The proliferation of sewer moratoriums, the rapid destruction of open space, increasing rush-hour traffic choke points, and a growing chorus of "quality of life" concerns provided a starting benchmark for New Jersey's land-use planning in the 80s.

In the absence of any cohesive regional or subregional assistance, individual municipal Planning Boards were faced with coping with an unanticipated onslaught of office and residential development. Plans that were intended for a gentle build-out were now to be tested by a virtual avalanche of development, at least in the principal suburban "growth corridors".

The response by local Planning Boards was uneven. Some, grateful for the prospect of major additional tax ratables and uncertain what legally they should do, seemed incapable of adjusting to this structural change in planning parameters. Others edged towards some modest fine-tuning. And still others embarked on a series of imaginative initiatives that ran the considerable risk of being overturned in the courts.

These forward-looking municipalities directed their attention to three primary areas:

- o revisions in the Master Plan, together with a continual "notching down" of permitted densities and occasional changes in land-use classifications;

- o tightening up setback, height, wetland, buffer zone, and other Land Ordinance regulations, while pressing for additional concessions during Subdivision and Site Plan review; and

- o obliging major developers to provide more than their "fair share" (as narrowly defined in C 40:55D-42 of the MLUL) of infrastructure and off-tract improvements.

There are no clear legal guidelines on what magnitude of density reductions or changes of land-use classifications are likely to trigger a lawsuit that will be supported in the courts. The process is a combination of poker and "Russian roulette", since a court loss restores zoning to its prior status, rather than to a midway point that might have been negotiated with the property owner.

Particularly vexing is that Master Plan zoning designations are based on projected infrastructure enhancements. In the absence of actual construction or improvement of a key county or State arterial highway, the broad rationale for the initial zoning becomes invalid. Some states permit "conditional" zoning to accomodate such situations; New Jersey does not.

The "administrative" remedies, as well as a bold hand during Subdivision and Site Plan proceedings and throughout the Planning Board public hearing, provide substantial opportunity to enhance the quality and to reduce the overall density of major development projects. In this, an aggressive and knowledgeable Planning Board has considerable latitude, since the developer has a shaky legal basis on which to appeal such proceedings.

The ground rules for negotiating significant developer improvement contributions are, at present, fuzzy. While developers' lawyers frequently refer to the MLUL "fair share" formula, in fact many developer agreements significantly exceed it. Some Planning Boards have obtained, from developers, in addition to transportation, sewer, and water improvements, funds for housing, fire stations, parks, and other diverse public uses.

These examples demonstrate how sophisticated the "business" of an astute Planning Board has become in recent years. In some municipalities, this could be described as a "war". The Planning Board marshals its forces against developers, their "expert witnesses" and, not infrequently, specific provisions of the Municipal Land Use Law.

In this fight, Planning Boards, often with the use of developer escrow funds, engage their own battery of experts. Local residents play an important role during public hearings. The developer of almost any major project can anticipate a process that extends over months or even years.

In recent years, traffic has become the greatest single flash point in Planning Board proceedings. Even with major developer-funded improvements, an increasing number of major arteries--- local, county, and State--- are fast approaching their physical capacities. Whether the bulk of such traffic is regionally or locally generated is immaterial to the increasing likelihood of rush-hour gridlock.

Few Planning Boards are knowledgeable of the successful(and unsuccessful) tactics and techniques developed in other municipalities. Thus, even those Boards that seek to be aggressive must devote far too much time in endeavoring to "reinvent the wheel".

Even were these techniques fully syndicated, however, a basic issue remains unresolved: no matter how prudently a municipality may plan its own development, it's individual efforts may be destroyed by what others within their region may be doing.

V. Managing at the County Level

New Jersey's 21 counties are, in part, a vestige from a bygone era and, in part, a prospective resource that might be galvanized to play a significant role in modern New Jersey.

Initially patterned after their English counterparts, the first four New Jersey counties were established by 1675, the last in 1857.

Their equivocal status in New Jersey's governmental structure is reflected in the fact that the landmark 1947 State Constitution neither provides that there shall be counties nor prescribes their government or functions.

The five mandatory county functions include courts and law enforcement, education, roads and bridges, welfare, and elections. Both the State and Federal government have found counties a convenient conduit for providing programs and services throughout New Jersey. County park, library, and health and social services especially benefit from such leveraged support.

County government is an administrative hodgepodge of autonomous, semi-autonomous, and county-controlled activities, operating under the loose umbrella of a part-time governing body. Counties manage directly only 26% of counties' employees and 40% of counties' budgets.

The nature of Federal and State funding and regulations frustrates county efforts to impose policy and operating cohesion over dozens of distinct activities.

The confederation of functions at the county level prevents the establishment of a mobile cadre of county managers. Hiring and promotions occur within the separate units, and employees are not interchangeable within departments. The existence of various fiefdoms, some of whom are not even indirectly responsible to the governing body, stymies well-intentioned desires to rationalize government operations at the county level.

One helpful step to provide some order to this fragmentary system of county government has been the establishment, in all counties, except Hunterdon(where the County Clerk recently was appointed to the curious position of Clerk-Administrator), of a County Administrator.

These professionals have been able to serve as an informal bridge between the different operations. They provide a link between operations and the governing body. They often, in a low-key manner, stimulate some rational initiatives towards a more effective county operation.

Efforts to modernize the Chosen Board of Freeholders' form of government have, to date, been less successful. Freeholders, elected for a three-year term, serve as a county's governing body. This is a part-time position with an annual salary that rarely exceeds $20,000. In a majority of counties, Freeholders play "musical chairs", changing the Freeholder Director every one, or, occasionally, two years. The impact of such a tradition on county managerial continuity and leadership is debilitating.

The Optional County Charter Law has permitted counties to change their Freeholder form of government. Six have done so, resulting in five elected County Executives and, in Union, a County Manager.

There are considerable advantages in having a well-paid, full-time County Executive. As chief executive officer, he has considerable direct responsibility and a clear opportunity to provide leadership. He is also directly accountable to the electorate and must run, for reelection, on his record.

Authority remains divided between County Executives, who are responsible for a county's administration, and the Freeholders. Freeholders constitute the elected legislative body in a County Executive form of government. Political controversies between County Executives and their Freeholder boards make lively newpaper copy.

At present, counties have no legal mandate to "manage growth" within their borders. Virtually all direct authority, in these areas, lies either with the municipalities or with such State agencies as the Department of Environmental Protection and the Department of Transportation.

Counties' opportunities for directly influencing "growth management" are principally through their Planning Departments and the County Engineer. All counties have a planning function, though only 19 of 21 counties have an in-house planning staff. Counties are obliged to have a county Master Plan, covering land use, transportation, housing, and other elements. A majority of existing Master Plans do not pass professional muster. Some, in fact, date back to the early 70s.

The influence of a county's Planning Department depends, in good measure, on the caliber and leadership abilities of a relatively few people. There are examples, in Hunterdon, Mercer, and in some counties in southern New Jersey and elsewhere, of imaginative and effective county planning initiatives.

More common, however, are Planning Departments that do not establish close and fruitful working relationships with their constituent municipalities. Moreover, a county Planning Department, to pursue significant initiatives, requires strong support from either its County Executive or its Freeholders.

At present, the "growth management"-related functions of county government represent, at most, 0.5% of its annual operating budget. Thus it would not appear to be a high priority for many Freeholders.

When Master Plan updates are initiated, outside consultants frequently are employed to undertake the majority of this effort. The internal planning function has remained primarily passive. This, in turn, affects the relative attractiveness of a career county planning position for those professionals who have a choice between private sector planning or public sector planning at the county or municipal level.

A glance at the structure of New Jersey government would suggest that counties provide a useful "regional" level between the State and the municipalities. Proponents of regional growth management planning support a sharply-enhanced county role.

From their past record, county performance does not inspire great confidence, either in its willingness to confront and resolve tough issues or in its ability to establish, in the growth management sector, a useful and professional working relationship with municipalities. On solid waste, the one unpalatable issue that no county has been permitted to duck, few counties have emerged with distinction.

A reasonable question is why, based on their track record, should counties suddenly be given dominant direct authority in the growth management area. This ranks among the most urgent and difficult management and political problems in the State of New Jersey.

Have Freeholders demonstrated any particular competence(or interest) in these matters?

Has a majority of county Planning Departments(and Planning Boards) earned a command position from their past performance?

Who would exercise the immense power of determining specific land use throughout a county, and to whom would they be directly accountable?

Historically, county political machines were power brokers throughout much of New Jersey. They controlled thousands of patronage jobs and hand-picked candidates for the Legislature and, often, for the State House.

County political power has ebbed in recent decades. There are far fewer patronage positions available, and the candidate-selection process has become far more diffuse. Brendon Byrne, in 1973, was the last gubernatorial candidate who was beholden to a county political machine.

Since the 1947 State Constitution, the State, rather than the counties, have been assuming increasing centralized power. Municipalities find their authority diminishing. Counties have played little role in this cumulative process. Who are Freeholders and what the county does have remained matters of modest import.

What is being discussed as "regional planning" entails, in fact, one of the most significant prospective shifts of political power in New Jersey's history.

VI. Managing at the State Level

The State, until the past several years, had seemed disinterested in either the need for or the process of cohesive suburban growth management.

Such an issue did not fit comfortably within the functional structure of State government. Individual Departments, often operating as independent fiefdoms, pursued their own parochial agendas.

There was not a convenient mechanism, in the Governor's Office, The Treasury, or elsewhere, whereby operating programs and capital expenditures were integrated within comprehensive State strategies and policies. Nor was there a strong political groundswell or unavoidable crisis that obliged the Executive and Legislature to expend priority attention to suburban growth matters.

It was the decaying urban areas, not the suburban hinterlands, that traditionally captured the headlines and, thus, the ear of official Trenton. Moreover, Federal funds historically flowed far more to urban, than to suburban areas.

The non-urban sectors of New Jersey became a minor State agenda item in the 60s. In 1964 a "Save Open Space in New Jersey" campaign resulted in a State-wide referendum approving a farmland tax assessment program. The Department of Community Affairs(DCA), created in 1967 in an effort to group together State agencies concerned with local government, provided a prospective focal point for the problems of urban and suburban municipalities.

The institutional commitment to DCA was fleeting as, in 1976, only legislative action blocked Governor Brendan Byrne's budget-crisis initiative to dissolve DCA and again parcel out its functions to other State agencies.

Paul Ylvisaker, the charismatic first Commissioner of DCA, created the Division of State and Regional Planning. This Division's new cadre of professionals conceptualized, then began to refine, a growth management land-use map for the entire State. The Division experienced a turbulent bureaucratic existence culminating, early in the first Kean Administration, in its abolishment. That the Supreme Court used the Division's preliminary State growth management map as a principal guideline in it's landmark 1983 Mount Laurel II decision was a mixed epitaph.

Also, in the 60s, environmental initiatives began to target suburban areas. The pace quickened, following the 1970 establishment of the Department of Environmental Protection(DEP). Today DEP, through its policies on solid waste, wastewater, water quality and supply, wetlands, air pollution, open space, and the environment, has a profound affect on both suburban regions and municipalities.

The Department of Transportation(DOT), especially during the Kean Administration, has become a principal player in the suburban scene. Earlier, DOT, beneficiary of Federal funds, had been responsible for constructing major highways that traversed suburban open spaces. In the 80s, DOT, with funds from the 1984 Transportation Trust Fund and the blueprint of the 1984 New Jersey Transportation Plan, had both the mandate and the resources to impact the shape and pace of suburban growth.

DOT and DEP were frequent adversaries, when the road construction imperatives of DOT clashed with DEP's environmental objectives. On occasion, the Office of the Public Advocate filed briefs supportive of DEP's positions.

In early 1987, Governor Kean took a political stand favoring gas tax-financing of a second mammoth Transportation Trust Fund. Several months earlier, DOT had initiated three transportation-related legislative bills. One, the County-Municipal Planning Partnership Amendments, extended beyond strictly transportation matters into the broad arena of regional land-use policymaking.

The precipitous growth occurring in the suburbs, clear evidence that municipality-by-municipality land-use policies were inadequate, and an impressive coalition of regional growth management advocates had resulted in significant legislative initiatives. The State Planning Act of 1986, which had to substitute "cross-acceptance" for direct State authority to mandate regional land uses to achieve passage, was a notable Executive commitment to State planning.

The more controversial draft legislation("McEnroe bill"), with which DOT clearly was identifying, proposed immediate transfer of major land-use authority from municipalities to the counties.

Both the Executive and the Legislature are now deeply involved in the matter of cohesive suburban growth management. Governor Kean, by naming an outstanding professional to the traditionally political spot of Director of the Governor's Office of Policy and Planning, has demonstrated a awareness of the need to monitor closely these developments.

This Office, for the first time, includes a seasoned professional planner. Also, perhaps not by coincidence, it is located across the hall from the newly-created Office of State Planning which, among its other duties, serves the blue-ribbon State Planning Commission.

During the 1987 electoral campaign, the Executive, as well as members of the Legislature, will be seeking to strike a balance between effective suburban growth management and winning politics.

VII. (reserved)

VIII. Managing Suburban Traffic

Traffic is the single suburban growth issue that catalyzes New Jersey's non-urban residents, businessmen, developers, planners, and local, county, and State government officials.

A citizen-financed newspaper ad, "Help, We Are Drowning in Traffic", captures the suburban residents' plight: they watch the relentless crush-loading of their road and highway commutation lifelines with accelerating anger and frustration.

Personnel-related costs represent nearly 70% of a large suburban office's annual operating expenses. Clogged rush-hour roadways sharply increase the costs of recruiting and retaining personnel in a tight labor market. The aggravations and lost time from commutation delays can reduce an employee's annual productivity by 5-to-10 %.

Neighborhood storekeepers find potential customers deterred by traffic queues and parking problems. Shopping malls fear that the convenience of regional shopping is being offset, in part, by the hassles of traveling to-and-from the malls.

Developers, especially of large commercial and residential projects, are increasingly hard-pressed to accomodate rush-hour traffic generation. Even with "fair share" and voluntary traffic-related developer contributions, the resultant palliatives do little to increase overall roadway capacity.

Planners underscore the pitfalls of scattering moderate-density developments throughout New Jersey's once-open spaces. This is an inefficient utilization of scarce land resources. Comprehensive regional planning would consolidate high-density uses in urban-designated areas. Moreover, the present pattern of dispersing major traffic-generating nodes sharply reduces opportunities for vanpooling and public transit.

Local municipal officials are confronting traffic warfare in the front-line trenches. Developers, in accordance with Master Plan-based municipal zoning, apply for project approvals. While common sense, and traffic impact statments, may indicate that the proposed development would further exacerbate existing traffic problems, municipalities have limited alternatives.

The magnitude of possible zoning and Land Ordinance changes and demands for developer-financed improvements is constrained by developers' legal rights, under the Municipal Land Use Law, to file "arbitrary and capricious" court actions.

The municipal public hearing process on any major suburban development application provides a headline-grabbing crucible for local residents' well-founded concerns as well as for their visceral frustrations.

County transportation and planning professionals observe the traffic imbroglio with dismay. At present, they have severely limited technical authority to affect the process. Even the most aggressive counties can provide only moderate relief, through tough developer-improvement negotiations on county roads and occasional road enhancement and public transit initiatives.

The county transportation element of the county Master Plan principally documents the inadequacy of the existing and prospective road network to accomodate likely flows of traffic.

The New Jersey Department of Transportation has responsibility for producing, then implementing a New Jersey Transportation Plan. There is, however, a vast difference between its responsibilities and its operating and political authority.

DOT's primary concerns are State highways, bridges, and public transit. It must maintain thousands of miles of existing State highways, while also planning, then constructing additional lane-miles in accordance with a volative project-priority timetable. ("Lane-miles" is the technical term used to describe a roadway's carrying capacity).

One of the Rube Goldberg-aspects of this situation is that DOT's efforts are not integrated with similar lane-mile construction programs at the county and municipal level.

State highways provide principal arteries through developed and developing suburban areas. Transportation professionals explain that State highways are intended to provide the "spine" for a network of county and municipal ingress-and-egress feeder roads. In fact, neither counties nor municipalities fund significant additional lane-miles. Developers' funds usually are applied to construct such local access enhancements as intersection improvements and minimal road-widening, rather than extending lane-miles.

New State highway construction may, in the absence of an adequate internal traffic feeder infrastructure, generate more development-induced problems than it was initially intended to alleviate. The recent history of I-78 is a case in point. In "opening up" northern Hunterdon County for rapid development, it also provides the probability of choke-level traffic congestion at interchange intersections and along Hunterdon's rural road system.

Even were unlimited funds available, the massive expansion of State highways, by itself, would not "solve" suburban traffic problems. Moreover, transportation is simply one of the primary elements that affect suburban growth management policy considerations.

There is, at present, no clear consensus on what the priority objectives of any possible suburban growth management program should be. Were the primary objective to facilitate rapid short-term development, the resultant pro-growth imperatives might justify a Robert Moses-style infrastructure construction program.

Balanced against those groups that would benefit, over the short-term, from "build, build, build" and "jobs, jobs, jobs" is a powerful counterforce of interests that favor more moderate development over a much longer time horizon.

Suburban constituencies increasingly articulate distress at how precipitous development is affecting their "quality of life". (The Freeholders of a county in the path of such development recently adapted unanimously an "anti-growth" resolution).

Major corporations are already establishing(or relocating) facilities outside of New Jersey's principal growth corridors. Some of these facilities, based on "quality of life" comparative assessments, are being placed out of State.

Environmental, open space, farmland, waste water and water quality, housing, labor market, and urban area issues highlight the potentially irreversible long-term implications of Rabelaisian consumption of irreplacable suburban natural resources.

Even before the formal findings of the State and Local Expenditure and Revenue Policy Commission(SLERP), more affluent suburban communities have been reassessing the total cost benefits of participating in the "tax ratables race".

New Jersey is over a decade behind more progressive American states in seriously considering, then pursuing cohesive suburban growth management policies.

New Jersey does not have a decade to catch up, since the present patterns of suburban build-out, if not swiftly checked, almost certainly are immutable.

The obstacles, at the local, county, and State level, to timely structural change of New Jersey's passive suburban growth management process are formidable. The efforts of the State Planning Commission and others to craft an integrated urban and suburban planning framework for the State of New Jersey are extremely important and long overdue.

While these longer-term initiatives proceed along their work-plan stages, and receive periodic State Executive and legislative review, perhaps "transportation" provides the best tactical opportunity to impose effective constraints on the present suburban development process.

IX. Suburban Growth Management Power Elites

New Jersey is a small state. The southern and northern tips of New Jersey are less than three hours' drive from Trenton. Traditionally there has been, in the more populous and densely-settled northern and central portions of New Jersey, a Mason-Dixon mentality that clearly delineates northern from southern New Jersey.

To the north, the Star-Ledger(Newark) and The New York Times are priority reading. To the south, the Courier-Post(relocated from Camden), The Asbury Park Press, and The Philadelphia Inquirer are the media leaders.

A prominent mover-and-shaker in the public and private sector speaks of only 3,000 people who "count" in New Jersey. Intuitively, he is thinking primarily of a northern and central New Jersey network of business, government, and civic elite.

This is a distinctly New Jersey elite. It does not draw its primary strength from multi-generation family ties. Many of its members are relative newcomers to the State. Nor does it have the bondage of school ties or exclusive club memberships. Except among Princeton graduates, collegiate comraderie is not a dominant New Jersey pastime.

This is a mobile power elite. Newcomers can enter because of their position or ability. Business, academia, political personalities at the State level and elsewhere, and eclectic representation from other sectors of New Jersey's society constitute this fluid elite.

On such issues as suburban growth management, this elite does not appear to function monolithically. Major political campaign contributors, including the construction trades and developers, initially maintained a low profile and pursued their specific business agendas in Trenton's corridors. The country's largest statewide business association, the New Jersey Business & Industry Association, assumed a passive posture.

Large corporations participated in such diverse organizations as the New Jersey Alliance for Action, The Business Round Table, The Partnership for New Jersey, and the Program for New Jersey Affairs, at Princeton University's Woodrow Wilson School.

Most of the groundwork for possible suburban growth management initiatives occurred elsewhere. Much of this was fragmentary and without focussed discipline. The New Jersey Conservation Foundation, the New Jersey Environmental Lobby, the Regional Plan Association(New Jersey Committee), the League of Women Voters, and dozens of other local or state-wide organizations were, at least nominally, part of this process.

Vital to all significant suburban development is roadway capacity for its development-induced traffic generation.

At present, there is no direct correlation between the cumulative transportation requirements of municipal land, zoned in accordance with the Municipal Land Use Law, and the capacity of regional suburban roadway systems.

Nor are there provisions for prospective(and past) developers, much less municipalities and counties, to assure that the local road network has sufficient carrying capacity to accomodate such traffic.

There are capacity constraints and hookup charges for regional sewer plants. Similar principles should be applied to those regional county and State highways that currently serve as unregulated transportation "sewers" for unconstrained, municipal development-generated traffic flow.

Such an approach would provide a functional framework within which to match development-induced "demand" against the existing and projected "supply" of regional highway capacity.

It would provide a basis to balance individual municipal transportation "demand" against overall regional requirements.

This could provide the opportunity for municipal development zoning linked to the municipality's "capacity access credits" to the State and county regional transportation "sewer".

It could also introduce, into the Municipal Land Use Law, the practice, already adopted in other states, of "conditional" land-use zoning."

The absence of organized cohesion was reflected in the failure to incorporate disciplined academic assessments into this suburban growth management movement.

The long-established Bureau of Government Research at Rutgers was not pressed to advance beyond its useful, though passive role. The County and Municipal Government Study Commission's excellent research was generally homogenized by the political process prior to publication. No university provided a research focal point on New Jersey's seminal suburban growth management issues.

One of the relatively few effective business-research group linkages occurred between the "Save Our State Committee" of the New Jersey Alliance for Action and the State-funded County and Municipal Government Study Commission. The resulting New Jersey's Local Infrastructure: An Assessment of Needs, published in 1984, was excellent. The Alliance, to support renewed funding of the Transportation Trust Fund, commissioned a follow-up study prepared by a Washington group, The Road Information Program.

In the early 80s, the issue of suburban growth management(often discussed under the rubric "regional planning") began to acquire broad-based legitimacy. One of the more dramatic examples of this expanding awareness was the 1,000-volunteer Morris 2000 experience. Though Morris 2000 has yet to make the giant step from Common Cause-type advocacy to effective county-municipal implementation, the continued existence of a Morris 2000 Steering Committee provides a visible billboard for regional perspectives.

Historians are likely to single out MSM(initially the Middlesex-Somerset-Mercer Regional Study Council, more recently The MSM Regional Council) as the lodestar of New Jersey's suburban growth management movement.

MSM, founded in the late 60s, for its first decade provided pleasant intermingling for those Princeton area residents who enjoyed exposure to thoughts on regional, rather than simply municipal, matters. That it survived, during the sterile New Jersey regional planning era of the 70s, was a considerable accomplishment.

The appointment of a professional planner, Sam Hamill, as MSM's Executive Director marked a commitment to a new and expanded role for MSM. The focus remained clearly on regional matters.

First with caution, then with a verve that troubled some among its diverse constituency, MSM became involved in specific advocacy issues. The combative Rubicon was crossed in a now almost forgotten fight with the Stony Brook Regional Sewerage Authority. Still remembered is MSM's fight to scuttle I-95 and shift deauthorized I-95 funds to the Route 1 Corridor.

MSM was still a hole-in-the-wall operation with an image that belied its modest staffing and financing. Harry Sayen provided the political and business savvy that assured an impressive turnout at annual MSM dinners and expanded the informal network of Board of Directors membership. Sam Hamill provided the constant professionalism that accorded credibility to the MSM regional message.

MSM was in the right place at the right time, when development problems along the Route 1 Corridor attracted serious attention. When an imaginative team within the Department of Transportation saw advantages in establishing a Route 1 study group, MSM was the obvious umbrella organization.

This critical issue, together with significant DOT funding, eventually catapulted MSM into the civic forefront of New Jersey regional planning. As the "Princeton area" Route 1 Corridor attracted national attention, MSM grew in State prominence.

MSM, in contrast to so many other civic advocacy groups, was able to leverage and channel its activities with both focus and timely relevance. The results of the Route One Corridor Committee received broad and serious attention. They also provided the impetus for The Regional Forum, a private sector-financed consortium assessment of the problems and opportunities in New Jersey's rapidly-growing "central corridor".

Separate task forces attacked issues related to: transportation, economic development, environmental/infrastructure, land use, and growth management. These efforts, in turn, enhanced MSM's credibility in the accelerating political-professional discussions on how to deal with New Jersey's suburban growth management problems.

MSM provided counsel to State agencies and legislators in the drafting and revision of landmark bills on State planning, county-municipal relationships, and transportation. MSM also served as public and informal proselytizer of the regional planning dogma.

MSM was a principal catalyst of a remarkable "growth management" happening. On February 28, 1986, over 300 public and private movers-and-shakers attended a day-long New Jersey Growth Management Conference at Princeton University. The power elite sponsorship included The MSM Regional Council, New Jersey Business & Industry Association, The Program for New Jersey Affairs, New Jersey Committee of the Regional Plan Association, and Morris 2000.

An event of similar magnitude was the New Jersey Business & Industry Association's leadership role in establishing New Jersey Future. This umbrella organization, dedicated to the "spirit" of the New Jersey Growth Management Conference, is an unabashed public supporter of the State Planning Commission.

Bruce Coe, President of New Jersey Business & Industry Association, and other prominent members of New Jersey Future's policy and steering committees, were supportive participants at the Commission's initial public hearings.

Many of New Jersey's power elite are now publicly advocating the concept of "growth management" in New Jersey. To date this advocacy, especially within the corporate community, is marked principally by modest financial assistance and by name identification. Few corporations have become involved in the nitty-gritty of transforming a concept into real-world implementation. Nor are possible corporate subagendas revealed in their public postures.

What is abundantly clear is that "growth management" is now recognized as important and fashionable. Few in New Jersey's power elite will choose publicly to oppose the "growth management" movement.

X. Conclusions

XI. Implications

XII. Recommendations

KEITH WHEELOCK

- Principal Consultant on over 70 major relocation-related management consulting assignments*
- Principal, Wheelock Consulting, and President (1976 - 1983), The Fantus Company (then the location-related consulting division of The Dun & Bradstreet Corporation)
- Member, Senior Dun & Bradstreet Management Group (1979 - 1983)
- Executive Vice President-Corporate Rating Activities, Moody's Investors Service (also a D&B company)
- Established Moody's international bond rating service (personally performed the field work and analysis on every prospective sovereign issuer)
- Sloan Fellow, Massachusetts Institute of Technology (1971 - 1972)
- Director, Office of Programs & Policy Analysis, New York City Housing & Development Administration
- Foreign Service Officer, U.S. Department of State (1960 - 1969)
- Researched and wrote *Nasser's New Egypt: A Critical Analysis,* published in 1960 in New York and London. (Graduate-level study of economic geography at Yale and the University of Pennsylvania was relevant to this four-year undertaking)

* **banking . . .** bankers trust, bank of america, chase, chemical, first national bank of boston, morgan guaranty . . . **communications/publishing** . . . at&t, continental telecom, dun & bradstreet, harcourt brace jovanovitch, washington post company . . . **consumer** . . . graybar electric, johnson & johnson, lever brothers, national sea products, pan american world airways, pharmaceutical institute, springs industries . . . **financial** . . . cit, lazard realty, manufacturers hanover leasing, merrill lynch, mitsubishi international, new england life, price waterhouse, prudential . . . **industrial** . . . american can, joseph dixon crucible, dupont, lone star industries, penn central, porter paint, sun petroleum products company . . . **professional associations** . . . american society of heating, refrigerating and air-conditioning engineers, financial executives institute, girl scouts of the usa, independent insurance agents of america, national association of accountants, white & case . . . **high technology** . . . singer, sperry, stromberg-carlson, united technologies

83X

THE TIMES, TUESDAY, FEBRUARY 17, 1987

Growth management 'miracle' needed

KEITH WHEELOCK

Is a "Miracle at Trenton" possible in 1987?

"Miracle at Philadelphia," Catherine Drinker Bowen's magnificent account of the Constitutional Convention of 1787, provides judicious counsel to legislators and others engaged in the current growth management debate in our state.

New Jersey's growth is being badly mismanaged. Current discussions on the New Jersey Department of Transportation (NJDOT)-initiated County-Municipal Planning Partnership Amendments include "master stroke" proposals to provide dominant authority to currently insipid counties. Some municipal "home rule" champions insist on preserving a local "sovereignty" that never has existed, nor ever should. A few seek unbridled power for such state fiefdoms as the NJDOT.

AT TRENTON, just as at Philadelphia, the precipitous concentration of dominant power at one of the three levels of government is politically unviable and, far more important, simply won't work. The more difficult alternative is to negotiate a positive consensus that facilitates a timely imposition of capacity and qualitative constraints on the scope and pace of consumption of New Jersey's irreplaceable land and environmental resources.

In this bicentennial year of the Constitution, Trenton legislators should reflect on the lessons of the "Miracles at Philadelphia," as recorded by Mrs. Bowen:

- "Experience most be our only guide. Reason may mislead us."
- "Alexander Hamilton's plan (was) theoretically better than that which was adopted. But . . . the public opinion of that day never would have tolerated."
- "A republic . . . could not be achieved without mutual sacrifice and a summoning up of men's best, most difficult and most creative efforts."
- "Here was a fusion which owed its validity not least to the dissidents."
- **"THE GREAT STATES** cried out, Where is the danger in the coalition? They insist . . . they never will hurt or injure the lesser states. *I do not, gentlemen, trust you."*
- "He was impulsive, undisciplined, altogether the wild man of the convention . . . by no means foolish in all he said; though he could talk fatuously about 'the rights of free men and free states.'"
- "We grow more and more skeptical as we proceed. If we do not decide soon, we shall be unable to come to any decision."
- "A matter that concerned the public good should be transferred from local to central authority . . . Without disrupting the convention and destroying the Union they could do no more. The time was not yet come."

Keith Wheelock is project director of Managing Growth in New Jersey, a Center for Analysis of Public Issues project funded by the Fund for New Jersey.

GOOD MORNING. MY NAME IS MARTIN HOFLER AND I AM SPEAKING ON BEHALF OF THE COUNTY TRANSPORTATION ASSOCIATION.

THANK YOU FOR ALLOWING THE COUNTY TRANSPORTATION ASSOCIATION THE CHANCE TO COMMENT ON THIS IMPORTANT LEGISLATION.

BEFORE I BEGIN I WOULD LIKE TO SAY HOW IMPORTANT IT IS TO EDUCATE THE PUBLIC ON THE CONCEPT OF REGIONALISM. IN A STRONG HOME RULE STATE, REGIONALISM IS AN OBSCURE CONCEPT. WHEN DEVELOPMENT IN MY TOWN AFECTS TRAFFIC IN ANOTHER TOWN, WE BEGIN TO SEE THE NEED FOR A BETTER MECHANISM TO CONTROL GROWTH.

THE FOLLOWING COMMENTS WERE ENDORSED AT THE JANUARY CTA MEETING.

COUNTY TRANSPORTATION ASSOCIATION POSITION PAPER
ON
TRANSPLAN LEGISLATION

A. MUNICIPAL AND COUNTY PLANNING PARTNERSHIP BILL (S-2626 AND A-3289)

1. THE CTA RECOMMENDS SUPPORT FOR THIS PROPOSED BILL. THERE ARE A NUMBER OF PROVISIONS IN THE PROPOSED LEGISLATION WHICH WOULD GREATLY IMPROVE THE EFFECTIVENESS OF COUNTY PLANNING STATE-WIDE. NOTABLY, THE BILL WOULD REQUIRE ALL COUNTIES TO ESTABLISH A PLANNING BOARD. IT REQUIRES ALSO THAT ALL PLANNING BOARDS PREPARE A MASTER PLAN, AN OFFICIAL MAP AND A CAPITAL IMPROVEMENT PROGRAM. IN ADDITION, THE PROPOSED LEGISLATION PROVIDES FOR ADDITIONAL COUNTY RESPONSIBILITY REGARDING REGIONAL INFRASTRUCTURE PLANNING AND INCLUDES LANGUAGE WHICH WOULD APPARENTLY DO AWAY WITH THE RATIONAL NEXUS REQUIREMENT. THESE ARE ALL ITEMS THAT THE COMMITTEE FEELS ARE IMPORTANT AND CERTAINLY WORTHY OF FULL SUPPORT.

REGARDING SPECIFIC PROVISIONS OF THE BILL, THE COMMITTEE RECOMMENDS THE FOLLOWING:

2. IN THE SECTION OF THE LEGISLATION OUTLINING PROCEDURES TO BE FOLLOWED IN ADOPTING A COUNTY MASTER PLAN, THERE IS A PROVISION THAT CERTIFIED COPIES OF THE PLAN SHOULD BE PROVIDED TO THE MUNICIPALITY WITHIN THE COUNTY. THE CTA RECOMMENDS THAT THIS BE EXPANDED TO REQUIRE NOTIFICATION TO INFRASTRUCTURE- RELATED AGENCIES SUCH AS PRIVATE WATER COMPANIES WHICH PROVIDE SERVICES TO THE COUNTY. IN ADDITION, NOTICE TO THE STATE PLANNING AS THE REGIONAL METROPOLITAN PLANNING ORGANIZATIONS, NEW JERSEY TRANSIT,

ACTION WITHIN THE 45 DAYS WITH ADDITONAL EXTENSIONS POSSIBLE).

- UPON RECEIPT OF APPROVAL, DISAPPROVAL OR CONDITIONAL APPROVAL, THE TOWNS SHOULD BE PERMITTED TO BEGIN THEIR APPROVAL. (THE CURRENT VERSION APPEARS TO REQUIRE THE APPLICANT TO RECEIVE FINAL APPROVAL BEFORE A MUNICIPALITY COULD BEGIN ITS REVIEW).

- FINAL APPROVAL BY THE MUNICIPALITY CANNOT BE GRANTED UNTIL FINAL COUNTY APPROVAL. (THIS IS REQUIRED IN THE PROPOSED BILL).

THE CTA RECOMMENDS THAT A PROVISION BE INCLUDED IN THE PROPOSED BILL INDICATING THAT THE COUNTY APPROVALS SHOULD EXTEND FOR THE SAME TIME PERIOD, WITH THE SAME PROVISIONS FOR EXTENSION, THAT ARE CURRENTLY PROVIDED TO THE MUNICIPALITIES IN THE MUNICIPAL LAND USE LAW. SPECIFICALLY, THIS WOULD REQUIRE THAT THE COUNTY'S APPROVAL WOULD RUN FOR A TWO YEAR PERIOD WITH THREE, ONE YEAR EXTENSIONS POSSIBLE.

6. REGARDING THE PROVISIONS OF THE BILL WHICH PROVIDE FUNDING TO THE COUNTIES TO BE USED IN MEETING THE RESPONSIBILITIES OF THE ACT, THE CTA RECOMMENDS THAT THE FORMULA TO BE USED INCLUDE CONSIDERATION OF THE NUMBER OF DEVELOPMENT APPROVALS ISSUED IN THE PREVIOUS YEAR AND OF THE POPULATION DENSITY OF THE RESPECTIVE COUNTIES. THE CURRENT LANGUAGE PROVIDES FOR A 2,000,000 APPROPRIATION. EACH COUNTY WOULD BE ALLOCATED $30,000 FROM THIS APPROPRIATION. THE REMAINDER OF THE APPROPRIATION ($1,370,000) WOULD BE DIVIDED ON THE BASIS OF POPULATION AND LAND AREA OF THE COUNTIES.

THE CTA ALSO RECOMMENDS THAT EACH COUNTY CAREFULLY REVIEW THE PROVISIONS OF THE NEW BILL WHICH REQUIRE COUNTY PLANNING BOARD TO

DEP, ETC.).

3. IN THE PROVISION DEFINING DEVELOPMENT OF POTENTIAL REGIONAL SIGNIFICANCE, THE CTA RECOMMENDS CHANGING THE PHRASE "FRONTS ON A COUNTY ROAD..."TO "AFFECTS A COUNTY ROAD..."

4. REGARDING THE SECTION WHICH OUTLINES THE DEVELOPMENT REVIEW PROCEDURES, THE CTA RECOMMENDS THAT A DEFINITION BE PROVIDED FOR THE TERM "CERTIFICATION." IN ADDITION, THE CTA RECOMMENDS THAT A SEVEN DAY PERIOD BE REQUIRED FOR NOTIFICATION OF DEP, DOT, ADJOINING COUNITES AND MUNICIPAL APPROVING AUTHORITIES. THE CURRENT LANGUAGE REQUIRES VARYING TIME PERIODS RANGING FROM THREE DAYS FOR NOTIFICATIONS TO THE STATE AGENCIES, FIVE DAYS FOR ADJOINING COUNTIES AND MUNICIPALITIES AND SEVEN DAYS FOR THE COUNTY TO CERTIFY WHETHER THE DEVELOPMENT IS OF REGIONAL SIGNIFICANCE. FINALLY, THE COMMITTEE FEELS THAT THE SECTION OUTLINING DEVELOPMENT REVIEW REQUIREMENTS IS CONFUSING. IT IS OUR RECOMMENDATION THAT THE PROCESS GENERALLY BE AS FOLLOWS:

- COUNTY PLANNING BOARD RECEIVES DEVELOPMENT APPLICATION
- WITHIN SEVEN DAYS, THE COUNTY PLANNING BOARD MUST REVIEW THE APPLICATION AND DEEM IT TO BE COMPLETE FOR REVIEW AND OF POTNETIAL REGIONAL SIGNIFICANCE OR INCOMPLETE REQUIRING ADDITIONAL INFORMATION FROM THE APPLICANT. (THE LANGUAGE IN THE PROPOSED BILL IS CONFUSING REGARDING COUNTY CERTIFICATION OF COMPLETENESS).

3. UPON THE CERTIFICATION THAT THE PROPOSED DEVELOPMENT IS OF POTENTIAL REGIONAL SIGNIFICANCE, THE COUNTY PLANNING BOARD HAS 45 DAYS TO REVIEW THE APPLICATION AND ISSUE AN APPROVAL, DISAPPROVAL OR APPROVAL LISTING CONDITIONS REQUIRED FOR FINAL APPROVAL. (THE CURRENT LANGUAGE SEEMS TO REQUIRE FINAL COUNTY

PREPARE CAPITAL IMPROVEMENT PROGRAMS. IN THE OPINION OF THE COMMITTEE THESE REQUIREMENTS GO BEYOND WHAT MIGHT NORMALLY BE CONSIDERED THE FUNCTION OF THE COUNTY PLANNING BOARD, AND WHILE THE CTA WOULD NOT RECOMMEND OPPOSITION TO OPPOSE THIS SECTION OF THE BILL, THE CTA WOULD RECOMMEND THAT EACH COUNTY CAREFULLY REVIEW THIS MATTER AND DISCUSS IT WITH THEIR GOVERNING BODY.

PROVISIONS SHOULD BE GIVEN FOR RECERTIFICATION IF A MUNICIPALITY GRANTS A DEVELOPER A ZONING CHANGE OR A VARIANCE THAT WILL MAKE A DEVELOPMENT ONE OF POTENTIAL REGIONAL SIGNIFICANCE.

B. THE STATE REGIONAL PLANNING COMMISSION AND THE DEPARTMENT OF COMMUNITY AFFAIRS PROVIDES RESOURCES AND TECHNICAL ASSISTANCE TO COUNTIES AND MUNICIPALITIES. THEY SHOULD HAVE A ROLE IN THE PROGRAMS PROPOSED IN THIS LEGISLATION.

B. STATE HIGHWAY ACCESS MANAGEMENT ACT (S-2627 and A-3291)

1. THE CTA RECOMMENDS THAT ASSOCIATION SUPPORT THIS PROPOSAL. WE WOULD ALSO SUGGEST THAT THE LEGISLATION PROVIDE THE COUNTY PLANNING BOARDS WITH AN OPPORTUNITY TO HAVE INPUT IN ESTABLISHING THE STATE CRITERIA WHICH ARE TO BE USED IN MAKING DECISIONS ACCORDING TO THE PROVISIONSS OF THE ACT. FURTHER, PROVISIONS SHOULD BE MADE IN THE LEGISLATION TO PROVIDE FUNDING EITHER THROUGH AN APPROPRIATION BY THE LEGISLATURE OR THROUGH A PROVISION PERMITTING THE COUNTIES TO CHARGE A FEE TO OFFSET THE COSTS FOR THESE REVIEWS.

C. NEW JERSEY TRANSPORTATION DEVELOPMENT DISTRICT ACT (S-2628 A-3290)

1. REGARDING THE TRANSPORTATION DEVELOPMENT DISTRICT ACT,

THE CTA AGAIN WOULD RECOMMEND SUPPORT TO THIS BILL. IT IS SUGGESTED THAT THE PROVISIONS IN THE BILL, WHICH OUTLINE THE PROCEDURES TO BE FOLLOWED IN ESTABLISHING A DISTRICT AND ADOPTING THE REQUIRED PLAN, SHOULD BE STREAMLINED. FOLLOWING ARE SUGGESTIONS:

2. THERE IS A PROVISION PROVIDING 90 DAYS FOR DOT REVIEW OF COUNTY RESOLUTIONS ESTABLISHING A DISTRICT. THE COMMITTEE FEELS THIS COULD BE SHORTENED TO 45 DAYS. THERE IS ALSO A PROVISION PROVIDING FOR THE DISTRICT. IT WAS FELT THAT THIS COULD BE REDUCED TO 90 DAYS.

3. THE LEGISLATION CONTINUALLY REFERS TO GROWTH AREAS AND GROWTH CORRIDORS. IF THE FOCUS IS ON DEVELOPING AREAS, IT WILL BE AT THE EXPENSE OF REDEVELOPING URBAN AREAS. MORE SPRAWL MAY RESULT. THERE IS AN OPPORTUNITY HERE TO REDIRECT DEVELOPMENT IN AREAS WHERE INFRASTRUCTURE IS IN PLACE...ESPECIALLY OUR URBAN AREAS. THE USE OF EXISTING TRANSIT SYSTEMS SHOULD BE EMPHASIZED INSTEAD OF EXTENDING BUS ROUTES TO EX-URBAN AREAS WHERE THE COST MAY NOT JUSTIFY THE SERVICE. THEREFORE, IT IS SUGGESTED THAT A REFERENCE TO REDEVELOPMENT OF URBAN AREAS BE INCLUDED IN THE LEGISLATION.

4. THE LEGISLATION SHOULD ALSO BE MODIFIED TO ELIMINATE THE NEED FOR A SPECIFIC AGREEMENT BETWEEN THE COUNTY AND THE DOT FOR EACH PROJECT IDENTIFIED IN THE PLAN. SUCH AGREEMENTS SHOULD ONLY BE REQUIRED WHEN A STATE HIGHWAY IS INVOLVED. IF NO STATE HIGHWAY IS INVOLVED, THE DOT SHOULD SIMPLY RECEIVE NOTIFICATION BEFORE A PROJECT COMMENCES.

5. FOR THOSE DISTRICTS THAT MAY BE ESTABLISHED THAT DO NOT INVOLVE

STATE HIGHWAYS, THE PLANS SHOULD BE EXEMPT FROM THE CERTIFICATION PROCESS OR AT LEAST HAVE A MORE SIMPLIFIED REVIEW.

LASTLY THE CTA RECOMMENDS A PROVISION IN THE BILL TO PROVIDE SEED MONEY TO BE USED IN DEVELOPING THE INITIAL DISTRICT PLANS. IF THE COUNTIES COULD BE FUNDED FOR THE INITIAL COST OF PREPARING THESE PLANS, ANY NESESSARY REVISIONS AND UPDATES COULD BE FUNDED FROM THE MONIES COLLECTED FROM THE DEVELOPERS. ASSUMING A $100,000 COST FOR EACH COUNTY, AN APPROPRIATION OF $2,100, 000 WOULD BE REQUIRED TO PROVIDE THE NECESSARY SEED MONEY.

MARTIN A. HOFLER
ESSEX COUNTY TRANSPORTATION MANAGER