

P U B L I C H E A R I N G

before the

SENATE ENERGY, AGRICULTURE AND ENVIRONMENT COMMITTEE

on

ASSEMBLY, No. 2373

and

ASSEMBLY, No. 2387

(Acts creating a Rahway River Flood Control Authority and
a Green Brook Flood Control Authority.)

Held:
May 15, 1975
Assembly Chamber
State House
Trenton, New Jersey

COMMITTEE MEMBERS PRESENT:

Senator Joseph L. McGahn (Chairman)

Senator Bernard J. Dwyer

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ASSEMBLY, No. 2373

STATE OF NEW JERSEY

INTRODUCED DECEMBER 19, 1974

By Assemblyman GARRUBBO and Assemblywoman WILSON

Referred to Committee on Agriculture and Environment

AN ACT creating a Rahway River Flood Control Authority empowered to plan, acquire, construct, operate and maintain flood control systems, and to undertake certain other flood control functions, providing for the issuance of bonds of the authority, and the terms and security thereof; and creating a Rahway River Flood Control Local Government Committee.

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

1 1. This act shall be known and may be cited as the "Rahway
2 River Flood Control Authority Act."

1 2. It is hereby declared to be in the public interest and to be the
2 policy of the State to foster and promote by all reasonable means
3 the management of the flood plain area of the Rahway river basin
4 so as to minimize flood losses and to prevent the degradation of
5 scenic and historic values, and thus to reduce, and, where possible,
6 ultimately abate the menace to the public health, safety and general
7 welfare resulting from such flooding and degradation. It is the
8 purpose and object of this act to further and implement such
9 policy by:

10 a. Establishing a Rahway River Flood Control Authority to
11 prepare, in cooperation with other governmental agencies, a
12 comprehensive flood control plan for the Rahway river basin, to
13 review plans for flood control submitted by other governmental
14 agencies, to acquire such real property and to plan, acquire, con-
15 struct, maintain, operate or improve such works as may be neces-
16 sary to a comprehensive flood control system, to enter into agree-
17 ments with other governmental agencies regarding the acquisition
18 of real property and the planning, construction, maintenance,
19 operation or improvement of works necessary to a comprehensive

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

20 flood system, to assist the State and the local units in enforcing
21 and meeting the requirements of flood control laws, rules regula-
22 tions and ordinances, and to prevent the degradation of the scenic
23 and historic qualities of the Rahway river and its tributaries; and

24 b. Providing for the financing of the operations of the authority
25 by empowering it to make and collect local annual service charges,
26 to accept gifts, Federal aid and State aid, and to issue bonds as
27 hereinafter provided; and

28 c. Providing for local government participation in the actions
29 and operations of the authority by establishing a local government
30 committee.

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

4 a. "Authority" means the Rahway River Flood Control Au-
5 thority created by this act.

6 b. "Basin" means the following municipalities: in Union county,
7 Clark township, Cranford township, Fanwood borough, Garwood
8 borough, Kenilworth borough, city of Linden, Mountainside
9 borough, city of Plainfield, city of Rahway, Scotch Plains township,
10 Springfield township, city of Summit, Union township*, *town of*
11 *Westfield** and Winfield township; in Middlesex county, Carteret
12 borough, Edison township, Metuchen borough and Woodbridge
13 township; in Essex county, Maplewood township, Millburn town-
14 ship, city of Orange, South Orange village, and the town of West
15 Orange, and the following counties: Union, Essex and Middlesex.

16 c. "Bonds" mean bonds, notes, or other obligations issued or
17 authorized pursuant to this act.

18 d. "Committee" means the Rahway River Flood Control Local
19 Government Committee established by section 9 of this act.

20 e. "Construct" and "construction" shall connote and include
21 acts of construction, reconstruction, replacement, extension, im-
22 provement and betterment of a flood control system.

23 f. "Cost" as applied to a flood control system means the cost of
24 acquisition and construction thereof, including the cost of acquisi-
25 tion of lands, rights-of-way, property rights, easements and inter-
26 ests as deemed necessary by the authority to prevent flooding,
27 either for the purpose of preserving or restoring the flood carrying
28 capacity of such lands or for the purpose of constructing flood
29 control works, the cost of removing or, where necessary, demolish-
30 ing any buildings or structures on land so acquired, and of acquir-
31 ing lands to which such buildings or structures may be moved, the
32 cost of acquiring or constructing and equipping an office of the

33 authority, the cost of machinery furnishings and equipment,
34 financing expenses, reserves, interest or discount on bonds, cost of
35 issuance of bonds, engineering, expenses of research and develop-
36 ment with respect to any flood control system, legal expenses,
37 plans, specifications, surveys, estimates of cost and revenues, work-
38 ing capital, other expenses necessary or incident to determining the
39 feasibility or practicability of acquiring or constructing any such
40 flood control system, administrative and operational expense, and
41 such other expense as may be necessary or incident to the acquisi-
42 tion or construction of the flood control system.

43 g. "Department" means Department of Environmental Pro-
44 tection.

45 h. "Flood" means an overflow or inundation coming from a river
46 or other body of water.

47 i. "Flood control" means the prevention of flood damage by
48 means of natural detention areas or such areas returned to their
49 natural state, warning systems, storage reservoirs, natural or
50 restored detention areas, dikes, diversions, dams, spillways, levees,
51 revetments, drains, ditches, or channel improvements such as
52 widening, deepening, straightening, clearing, sloping, building,
53 filling in and all other alterations.

54 j. "Flood control system" shall mean the plants, structures and
55 other real and personal property acquired, constructed or operated
56 or to be acquired, constructed or operated by the authority for the
57 purposes of flood control and such other plants, structures, con-
58 veyances and any other real and personal property, and rights
59 therein, and appurtenances necessary or useful and convenient for
60 flood control.

61 k. "Governmental agency" means any municipality, any county,
62 the State Government, the Federal Government and any instru-
63 mentality, agency or subdivision thereof.

64 l. "Local annual service charges" mean charges apportioned
65 among the constituent municipalities and counties to defray the
66 annual expenses of the authority and shall be determined and col-
67 lected as provided in sections 10 and 11 of this act and shall be
68 established at such rates that the revenues of the authority will
69 at all times be adequate to pay all expenses of operation and
70 maintenance of the flood control system, including reserves, insur-
71 ance, extensions, and replacements, and to pay punctually the
72 principal of and interest on any bonds and to maintain such reserves
73 or sinking funds therefor as may be required by the terms of any
74 contract of the authority or as may be deemed necessary or
75 desirable by the authority.

76 m. "Local unit" means any county or municipality comprising
77 the local government committee.

78 n. "Person" means and shall include corporations, companies,
79 associations, societies, firms, partnerships, and joint stock com-
80 panies, as well as individuals, and shall also include all political
81 subdivisions of this State or any agencies or instrumentalities
82 thereof.

83 o. "Real property" means lands and improvements thereof or
84 thereon, or any rights or interests therein.

85 p. "Revenue" means all rents, fees and charges, State aid,
86 Federal aid, gifts and local annual service charges for the use and
87 services of the flood control system.

88 q. "Weighted drainage area" means the actual area of a munici-
89 pality or county within the basin adjusted by a runoff factor which
90 accounts for land slope and intensity of land development, and
91 which represents that portion of rainfall which becomes surface
92 runoff. The term herein may be further defined by the authority,
93 provided, any change in definition is determined by using runoff
94 factors published in generally accepted engineering references.

1 4. a. There is hereby established a public body corporate and
2 politic with corporate succession, to be known as the "Rahway
3 River Flood Control Authority." The authority is hereby consti-
4 tuted as an instrumentality of the State exercising public and essen-
5 tial governmental functions to provide for the public health and
6 welfare, and the exercise by the authority of the powers conferred
7 by this act shall be deemed and held to be an essential govern-
8 mental function.

9 b. The authority shall consist of nine members appointed by the
10 Governor after consultation with the committee and with the
11 advice and consent of the Senate for terms of 4 years, except
12 that of the members of the authority first appointed by the
13 Governor two shall serve for 1 year, two for 2 years, two for 3 years
14 and three for 4 years. The members so appointed shall be selected
15 from residents of the basin and shall be chosen so that to the extent
16 practicable, all geographic areas of the basin are represented and
17 so that expertise in the environmental, planning and engineering
18 fields is represented. No member of the committee may be ap-
19 pointed. Each member shall hold office for the term of his appoint-
20 ment and until his successor shall have been appointed and qualified.
21 A member shall be eligible for reappointment. Any vacancy in the
22 membership occurring other than by expiration of term shall be
23 filled in the same manner as the original appointment but for the
24 unexpired term only.

25 c. Each member may be removed from office by the Governor,
26 for cause, after a public hearing, and may be suspended by the
27 Governor pending the completion of such hearing. Each member
28 before entering upon his duties shall take and subscribe an oath
29 to perform the duties of his office faithfully, impartially and justly
30 to the best of his ability. A record of such oaths shall be filed in
31 the office of the Secretary of State.

32 d. No member, officer or employee of the authority shall have or
33 acquire any interest, direct or indirect, in the flood control system
34 or in any property included or planned to be included in the flood
35 control system or in any contract or proposed contract for materials
36 or services to be furnished or used by the authority, but the holding
37 of any office or employment in the government of any county or
38 municipality, except as provided in section 4 b. or any law of the
39 State shall not be deemed a disqualification for membership in or
40 employment by the authority.

41 e. The chairman, who shall be chief executive officer of the
42 authority, shall be elected by the members of the authority from
43 their membership. The authority shall elect a secretary and a
44 treasurer, and the same person may be elected to serve both as
45 secretary and treasurer. The powers of the authority shall be
46 vested in the members thereof in office from time to time, and five
47 members of the authority shall constitute a quorum at any meeting
48 thereof. Action may be taken and motions and resolutions adopted
49 by the authority at any meeting thereof by the affirmative vote of
50 at least five members of the authority, except as indicated in
51 section 10 of this act, when the unanimous vote of the full member
52 ship of the authority is required. No vacancy in the membership
53 of the authority shall impair the right of the remaining members to
54 exercise all the powers and perform all the duties of the authority.

55 f. Each member and the treasurer of the authority shall execute
56 a bond to be conditioned upon the faithful performance of the duties
57 of such member or treasurer, as the case may be, in such form and
58 amount as may be prescribed by the committee. Such bonds shall be
59 filed in the office of the Secretary of State. At all times thereafter
60 the members and treasurer of the authority shall maintain such
61 bonds in full force and effect. All costs of such bonds shall be borne
62 by the authority.

63 g. The members of the authority shall serve without compensa-
64 tion, but the authority shall reimburse its members for actual
65 expenses necessarily incurred in the discharge of their duties.

1 5. a. The authority is hereby authorized and directed to prepare,

2 in consultation with the department and with other governmental
3 agencies, a comprehensive flood control plan for the basin, which
4 shall be directed toward the control of storm waters but shall give
5 due consideration to the related areas of water quality, water
6 supply and scenic and historic qualities. The authority in its plan-
7 ing shall recognize any effects which its plans may have on flood
8 control within the constituent municipalities and counties. The
9 authority shall, prior to adoption, hold an advertised public hearing
10 on said plan in each constituent county and the plan shall be
11 available for public inspection at the office of the authority and at
12 the office of the clerk of each local unit.

13 b. A copy of any proposal to adopt or amend a zoning ordinance,
14 a flood control ordinance, a master plan or an official map by any
15 county or municipality, which would affect any land in the basin,
16 shall be forwarded to the authority for review and comments,
17 however, the approval of the authority shall not be required prior
18 to adoption or amendment.

19 c. The authority is hereby authorized and directed, subject to the
20 limitations of this act and in conformance with its flood control
21 plan, to acquire, in its own name, by purchase, gift, condemnation
22 or otherwise real property and flood control structures to imple-
23 ment, construct, operate, maintain and use a flood control system.
24 Such system shall be designed to provide an effective, environ-
25 mentally protective and satisfactory method for promoting the
26 purposes of the authority. The authority may issue its bonds
27 to finance such a flood control system, payable from the revenues
28 and other funds of the authority.

29 d. Any real property acquired by the authority for use as
30 natural detention areas or constructed dry detention basins may be
31 turned over to the respective county park agencies for development
32 as park land or for preservation as open space and for maintenance.

33 e. The authority shall submit an environmental impact state-
34 ment to the department for approval before undertaking or
35 agreeing to undertake any construction of a flood control system
36 and affirmatively demonstrate compliance with all State and local
37 environmental protection requirements. The authority shall pre-
38 pare the statement in accordance with guidelines established by the
39 department and the statement shall include the record of a public
40 hearing to be held at such time and place as shall be convenient for
41 residents of the area in which the project is proposed to be located.
42 The authority shall make available prior to such hearing informa-
43 tion concerning such project to any interested party who wishes to
44 submit comments at such public hearing.

45 f. The authority is hereby authorized and directed, when in its
46 judgment its flood control system or any part thereof will benefit,
47 to regulate within the basin any and all bodies of water which
48 are potential sources of flooding in such manner and in accordance
49 with the other provisions of this act as to promote the purposes of
50 the authority. Regulation shall include assisting the department to
51 delineate and mark flood hazard areas and assisting in the enforce-
52 ment of any rules or regulations promulgated by the State pursuant
53 to P. L. 1972, c. 185 and any flood control ordinance adopted by any
54 constituent municipality. In the development of the flood control
55 system the authority is further directed to concern itself with the
56 special water pollution problems arising after the occurrence of
57 heavy rains.

1 6. Except as otherwise limited by this act, the authority shall
2 have power:

3 a. To sue and be sued.

4 b. To have an official seal and alter the same at pleasure.

5 c. To make and alter bylaws for its organization and internal
6 management and for the conduct of its affairs and business, which
7 bylaws shall be available for inspection at the office of the authority
8 and at the office of the clerk of each constituent municipality.

9 d. To draw up and adopt an annual budget subject to the provi-
10 sions of section 10 of this act.

11 e. To make, amend, repeal and enforce resolutions for carrying
12 its powers into effect.

13 f. To maintain an office at such place or places within the State
14 as it may determine.

15 g. To acquire, lease as lessee or lessor, rent, hold, use and dis-
16 pose of real or personal property for its purposes.

17 h. To borrow money and to issue its negotiable bonds and to
18 secure the same by a mortgage on its property or any part thereof
19 and otherwise to provide for and secure the payment thereof and to
20 provide for the rights of the holders thereof.

21 i. To make and collect local annual service charges subject to
22 the provisions of sections 10 and 11 of this act.

23 j. To procure insurance against any losses in connection with
24 its property, operations or assets in such amounts and from such
25 insurers as it deems desirable.

26 k. Subject to any agreement with bondholders to invest moneys
27 of the authority not required for immediate use, including proceeds
28 from the sale of any bonds, in such obligations, securities and other
29 investments as are permitted by law for municipalities, counties
30 and school districts.

31 l. To appoint and employ an executive director and such addi-
32 tional officers who need not be members of the authority and
33 accountants, financial advisors or experts and such other or
34 different officers, agents and employees as it may require and deter-
35 mine their qualifications, terms of office, duties and compensation,
36 all without regard to the provisions of Title 11, Civil Service, of the
37 Revised Statutes, except that it is the express intent of the Legis-
38 lature that the authority within its discretion shall utilize to the
39 fullest extent feasible the services of the officers, personnel and
40 consultants of the constituent counties and municipalities.

41 m. To contract for and to accept any gifts or grants or loans of
42 funds or property or financial or other aid in any form from the
43 United States of America or any agency or instrumentality thereof,
44 or from the State or any agency, instrumentality or political sub-
45 division thereof, or from any other source and to comply, subject
46 to the provisions of this act, with the terms and conditions thereof.

47 n. To acquire, for the purposes of flood control and subject to
48 the provisions of any other statute, in the name of the authority
49 by purchase or otherwise, on such terms and conditions and in
50 such manner as it may deem proper, or except with respect to
51 property owned by the State, or its political subdivisions, by the
52 exercise of the power of eminent domain, any land and other prop-
53 erty within the basin, which it may deem is clearly necessary for
54 any of its projects, and any and all rights, title and interest in
55 such land and other property, including, provided there is no
56 prudent and feasible alternative, public lands, reservations, high-
57 ways or parkways, owned by or in which the State or any county,
58 municipality, public corporation, or other political subdivision of
59 the State has any right, title or interest, or parts thereof or rights
60 therein and any fee simple absolute or any lesser interest in private
61 property, and any fee simple absolute in, easements upon or the
62 benefit of restrictions upon, abutting property to preserve and
63 protect any such project.

64 o. To enter on any lands, waters or premises for the purpose of
65 making surveys, borings, soundings and examinations for the
66 purposes of the authority.

67 p. To do and perform any acts and things authorized by the act
68 under, through, or by means of its officers, agents or employees or
69 by contracts with any person, firm or corporation.

70 q. To establish and enforce rules and regulations for the use or
71 operation of its projects or the conduct of its activities, and pro-
72 vide for the policing and the security of its projects.

73 r. In addition to the other powers conferred by this act or by

74 any other law and not in limitation thereof, the authority in con-
 75 nection with the construction or operation of any of its projects,
 76 improvements, or activities, shall have power to make reasonable
 77 regulations for the installation, construction, maintenance, repair,
 78 renewal, relocation and removal of tracks, pipes, mains, conduits,
 79 cables, wires, towers, poles, or any other equipment and appliances.
 80 Whenever the authority shall determine that in any project im-
 81 provement or operation it is necessary that facilities, which are,
 82 or hereafter may be, located in, on, along, over or under such real
 83 property, including public lands, waters, parks, roads, streets,
 84 highways, playgrounds and reservations, should be relocated in
 85 such real property, including public lands, waters, parks, roads,
 86 streets, highways, playgrounds and reservations, or should be
 87 removed therefrom, the public utility owning or operating such
 88 facilities shall relocate or remove the same in accordance with the
 89 order of the authority***];** provided, however, that the cost and
 90 expenses of such relocation or removal, including the cost of in-
 91 stalling such facilities in a new location, or new locations, and the
 92 cost of any lands or any rights or interest in lands or any other
 93 rights acquired to accomplish such relocation or removal, less the
 94 cost of any lands or any rights or interests in lands or any other
 95 rights of the public utility paid to the public utility in connection
 96 with the relocation or removal of such property, shall be paid by
 97 the authority and may be included in the cost of such projects,
 98 improvements or operations. In case of any relocation or removal
 99 of facilities, as aforesaid, the public utility owning or operating
 100 the same, its successors or assigns, may maintain and operate such
 101 facilities, with the necessary appurtenances, in the new location or
 102 new locations for as long a period, and upon the same terms
 103 and conditions, as it had the right to maintain and operate such
 104 facilities in their former location**]*.**

105 s. To do any and all things necessary or convenient to carry out
 106 its purpose in accordance with the powers expressly given and
 107 granted in the act.

1 7. The authority may establish such reserves, funds or accounts
 2 as may be, in its discretion, necessary or desirable to further the
 3 accomplishment of the purposes of the authority or to comply with
 4 the provisions of any agreement made by or any resolution of the
 5 authority.

1 8. Upon the exercise of the power of eminent domain, the com-
 2 pensation to be paid thereunder shall be ascertained and paid in
 3 the manner provided in P. L. 1971, c. 367 (C. 20:3-1 et seq.) and
 4 the authority is hereby authorized to file with the clerk of the

5 Superior Court a declaration of taking in the manner provided in
6 said act.

1 9. a. There is hereby established a Rahway River Flood Control
2 Local Government Committee, the membership of which shall con-
3 sist of the mayor or chief executive of each municipality in the
4 basin, or his designated alternate, who shall be a member of the
5 municipal environmental commission in those municipalities where
6 such commissions have been established, and the chairmen of the
7 Union, Essex and Middlesex county planning boards, or their
8 designated alternates.

9 b. The committee shall hold its first meeting as soon as possible
10 after the approval of this act.

11 c. A majority of the membership of the committee shall consti-
12 tute a quorum for the transaction of committee business. Action,
13 except as otherwise specifically provided herein, may be taken and
14 motions and resolutions adopted by the committee at any meeting
15 thereof by the affirmative vote of a majority of the full member-
16 ship of the committee. The committee shall elect from its member-
17 ship a liaison-subcommittee consisting of five members. It shall
18 be the purpose of the liaison-subcommittee to act as liaison be-
19 tween the authority and the committee.

20 d. The committee shall meet regularly as it may determine, and
21 may also meet at the call of the executive director of the authority.

22 e. The committee shall appoint a chairman from among its
23 members and such other officers as may be necessary.

24 f. Members of the committee shall serve without compensation,
25 and each member shall serve only so long as he holds the office
26 which entitles him to committee membership or, if the member is an
27 alternate, only so long as the official who designated him remains
28 in office. The committee may reimburse its members for necessary
29 expenses incurred in the discharge of their duties.

1 10. a. The authority shall submit to the committee for review,
2 at least 45 days prior to final action thereon, the annual budget,
3 the local annual service charge, the method for apportioning the
4 local annual service charge and any proposed bond resolution.

5 b. The authority shall conduct a public hearing concerning the
6 annual budget, the local annual service charge, the method for
7 apportioning the local annual service charge and any proposed
8 bond resolution at least 45 days prior to final action thereon.

9 c. The committee shall review matters submitted to it by the
10 authority pursuant to this section and shall indicate its position
11 in writing to the authority. The committee may reject or modify the

12 annual budget, the local annual service charge, and the method for
 13 apportioning the local annual service charge and any proposed bond
 14 resolution by an affirmative vote of ~~*[two-thirds]~~ *a majority*
 15 of the full committee, provided, however, the local annual service
 16 charge shall be established at such rates that the revenues of the
 17 authority will at all times be adequate to pay all expenses of opera-
 18 tion and maintenance of the flood control system, including reserves,
 19 insurance, extensions, and replacements, and to pay punctually the
 20 principal of and interest on any bonds and to maintain such
 21 reserves or sinking funds therefor as may be required by the terms
 22 of any contract of the authority.

23 d. Failure of the committee to state its position within 45 days
 24 of the receipt of any matter so referred to the committee shall be
 25 deemed to constitute approval of the proposed action of the
 26 authority.

27 e. The authority shall not take any final action on any matter
 28 required to be submitted to the committee pursuant to this section,
 29 which matter has been formally rejected by the committee, except
 30 by a unanimous vote of the full membership of the authority.

31 f. The committee may make recommendations to the authority
 32 on any matter it deems advisable whether or not such matter was
 33 submitted to said committee by said authority.

1 11. a. The amounts to be raised by the local annual service
 2 charges for the authority shall be certified by the authority after
 3 determination and review as provided in section 10 of this act,
 4 and shall be equitably apportioned among the municipalities and
 5 counties within the basin on the basis of population, or land or
 6 weighted drainage area, or on the basis of apportionment valua-
 7 tions, as defined in R. S. 54:4-49, of the constituent municipalities
 8 or counties, or on any combination thereof, or on any other basis
 9 as may be established by the authority and committee in accordance
 10 with provisions hereof. **In developing and apportioning the local*
 10A *annual service charges the authority shall give due consideration*
 10B *to the flood control expenditures previously incurred by the con-*
 10C *stituent municipalities and counties.**

11 b. The Director of the Division of Local Government Services,
 12 Department of Community Affairs shall not hereafter approve the
 13 municipal or county budget of any municipality or county within
 14 the basin unless adequate provision is made therein to pay the
 15 local annual service charges apportioned to that municipality or
 16 county pursuant to this act.

1 12. The authority shall finance the construction of the flood con-

2 trol system from local annual service charges and other revenues.

1 13. a. The authority shall have the power and is hereby autho-
2 rized to issue its bonds from time to time in such principal amounts
3 as in the opinion of the authority shall be necessary to provide
4 sufficient funds for any of the purposes authorized pursuant to
5 this act, including the payment, funding or refunding of the prin-
6 cipal of, or interest or redemption premiums on, any bonds issued
7 by it whether the bonds or interest to be funded or refunded
8 have or have not become due, the establishment or increase of
9 such reserves to secure or to pay such bonds or interest thereon
10 and all other costs or expenses of the authority incident to and
11 necessary to carry out its purposes and powers.

12 b. Except as may be otherwise expressly provided in the act or
13 by the authority, every issue of bonds shall be general obligations
14 payable out of and secured by any revenues or funds of the au-
15 thority, subject only to any agreements with holders of particular
16 bonds pledging any particular revenues or funds. The authority
17 may issue such types of bonds as it may determine, including
18 (without limiting the generality of the foregoing) bonds as to which
19 the principal and interest are payable (1) from the revenues and
20 funds of the authority generally; or (2) exclusively from the
21 revenues and funds derived from or relating to the project or part
22 thereof financed with the proceeds of such bonds. Any such bonds
23 may be additionally secured by a pledge of any grant, subsidy or
24 contribution from the United States of America or any agency or
25 instrumentality thereof or any person, or pledge of any income
26 or revenues, funds or moneys of the authority from any source
27 whatsoever.

28 c. Whether or not the bonds are of such form and character as
29 to be negotiable instruments under the terms of Title 12A, Com-
30 mercial Transactions, New Jersey Statutes, the bonds are hereby
31 made negotiable instruments within the meaning of and for all the
32 purposes of said Title 12A, subject only to the provisions of the
33 bonds for registration.

34 d. Bonds of the authority shall be authorized by a resolution or
35 resolutions of the authority and may be issued in one or more
36 series and shall bear such date, or dates, mature at such time or
37 times, bear interest at such rate or rates of interest per annum,
38 be in such denomination or denominations, be in such form, either
39 coupon or registered, carry such conversion or registration priv-
40 ileges, have such rank or priority, be executed in such manner,
41 be payable from such sources in such medium of payment at such

42 place or places within or without the State, and be subject to such
43 terms of redemption (with or without premium) as such resolution
44 or resolutions may provide. The bond resolution shall describe in
45 brief and general terms sufficient for reasonable identification the
46 part of the flood control system to be acquired or constructed and
47 shall state the estimated cost of such acquisition or construction.

48 e. The authority shall cause a copy of any bond resolution
49 adopted by it to be filed for public inspection in its office and in
50 the office of clerk of the governing body of the local unit or units
51 and shall thereupon cause to be published in a newspaper published
52 or circulating in the basin a notice stating the fact and date of
53 such adoption and the places where such bond resolution has been
54 so filed for public inspection and also the date of the first publica-
55 tion of such notice.

56 f. The authority shall file a certified copy of every bond resolu-
57 tion as finally passed with the Director of the Division of Local
58 Government Services in the Department of Community Affairs
59 and in addition shall file a certified copy of all bond proceedings
60 with the said director.

61 g. Bonds of the authority may be sold at public or private sale
62 at such price or prices and in such manner as the authority shall
63 determine. Every bond shall mature and be paid not later than 40
64 years from the date thereof.

65 h. Bonds of the authority issued under the provisions of this
66 act shall not be in any way a debt or liability of the State or of
67 any political subdivision thereof other than the authority and
68 shall not create or constitute any indebtedness, liability or obli-
69 gation of the State or of any such political subdivision or be or
70 constitute a pledge of the faith and credit of the State or of any
71 such political subdivision but all such bonds, unless funded or
72 refunded by bonds of the authority, shall be payable solely from
73 revenues or funds pledged or available for their payment as
74 authorized in this act. Each bond shall contain on its face a state-
75 ment to the effect that the authority is obligated to pay the princi-
76 pal thereof or the interest thereon only from revenues or funds
77 of the authority and that neither the State nor any political sub-
78 division thereof is obligated to pay such principal or interest and
79 that neither the faith and credit nor the taxing power of the State
80 or any political subdivision thereof is pledged to the payment of
81 the principal of or the interest on such bonds.

82 i. All expenses incurred in carrying out the provisions of this
83 act shall be payable solely from revenues or funds provided or

84 to be provided under the provisions of this act and nothing in this
85 act shall be construed to authorize the authority to incur any
86 indebtedness or liability on behalf of or payable by the State or
87 any political subdivision thereof.

1 14. In any resolution of the authority authorizing or relating to
2 the issuance of any bonds the authority, in order to secure the
3 payment of such bonds and in addition to its other powers, shall
4 have power, by provisions therein which shall constitute covenants
5 by the authority and contracts with the holders of such bonds:

6 a. To pledge all or any part of its rents, revenues or receipts to
7 which its right then exists or may thereafter come into existence,
8 and the moneys derived therefrom, and the proceeds of any bonds.

9 b. To pledge any lease or other agreement or the rents or other
10 revenues thereunder and the proceeds thereof.

11 c. To mortgage all or any part of its property, real or personal,
12 then owned or thereafter to be acquired.

13 d. To covenant against pledging all or any part of its rents, fees,
14 tolls, revenues or receipts or its leases or agreements or rents
15 or other revenues thereunder or the proceeds thereof, or against
16 mortgaging all or any part of its real or personal property then
17 owned or thereafter acquired, or against permitting or suffering
18 any lien on any of the foregoing.

19 e. To covenant with respect to limitations on any right to sell,
20 lease or otherwise dispose of any project or any part thereof or any
21 property of any kind.

22 f. To covenant as to any bonds to be issued and the limitations
23 thereon and the terms and conditions thereof and as to the custody,
24 application, investment, and disposition of the proceeds thereof.

25 g. To covenant as to the payment of the principal of or interest
26 on the bonds, or any other obligations, as to the sources and
27 methods of such payment, as to the rank on priority of any such
28 bonds with respect to any lien or security or as to the acceleration
29 of the maturity of any such bonds.

30 h. To covenant as to the issuance of additional bonds or as to
31 limitations on the issuance of additional bonds and on the incurring
32 of other debts by it.

33 i. To provide for the replacement of lost, stolen, destroyed or
34 mutilated bonds.

35 j. To covenant against extending the time for the payment of
36 bonds or interest thereon.

37 k. To covenant as to the redemption of bonds and privileges of
38 exchange thereof for other bonds of the authority.

39 l. To covenant as to the revenues to be raised each year and as
40 to the use and disposition to be made thereof.

41 m. To covenant to create or authorize the creation of special
42 funds or moneys to be held in pledge or otherwise for construction,
43 operating expenses, payment or redemption of bonds, reserves or
44 other purposes and as to the use, investment, and disposition of the
45 moneys held in such funds.

46 n. To establish the procedure, if any, by which the terms of any
47 contract or covenant with or for the benefit of the holders of bonds
48 may be amended or abrogated, the amount of bonds the holders of
49 which must consent thereto, and the manner in which such consent
50 may be given.

51 o. To covenant as to the construction, improvement, or maintenance of its real and personal property, the replacement thereof,
52 the insurance to be carried thereon, and the use and disposition of
53 insurance moneys.

54 p. To provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and
55 to reserve rights and powers in, or the right to dispose of, property
56 which is subject to a pledge or mortgage.

57 q. To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation
58 and to prescribe the events of default and the terms and conditions
59 upon which any or all of the bonds of the authority shall become
60 or may be declared due and payable before maturity and the terms
61 and conditions upon which any such declaration and its consequences may be waived.

62 r. To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority
63 may determine, including the right to foreclose any mortgage, and
64 to limit the rights, duties and powers of such trustee.

65 s. To execute all mortgages, bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise
66 of its powers or in the performance of its covenants or duties.

67 t. To pay the costs or expenses incident to the enforcement of such bonds or of the provisions of such resolution or of any covenant or agreement of the authority with the holders of its bonds;
68 and

69 u. To limit the rights of the holders of any bonds to enforce any pledge or covenant securing bonds.

70 v. To make covenants other than in addition to the covenants herein expressly authorized, of like or different character, and to

81 make such covenants to do or refrain from doing such acts and
82 things as may be necessary, or convenient and desirable, in order
83 to better secure bonds or notes or which, in the absolute discretion
84 of the authority, will tend to make bonds or notes more marketable,
85 notwithstanding that such covenants, acts or things may not be
86 enumerated herein.

1 15. Any pledge of revenues, moneys, funds or other property
2 made by the authority shall be valid and binding from the time
3 when the pledge is made. The revenues, moneys, funds or other
4 property so pledged and thereafter received by the authority,
5 unless otherwise agreed, shall immediately be subject to the lien of
6 such pledge without any physical delivery thereof or further act,
7 and the lien of any such pledge shall be valid and binding as against
8 all parties having claims of any kind in tort, contract or otherwise
9 against the authority, irrespective of whether such parties have
10 notice, thereof. Neither the resolution nor any other instrument
11 by which a pledge of revenues, moneys or funds is created need be
12 filed or recorded except in the records of the authority and as
13 otherwise expressly required herein.

1 16. Neither the members of the authority nor any person exe-
2 cuting bonds issued pursuant to this act shall be liable personally
3 on such bonds by reason of the issuance thereof.

1 17. The State of New Jersey does hereby pledge to and covenant
2 and agree with the holders of any bonds issued pursuant to
3 authority of the act that the State will not limit or alter the rights
4 or powers hereby vested in the authority to acquire, construct,
5 maintain, improve, and repair any flood control system in any way
6 which would jeopardize the interest of such holders, or to perform
7 and fulfill the terms of any agreement made with the holders of
8 such bonds, or to fix, establish, charge and collect such rents, fees,
9 rates or other charges as may be convenient or necessary to produce
10 sufficient revenues to meet all expenses of the authority and fulfill
11 the terms of any agreement made with the holders of such bonds,
12 together with interest thereon, with interest on any unpaid install-
13 ments of interest, and all costs and expenses in connection with
14 any action or proceedings by or on behalf of such holders, until
15 the bonds, together with interest thereon, are fully met and dis-
16 charged or provided for.

1 18. The State and all public officers, governmental units and
2 agencies thereof, all banks, trust companies, savings banks and
3 institutions, building and loan associations, savings and loan asso-
4 ciations, investment companies, and other persons carrying on a

5 banking business, all insurance companies, insurance associations
6 and other persons carrying on an insurance business, and all
7 executors, administrators, guardians, trustee and other fiduciaries,
8 may legally invest any sinking funds, moneys or other funds
9 belonging to them or within their control in any bonds issued pur-
10 suant to this act, and such bonds shall be authorized security for
11 any and all public deposits.

1 19. Any governmental entity, notwithstanding any contrary
2 provision of law, except any requiring notice or public hearing, may
3 lease, lend, grant or convey to the authority at its request upon
4 such terms and conditions as the governing body or other proper
5 authority of such governmental entity may deem reasonable and
6 fair and without the necessity for any advertisement, order of court
7 or other action or formality, other than the ordinance, resolution
8 or regular action thereof, any real property or interest therein
9 which may be necessary to the effectuation of the purposes of the
10 authority.

1 20. Every project, when constructed and placed in operation,
2 shall be maintained and kept in good condition and repaired by the
3 authority and shall be subject to all orders and applicable acts,
4 rules and regulations of the department. Every such project shall
5 be operated by such operating employees as the authority may in
6 its discretion employ or pursuant to a contract or lease with a
7 governmental agency or person.

1 21. Any governmental agency or combination thereof may
2 cooperate with the authority in the acquisition or construction of
3 a project and shall enter into such agreements with the authority
4 as are necessary, with a view to effective cooperative action and
5 safeguarding of the respective interests of the parties thereto,
6 which agreements shall provide for such contributions by the
7 parties thereto in such proportion as may be agreed upon and such
8 other terms as may be mutually satisfactory to the parties including
9 without limitation the authorization of the construction of the
10 project by one of the parties acting as agent for all of the parties
11 and the ownership and control of the project by the authority to
12 the extent necessary or appropriate for purposes of the issuance
13 of bonds by the authority. Any governmental agency may provide
14 such contribution as is required under such agreements by the
15 appropriation of money or, if otherwise authorized by law to issue
16 bonds or levy taxes or assessments and issue bonds in anticipation
17 of the collection thereof, by the issuance of bonds or by the levying
18 of taxes or assessments and the issuance of bonds in anticipation

19 of the collection thereof, and by the payment of such appropriated
20 money or the proceeds of such bonds to the authority pursuant to
21 such agreements.

1 22. On or before the last day of February in each year the
2 authority shall make an annual report of its activities for the
3 preceding calendar year to the Governor, to the Legislature, to the
4 Union, Essex and Middlesex county freeholder boards and to the
5 governing body of each constituent municipality. Each such report
6 shall set forth a complete operating and financial statement cover-
7 ing its operations during the year and shall include a description
8 and analysis of the progress of flood control within the basin.
9 The authority shall cause an audit of its books and accounts to be
10 made at least once in each year by certified public accountants and
11 the cost thereof shall be considered an expense of the authority and
12 a copy thereof shall be filed with the Comptroller of the Treasury.

1 23. All officials and agencies of the State and of the concerned
2 counties and municipalities are hereby authorized and empowered
3 to render any and all of such services to the authority as may be
4 within the area of their respective governmental functions as fixed
5 or established by law, and as may be requested by the authority.
6 The cost and expense of any such services shall be met and pro-
7 vided for by the authority.

1 24. No contract on behalf of the authority shall be entered into
2 for the doing of any work, or for the hiring of equipment or
3 vehicles, where the sum to be expended exceeds the sum of \$2,500.00
4 unless the authority shall first publicly advertise for bids therefor,
5 and shall award the contract to the lowest responsible bidder;
6 provided, however, such advertising shall not be required where
7 the contract to be entered into is one for the supplying of any
8 product or the rendering of any service by a public utility subject
9 to the jurisdiction of the Public Utilities Commission and tariffs
10 and schedules of the charges, made, charged, or exacted by the
11 public utility for any such products to be supplied or services to
12 be rendered are filed with said commission. This section shall not
13 prevent the authority from having any work done by its own
14 employees, nor shall it apply to repairs, or to the furnishing of
15 materials, supplies or labor, or the hiring of equipment or vehicles,
16 when the safety or protection of its or other public property or the
17 public convenience require, or the exigency of the authority's
18 service will not admit of such advertisement. In such case the
19 authority shall, by resolution, passed by the affirmative vote of
20 a majority of its members, declare the exigency or emergency to

21 exist, and set forth in the resolution the nature thereof and the
22 approximate amount to be so expended.

1 25. All projects and other property of the authority is hereby
2 declared to be public property devoted to an essential public and
3 governmental function and purpose and shall be exempt from all
4 taxes and special assessments of the State or any political sub-
5 division thereof; provided, however, that when any part of the
6 project site not occupied or to be occupied by facilities of the
7 project is leased by the authority to another whose property is not
8 exempt and the leasing of which does not make the real estate
9 taxable, the estate created by the lease and the appurtenances
10 thereto shall be listed as the property of the lessee thereof and be
11 assessed and taxed as real estate. All bonds issued pursuant to the
12 act are hereby declared to be issued by a body corporate and public
13 of the State and for an essential public and governmental purpose
14 and such bonds, and the interest thereon and the income therefrom,
15 and all funds, revenues, income and other moneys received or to be
16 received by the authority and pledged or available to pay or secure
17 the payment of such bonds, or interest thereon, shall at all times
18 be exempt from taxation except for transfer, inheritance and estate
19 taxes.

1 26. If any clause, sentence, paragraph, section or part of the act
2 shall be adjudged by any court of competent jurisdiction to be
3 invalid, such judgment shall not affect, impair or invalidate the
4 remainder thereof, but shall be confined in its operation to the
5 clause, sentence, paragraph, section or part thereof directly
6 involved in the controversy in which such judgment shall have
7 been rendered.

1 27. The act shall be construed liberally to effectuate the legisla-
2 tive intent and the purposes of the act for the performance of each
3 and every act and thing herein authorized and all powers herein
4 granted shall be broadly interpreted to effectuate such intent and
5 purposes and not as a limitation of powers.

1 28. The authority may hold discussions with existing sewerage
2 authorities and such other entities that may be established, with
3 the objective of proposing legislation providing for a merger or
4 consolidation of the authorities.

1 29. This act shall take effect immediately.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2387

STATE OF NEW JERSEY

INTRODUCED DECEMBER 19, 1974

By Assemblywoman WILSON, Assemblymen GARRUBBO,
PATERO and HAMILTON

Referred to Committee on Agriculture and Environment

AN ACT creating a Green Brook Flood Control Authority empowered to plan, acquire, construct, operate and maintain flood control systems, and to undertake certain other flood control functions, providing for the issuance of bonds of the authority, and the terms and security thereof; and creating a Green Brook Flood Control Local Government Committee.

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

1 1. This act shall be known and may be cited as the "Green Brook
2 Flood Control Authority Act."

1 2. It is hereby declared to be in the public interest and to be the
2 policy of the State to foster and promote by all reasonable means
3 the management of the flood plain area of the Green Brook Sub-
4 basin so as to minimize flood losses and to prevent the degradation
5 of scenic and historic values, and thus to reduce, and, where possible,
6 ultimately abate the menace to the public health, safety and general
7 welfare resulting from such flooding and degradation. It is the
8 purpose and object of this act to further and implement such
9 policy by:

10 a. Establishing a Green Brook Flood Control Authority to
11 prepare, in cooperation with other governmental agencies, a com-
12 prehensive flood control plan for the Green Brook Subbasin, to
13 review plans for flood control submitted by other governmental
14 agencies, to acquire such real property and to plan, acquire, con-
15 struct, maintain, operate or improve such works as may be
16 necessary to a comprehensive flood control system, to enter into
17 agreements with other governmental agencies regarding the acqui-
18 sition of real property and the planning, construction, maintenance,
19 operation or improvement of works necessary to a comprehensive

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

20 flood system, to assist the State and the local units in enforcing
 21 and meeting the requirements of flood control laws, rules, regula-
 22 tions and ordinances, and to prevent the degradation of the scenic
 23 and historic qualities of the Green Brook and its tributaries; and

24 b. Providing for the financing of the operations of the authority
 25 by empowering it to make and collect local annual service charges,
 26 to accept gifts, Federal aid and State aid, and to issue bonds as
 27 hereinafter provided; and

28 c. Providing for local government participation in the actions
 29 and operations of the authority by establishing a local government
 30 committee.

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

4 a. "Authority" means the Green Brook Flood Control Authority
 5 created by this act.

6 b. "Basin" means the following municipalities: in Union county,
 7 Berkeley Heights township, Fanwood borough, Mountainside
 8 borough, the city of Plainfield, Scotch Plains township, and the
 9 city of Summit; in Somerset county, Bound Brook borough, Bridge-
 10 water township, Green Brook township, North Plainfield borough,
 11 Warren township and Watchung borough; in Middlesex county,
 12 Dunellen borough, Edison township, Metuchen borough, Middlesex
 13 borough, Piscataway township, and South Plainfield borough; and
 14 the following counties: Union, Somerset and Middlesex.

15 c. "Bonds" mean bonds, notes, or other obligations issued or
 16 authorized pursuant to this act.

17 d. "Committee" means the Green Brook Flood Control Local
 18 Government Committee established by section 9 of this act.

19 e. "Construct" and "construction" shall connote and include
 20 acts of construction, reconstruction, replacement, extension,
 21 improvement and betterment of a flood control system.

22 f. "Cost" as applied to a flood control system means the cost of
 23 acquisition and construction thereof, including the cost of acquisi-
 24 tion of lands, rights-of-way, property rights, easements and inter-
 25 ests as deemed necessary by the authority to prevent flooding,
 26 either for the purpose of preserving or restoring the flood carrying
 27 capacity of such lands or for the purpose of constructing flood
 28 control works, the cost of removing or, where necessary, demolish-
 29 ing any buildings or structures on land so acquired, and of
 30 acquiring lands to which such buildings or structures may be
 31 moved, the cost of acquiring or constructing and equipping an
 32 office of the authority, the cost of machinery furnishings and equip-

(Remainder of bill identical to A-2373.)

SENATOR JOSEPH L. MC GAHN (Chairman): Good morning ladies and gentlemen. I am Senator McGahn, and to my left is Senator Dwyer. We are members of the Senate Energy, Agriculture and Environment Committee. The purpose of the hearing this morning is to consider Assembly bills 2373 and 2387 which are Acts creating a Rahway River Flood Control Authority and a Green Brook Flood Control Authority.

The reason, basically, for the public hearing is that our committee has received numerous requests from local officials in the counties that are involved in these particular flood control programs. Because of this, I have been importuned to hold this public hearing.

If Assemblyman Garrubbo will yield, as a male, to Assemblywoman Betty Wilson, we will call on her to be the first witness.

B E T T Y W I L S O N: Good morning Senators. I have prepared a statement, and we are having copies of it run off at this time. As soon as it is put together, we will distribute copies to you, to the press, and to others who wish to have it.

I will speak to A-2387 which is the Green Brook flood bill. The purpose of the Green Brook flood bill is to create an intermunicipal, intercounty body that is charged with the responsibility and given the power to develop flood control systems in the Green Brook Subbasin. The towns included in the Green Brook bill are Berkeley Heights, Bound Brook, Bridgewater Township, Dunellen, Edison, Fanwood, Green Brook, Metuchen, Middlesex, Mountainside, North Plainfield, Plainfield, Piscataway, Scotch Plains, South Plainfield, Summit, Warren Township, and Watchung; and it includes the counties of Union, Middlesex, and Somerset. The nine-member Authority will be appointed by the Governor after consultation with the

Local Government Committee. Authority members must be residents of the Green Brook Subbasin and represent all geographic areas of the basin. You will recall that I have suggested an amendment that would spell that out more specifically, requiring that there be three representatives from each of the counties, and further adding the condition of bipartisan membership by requiring that no more than five persons be representatives of one political party. The Authority is responsible for preparing a flood control plan for the basin and is empowered to review and comment on local and county development, but Authority approval is not required for development to take place. Environmental impact statements approved by the Commissioner of the Department of Environmental Protection are required on all projects.

The bill establishes a Local Government Committee which is comprised of the Mayors of all member municipalities, of, if a Mayor wishes to choose an alternate, he or she will designate an Environmental Commissioner to be that municipality's member. The Local Government Committee also includes the chairpersons of the three county planning boards, for a total of 21 members. The Local Government Committee will review all actions of the Authority and has veto power over the budget, the local annual service charge, the formula for levying the local annual service charge, and bond proposals by a majority vote. That vote can be overridden only by a unanimous Authority vote.

Revenues will be raised by the local annual service charge, from the receipt of federal aid, from state aid, and through bonds. The formula for levying the local annual service charge shall be apportioned among the municipalities and counties on the basis of population, or land, or weighted drainage area, or on the basis of apportionment valuations or any combination thereof, or other means decided upon.

The point there is to provide flexibility in terms of deciding on a formula while, at the same time, indicating the consideration that ought to be made. Each community or county ought to pay to the extent that it contributes to the flooding. It should be noted that that formula will be decided upon by the Authority, and the Local Government Committee will have to approve it.

Open access to information is provided through requirements to advertise the budget and hold public hearings on plans, on the environmental impact statement, on the budget, on the local annual service charge, on the formula for levying the local annual service charge, and on bonds. Copies of the flood control plan shall be available in the Authority's office and in the office of the clerk of each municipality or county in the Authority. The Authority is further required to make an annual report to the Governor, the Legislature, the Freeholders, and each municipality.

Environmental controls are written into the bill in the form of the requirement for an environmental impact statement and further direction that the plan shall be environmentally protective. The bill suggests that natural detention basins should be considered as one form of flood control. The Governor must consider environmental expertise as well as planning and engineering skills in making appointments to the Authority, and the Local Government Committee includes the chairpersons of the county planning boards as well as Environmental Commissioners, should Mayors choose alternates.

If this bill becomes law, we will have an ability to act on the problem of flood control. Under present law, there is no means to reach conclusive decisions on plans nor on implementation of those plans. We now have a situation where we are unable to act for years at a time because we are dependent upon the willing cooperation of

participating communities, and we cheer when we finally get grudging, conditional agreement that is probably meaningless because of the conditions attached to it. Yet, there is nothing to cheer about, even if agreement were absolute, because it is only agreement to one step. If it takes two years to reach agreement on each step, we will be 100 years down the road and still have done nothing about the flooding in the Green Brook Subbasin. If we don't have an agency that has a capacity to act, we will have no body to carry forward the plan, and we will have no body to maintain whatever is developed afterward. Whatever is developed, the final product, becomes the responsibility of the local municipalities or counties involved, and we will not have any functioning agency, if we don't have such an agency as this bill creates, to maintain anything that is developed if, by some miracle, we are able to do that.

Frankly, I don't think we could ever get to that point. I think we only have to look at the Passaic River Basin as an example of our inability to act because we don't have the vehicle to act. The Passaic River Basin has been having flooding, and plans have been pending for 40 years. Despite the severe ravages of flooding of the Passaic River, there has been no ability to resolve or to act, and I attribute that to the fact that there is no agency empowered to act.

Under present law, we are paralyzed by inaction.

This bill, I believe, is model flood control legislation. It was developed in cooperation with the Department of Environmental Protection, the Governor's office, other legislators, and members of my staff. It is a bill that can be used for any flood basin in the State just by changing the towns and is, in fact, being used for the Rahway River bill which is also the subject of this hearing.

The Legislative Committee of the Green Brook Flood Control Commission found A-2387 the "only legislative bill worthy of consideration" when they did a review of other bills that might be under consideration by this committee.

There are some commonly asked questions about A-2387. For instance, some have asked me, "Does this bill take away home rule?" No, it does not take away home rule. The bill establishes the Local Government Committee that is made up of the 18 Mayors or their alternates and the chairpersons of the three county planning boards. They have the power of veto over the budget, the local annual service charge, the formula for levying it, and bond proposals. Authority members must also live in the basin. So I think it is a very clear vehicle that incorporates strong local control and home rule.

"How will communities pay for work done by the Authority?" is another question that has been asked of me. There will be a local annual service charge levied on the basis of the factors that I mentioned before: population, land, etc. The formula will be decided by the Authority subject to the approval of the Local Government Committee. The Authority is also empowered to receive funds from the federal government and from state government, if we ever get ourselves together and are able to provide funds for flood control. But I think the point needs to be made that most money for flood control now comes from the federal government, and it will continue to come from the federal government. As a matter of fact, this bill will enable us to receive federal aid which we are presently losing because we have no agency that can give the required pledge of local cooperation. So we are losing federal dollars that we could be capturing if we had such an agency. Any cost must be considered in comparison to costs in lives and property from floods.

Another question I have heard is, "What protections are included to prevent the Authority from becoming unresponsive?" I point out that an environmental impact statement must be approved by the Department of Environmental Protection on all plans. All money proposals must be approved by a majority of the Local Government Committee, and the overall plan must also be approved by that committee. The bill contains guarantees of open access to information. Membership must be geographically representative. All communities which are part of the flooding also become part of the solution.

I have also been asked, "What is the rationale for having the Governor make the appointments to the Authority?" Since the Authority encompasses several counties, each member is responsible for all of the area within the Green Brook Subbasin and therefore should be held accountable to a higher level of government rather than any single county or municipality. The necessity, therefore, is for the Governor to make the appointments.

On August 2, 1973, I walked in water up to my knees, to my hips, and to my waist. I saw one person taken from her home, an elderly woman, on a lifeline because she could not be gotten out fast enough; the water rose that quickly. Water was entering the homes of people and approaching their doors. I could see the fear in the eyes of people who knew they were going to be flooded, who knew that their possessions were going to be lost, and who knew that their lives were endangered. Indeed, property and lives were destroyed. Now, every time it rains, those same people tell me that their stomachs turn into knots because they fear the same thing happening again.

There is nothing that makes one feel the impact of a flood as much as walking around after a flood and

seeing the piles of debris at the curb, debris that is really the debris of wrecked lives. In one case, a woman had a collection of music manuscripts that could not be replaced. She had them stretched out on her back lawn to dry in an attempt to salvage them. It was a hopeless attempt to hang onto something that meant a great deal to her and her husband.

There were thousands of dollars lost. People who had worked hard to fix up their homes with carpeting, tile, and paneling were forced to rip it all out and put it on the curb for the junk collector, and they knew that they had to start all over again.

I think one has to walk up and down the streets of a city or town that has had a flood to get the full impact of the damage that is done to people's lives, the trauma that is imposed. Every time it rains they get nervous, the children cannot sleep when they hear it raining, they cry, and they want to know if they will have to be taken out of the house in boats again.

People asked us two years ago to do something. Here we are, almost two years later, and nothing has been done. Just the day before yesterday, we had a sudden summer rain, the kind we have all the time, and, before I knew it, in a half hour, the streams were swollen, there was flooding in the streets of Scotch Plains, and there was flooding on Route 22 - you could not drive on it. We cannot any longer afford the delay that we have experienced, and we cannot invite the classic delay that has occurred in the Passaic River area where, as I indicated, for 40 years, nothing has happened.

Of course, in terms of doing something, there is always the risk that we may be creating problems for ourselves and that we may have to provide answers to people that we have not had to provide before. Maybe some people would rather we do nothing at all because

they don't want to deal with the problem, and they hope that the problem will just go away.

On the other hand, there could be a cosmetic solution, one that doesn't do anything but gives the appearance of doing something. I think that's an even worse fraud than doing nothing at all. You could create an entity that really is not empowered to act, but that would be perpetrating a cruel hoax on the public.

I believe the very, very least we can do is to devise a system that will work and to establish an agency that has the power and the ability to be effective.

Floods don't respect municipal or county lines, and we therefore have to recognize, in creating the Flood Control Authority, that we have to transcend municipal and county lines. Floods don't know anything about politics; floods follow river basins. In order to prevent future floods and to control future floods, I believe we must have an agency that is empowered to act. I therefore urge the committee's support of this legislation.

SENATOR MC GAHN: Thank you very much, Assemblywoman Wilson. Senator Dwyer will have to leave in a few minutes. Senator, do you have any questions?

SENATOR DWYER: I have no questions.

SENATOR MC GAHN: For my own information, as I am not really familiar with the area, what has been the incidence of the flooding in the last 20 years? Basically, what are we talking about in dollar amount damage?

ASSEMBLYWOMAN WILSON: We have not had a flood of the magnitude of the August 2 flood since then, but there have been smaller floods. Prior to that time, we had one in 1971, but I don't remember when there was one of that magnitude prior to that. Someone from the audience advises

that the ones prior to that were in 1966 and 1968. In terms of dollars, it has gotten into, I'm sure, hundreds of millions by now. We lost nine lives in the Green Brook Basin alone in 1973.

SENATOR MC GAHN: Have the municipalities involved in this taken advantage of federal flood insurance?

ASSEMBLYWOMAN WILSON: Most have taken advantage, yes. It's little comfort, however, to the flooded families to say, "Well, you have flood insurance." In the first place, it does not ever cover everything. For instance, people told me that they have federal flood insurance, and, in the first flood under which they were covered, they had a washer and dryer in the basement that were destroyed. So they were allowed reimbursement to replace them, but they were not allowed anything to add onto their house so that they could put the washer and dryer on the first floor of their house instead of in the basement. But, if they put them back in the basement, they could not be paid again for them. So it's a "Catch 22" situation.

If I may, I will deviate for a moment to the Rahway area. One town along the Rahway River had eight floods in one year; one section of Springfield had eight floods in one year. Having flood insurance is not much comfort to the family that is having eight floods a year or even one flood every two years.

SENATOR MC GAHN: I would assume that the State is not without fault either when there is flooding of highways. Certainly it has not been utilizing good plan design in where it is placing them.

I can anticipate one thing, and you mentioned it. One criticism is that it will preempt home rule. You said, of course, that there is protection against this because of the makeup of the Local Government Committee and its veto power.

I am not too sure but what you are really saying that local governments cannot control situations like this. Of course, we have to go to the concept that, where the situation is such, we do have to consider a unit larger than local government that must be responsible. It's a regional type approach to it. It's not following county lines, and it's not following municipal lines; it's simply following the river basin.

Thank you very much for your testimony, Assemblywoman Wilson. We appreciate it.

Assemblyman Garrubbo.

J O S E P H L. G A R R U B B O: Mr. Chairman, I want to thank you for the opportunity to appear and testify in support of A-2373, which is a bill sponsored by myself and co-sponsored by Assemblywoman Wilson, and A-2387, which is a bill sponsored by Assemblywoman Wilson and co-sponsored by myself and others.

These two bills are the products of mutual efforts of a great number of people. My staff and myself, Assemblywoman Wilson's staff and herself, representatives of the Governor's Counsel's office, representatives of the Department of Environmental Protection, and Mr. Kenneth Marsh, the hydraulics engineer for Union County, have all had substantial input into the creation of a piece of legislation that we think fairly and equitably distributes the burden of responsibility for a problem that has proved to be devastating for areas of Union County and other areas of the State.

I would like, Senator McGahn, rather than to comment about specific portions of this bill and rather than to review the mechanics of the bill, as Assemblywoman Wilson has done, and as anyone who wishes to peruse the bill could do, to speak about the philosophy of this bill and its motivating forces.

For several years we have noted an increasing problem in Union County particularly with the ravages of flood waters. You have heard Assemblywoman Wilson depict some of the problems and the extent of some of the effects of the flooding in our county.

We must start, as we did start, in the creation of legislation, from the acceptance of certain basic premises upon which this legislation is founded.

Firstly, it is, of course, important to note and to accept that flooding, as was pointed out by Mrs. Wilson, does not respect fictitious political subdivision lines. Flooding has had a devastating effect in Union County and in other counties. I think this is so, by and large, by reason of years of irresponsible development in river basins and the absolute lack of, or stupidity in, the planning of the development or preservation of river basins in areas that are particularly prone to flooding.

You yourself, Senator McGahn, pointed out a very interesting and quite acceptable point, and that is that the history of this problem has demonstrated clearly that no one community has, despite valiant and pointed efforts, been able to correct this situation in its own community and to have a beneficial effect in another community. Quite obviously, a stream does not begin, nor does a river begin, and end in a given community. Anything that one community does has an effect upon the communities downstream or, in some cases, upstream. The problem must therefore, by its very nature, be tackled by a regionalized approach.

The next difficulty that confronted us, in creating a piece of legislation, came from the history of flood commissions in this State. One of the major problems, and shortcomings, of the commission law that exists in New Jersey at the present time is, in my opinion, corrected

by this legislation in that this legislation mandates participation of municipalities within the river basin as members of the Authority. This is a strong step and it is bold legislation, but I think that it is necessary in light of the extent of the problem and in light of the history of flood commissions in this State.

What does a flood commission do about a reluctant community, a community which may not flood, but which contributes by reason of its geography to the flooding of adjacent communities? Under the present structure of our law, there is no power to compel the participation of any community, in any concerted effort, to tackle a regionalized flood plan approach.

This legislation will, for the first time in the history of this State's flood planning, compel the participation of all communities in the Authority and in the resolution of the problem that faces the region. However, in mandating that, we were not unmindful of the fact that all communities do not contribute to the same extent, and I will comment in a few moments about the manner in which we have established alternative formulae for the assessment of costs.

One further problem that confronted us was this: Despite the desire of a given community to tackle its own problems, in most cases the costs of such projects were so monumental that they could not be handled by any given community. We noted that the Army Corps of Engineers had, in many areas, commenced investigation and study. But the resolution of the problem by the Army Corps of Engineers is so far removed in point of time as to offer little effective or practical hope at the present time.

As a result of these problems and in contemplation of the history that has been experienced, 2373 and 2387 emerged. We have created, through this legislation, which

has already been adopted and passed by the Assembly, a regionalized Flood Authority. The statute will define those communities in which the river basin exists. It will specify by name communities that must be, and, by reason of this Act are, members of the Rahway River Flood Control Authority. Bonding powers are extended to the Authority so that, on a regionalized approach, the Authority can deal with the problem of the proper economic force.

Finally, the assessment formula which creates the equity and distribution of burden has been inserted in Section 11. Much to-do has been made by communities that would ordinarily be reluctant to join such efforts because they themselves do not flood. This assessment formula - and I might note, Mr. Chairman, that the assessment formula is one that has been drafted after consultation with the Department of Environmental Protection, Division of Water Resources, and Mr. Marsh of our Union County Engineer's Office - provides alternative methods of assessing costs. Section 11 of this statute employs weighted drainage as one possible basis of assessment. It provides the population basis as an alternative and the basis of apportionment evaluation as defined in current law as another alternative.

We inserted alternatives in this statute for a few reasons:

Firstly, we have drafted what we consider, as Assemblywoman Wilson said, to be model legislation. This legislation can be adopted by any river basin and implemented simply by the insertion of the appropriate communities which form that basin. We did not feel that every basin would utilize the same formula approach for assessment of costs, and we provided alternatives so that every Authority can choose its own form of assessment. In one particular river basin, one formula may be more

appropriate than another.

Secondly, there is divergence of opinion as to which of these particular alternatives is the better approach. Rather than hang ourselves on a conflict that would better be resolved by the particular Authority having personal knowledge of its own special problems, we provided the alternative methods to the given Authority.

I personally prefer the weighted drainage approach, and I personally believe that the Rahway River Authority will probably adopt that as its approach, although I cannot speak for an Authority not yet in existence. However, having a sense of the problems in our area, I think that that might be our approach. Another Authority might consider population or other factors to be more important.

The point is that we do not dictate a given formula because we do not think that all circumstances can abide a specific formula.

There have been various objections to this bill. Your committee has received the objections of a unit of the League of Women Voters. The major objection in their letter to your committee, Senator McGahn, dealt with this weighted drainage approach, and I think I have responded to that complaint.

The other complaints include mechanical functions of the Authority and the local governing unit, namely, that the affirmative vote of the Local Government Committee should be two-thirds of a quorum rather than a majority of a quorum. I have no particular interest in one or the other. I don't think it is significant. I think, at the present time, whatever this committee chooses as the better approach will be something that I can accept.

In terms of philosophy, the primary objection is

the mandatory participation factor. I think that I have spelled out the reasons why it is necessary that we have mandatory participation.

Senator McGahn, this legislation has long been delayed and is long in coming. Despite millions and millions of dollars of devastation, to say nothing of the personal anguish of those persons who are affected by flooding, this Legislature and prior Legislatures have done little to bring about effective flood control measures. This is a necessary step. This is a bill that, because of the significant contributions of interest groups, Counsel's office, county officials, and state officials, will, I am confident, be signed into law if passed by the Senate. There are no alternatives left to us, and I respectfully urge the favorable consideration of this committee.

SENATOR MC GAHN: Thank you very much, Assemblyman Garrubbo. I have one question only. From a very practical standpoint, using the Passaic River Valley as a model, what would you estimate would be the time required for a plan to be effected and implementation of some type of program accomplished?

ASSEMBLYMAN GARRUBBO: Regretfully, I don't think it is something that can be done in very short order. The extent of that basin is so vast. The point is that this matter has to move off center. While I am not as personally acquainted with the Passaic River Basin as I am with the Rahway, and while I am not in a position to give you any accurate answer with regard to either the Passaic or the Rahway because of so many unforeseen factors, I think that it is important that this Legislature move toward the creation of some unit to oversee that development.

SENATOR MC GAHN: The point of my question, for the record, was that this will not be done tomorrow,

but this is a starting point.

ASSEMBLYMAN GARRUBBO: Exactly.

SENATOR MC GAHN: Thank you, sir.

Mr. Warren Nevins, Freeholder from Somerset County.

WARREN G. NEVINS: Senator, thank you very much for the opportunity to appear before your committee to represent Somerset County and Middlesex County. My name is Warren Nevins. I am a Freeholder in Somerset County and Chairman of that county's Public Works Committee. I am also the Freeholder representative to the Green Brook Flood Control Commission. I am here on behalf of myself as well as Thomas E. Maggio, the Freeholder Director of Somerset County, and Peter Daly Campbell, the Freeholder Director of Middlesex County.

The Boards of Freeholders of Somerset County and Middlesex County have, for some time, been deeply concerned about the need for extensive flood control measures in the Raritan River Basin and, particularly, in the Green Brook River Subbasin. Lives have been lost, and extensive property damage has been suffered by residents in this subbasin which comprises parts of many municipalities in three counties, Middlesex, Somerset, and Union.

The United States Army Corps of Engineers, working closely with county and municipal officials from the three counties, and the Green Brook Flood Control Commission have developed a basic flood control plan which is acceptable to all three counties and, albeit with some conditions, to all the municipalities involved. The process leading to this wide-ranging agreement has not been easy, especially since many complicated but locally important problems had to be resolved. The agreement is proof positive, however, that local governments' cooperative efforts can be fully effective in the area of flood control as in other regional problem areas.

Interim flood control, stream desnagging, and bridge replacement and removal programs involving significant expenditures of local tax dollars have been initiated and are underway in the Green Brook Subbasin, all without the need for a governmental level as represented by an Authority.

It is understood that, once broad-range control programs such as dikes, levies, and flood control gates are installed, an operational agency, an Authority, will be required and that a means for resolving potential impasses in future improvements needs to be agreed to.

There is no reason, however, in view of the success to date, to think that a locally acceptable mechanism could not be readily developed. All of the communities involved have indicated a desire and an intention of moving forward and toward that direction.

With one exception, all the municipalities who have spoken to the issue have opposed Assembly bill 2387. Somerset and Middlesex Counties have publicly opposed enactment of the bill. Somerset rejected a Resolution supporting Assembly bill 2387 by a four to one vote on March 18, 1975. The Middlesex County Board of Freeholders, jointly with Somerset County, unanimously voiced opposition to the bill. It is clear that those affected communities involved in the Green Brook Subbasin stand in opposition to Assembly bill 2387.

Our greatest concern is one which we believe is deeply fundamental and possibly constitutional in its nature. To fully implement flood control in this tri-county area, many tens of millions of local tax dollars would have to be spent to match an anticipated \$150 to \$200 million of federal funds and to also fund flood control projects. Assembly bill 2387 provides for the gubernatorial appointment of an Authority which, by overriding a Local Government Committee, can charge

those tens of millions of dollars to the taxpayers of these three counties and individual municipalities, whether they concur or not. The proposed Authority could vote to tax the citizens of the counties and municipalities, without any limitation, on a formula of its own choosing, even if the counties and municipalities unanimously oppose such expenditures. The proposed local veto option clearly is too weak to satisfy the concerns of the governments involved.

Assembly bill 2387 is a wholly unacceptable proposal to the Boards of Freeholders of Somerset and Middlesex Counties and, we believe, to most taxpayers in the two counties as well. It should be also of concern to the people's representatives in Trenton. Taxpayers must be able, through their elected representatives, to determine the appropriateness of governmental expenditures and the amount of tax dollars that will be provided for such expenditures.

Since agreement has been reached on the initial United States Army Corps of Engineers' plan for flood control in the Green Brook Subbasin, there is no pressing need for an instant Authority. The three counties are working together to develop a tri-county flood control body which would be strong enough to get the job done but which would be fully representative of and responsive to the taxpaying citizens of those counties.

Representing the Boards of Freeholders of Somerset and Middlesex Counties, we would encourage and strongly urge the Senate Energy, Agriculture and Environment Committee to recommend the defeat of Assembly bill 2387.

Senator, I would also like to submit for the record a letter from Mr. Vernon Noble, Freeholder of Somerset County, and Chairman of the Green Brook Flood Control Commission. (Letter on file with committee.)

SENATOR MC GAHN: Thank you very much, Freeholder.

Am I correct in my understanding that it is your position that the Green Brook Flood Control Commission can basically do this as well as the Authority proposed by Assemblywoman Wilson?

MR. NEVINS: We believe it could. With certain modifications and certain authorities that it would need in order to raise the necessary funds, we believe that commission would be ample to operate the flood control measures that are being put in by the United States Army Corps of Engineers with the cooperation of the counties that are involved.

SENATOR MC GAHN: Do you feel that the program you are already involved in, desnagging, etc., has made an appreciable difference? Has it had any results? Was this carried out prior to the flood of 1973, and did whatever you had done prior to that have any effect?

MR. NEVINS: Very few "hit or miss" programs have been undertaken up to this point. The counties have just recently met and have agreed to desnagging and bridge cleaning programs. Our desnagging program will really get under way sometime during the next week. Our cooperative effort with the counties with regard to cleaning out under the bridges will get under way very shortly. We have not had any real input as to whether or not a desnagging, bridge cleaning program will be effective. We are assured by the Army Corps of Engineers and by our own engineers from all the counties involved that this program will, in a lot of ways, alleviate some of the flooding that is taking place.

SENATOR MC GAHN: Freeholder, at issue is not the fact that something need be done. The issue here, I think, is basically, who should do it. If my understanding is correct, the Boards of Freeholders of Somerset and Middlesex oppose this philosophically on the basis that it is

an erosion of home rule, and they disagree with the gubernatorial appointment of members of the Authority.

MR. NEVINS: That is correct.

SENATOR MC GAHN: Would the position be ameliorated any if perchance the Governor were not the appointing authority as far as the Authority members were concerned and if this were in the realm of, let's say, the Boards of Freeholders of the affected counties?

MR. NEVINS: I think that would be very effective.

SENATOR MC GAHN: Thank you very much.

MR. NEVINS: Thank you.

SENATOR MC GAHN: Mr. Kenneth Marsh of the Union County Planning Board.

K E N N E T H B. M A R S H: Thank you, Senator, and I thank you for giving me the opportunity to testify on what I feel are two very important bills. I will give an oral presentation at this time and mail a written statement to you shortly. My comments will be applicable to both bills since they are identical except for the drainage basins involved. (See page 1 X.)

Before I get into my testimony, I would like to mention something with reference to the Corps of Engineers' program for the Green Brook Drainage Basin. This should be understood by everybody. I really don't think that should be used as a comparison with Flood Control Authorities for this reason: There is no definite project at this point. It took over a year for total agreement to be reached on the plan that the Corps will now proceed with providing they agree with Berkeley Heights' conditions of approval. It took over a year to get to this point. The Corps procedure relative to flood control projects is, approximately, a 22-step process. At many steps along the way, the same unanimous approval is going to be required for each step before they can proceed

further. So it is conceivable that it will be at least eight to ten years before anything can get off the ground. Given existing conditions, we can expect there will be long delays in getting unanimous approval. With an Authority, I think that would be avoided, and the Authority would provide another important function, even if the Corps of Engineers program were implemented, and that would be maintenance. We are talking about very large projects, and an Authority would be a most logical agency to maintain a project of the size required for the Green Brook Basin.

I would like to make a brief statement as to why I feel regional flood control authorities are necessary. I would like to read a short excerpt from my testimony on Senate bill 765 last month.

It has long been accepted that the complex, inter-municipal and inter-county nature of water resources management, like many other aspects of environmental planning, is best handled on a regional basis. The New Jersey Department of Environmental Protection, the most logical existing agency for regional water resources management, has not been able to function effectively in this respect due to limited budget and staff. Furthermore, there are no state funding programs for flood control projects.

In view of this, I strongly feel that regional flood control authorities offer the most promising agency solution to flooding.

I won't go into the need for flood control. That has been very, very well covered by previous speakers, the sponsors of the bills. I am going to reiterate some of the things they said, but I would like to put the whole thing in perspective.

I feel that A-2373 and A-2387 are the best current approaches to establishment of regional flood control authorities because they embody the following general

principles which I feel are necessary for a truly effective regional flood control authority. As I said, some of these will be a reiteration of what the sponsors said, so I will not dwell on them in detail.

First and foremost, the area of jurisdiction of the Authorities would be the water shed, the drainage basin. There is no question that this is the most logical control area for surface water control. This is well established and accepted.

Second, there is mandatory membership required by all municipalities and counties in the drainage basins involved. As was stated previously, this is necessary because there are those municipalities that really don't have a problem or have solved their problems but still contribute to the problems of downstream municipalities, through their surface runoff, by virtue of the type of land development they have in their municipalities.

Third is the ability to finance capital projects. This is a very important point. One of the major impediments to flood control in New Jersey has been the lack of adequate funding because of the size of the projects required. The proposed Authorities would fill this funding gap by having the ability to issue bonds to finance major improvements.

The fourth aspect is an equitable cost apportionment. As Assemblywoman Wilson and Assemblyman Garrubbo previously described, there are provisions in the bills for establishment of an equitable cost apportionment formula to provide for cost sharing amongst those municipalities and counties which share in causing the flooding problems.

Fifth is the power of land acquisition. There necessarily would be land required for important flood

control projects. The proposed Authorities would have this power.

The sixth aspect is local government representation. Contrary to some previous statements, I feel that there is sufficient local government representation on the Authority, the Local Government Committee, which Assemblywoman Wilson described. There would be a retention of home rule in this case.

The final point is workable size. This is very important because the existing flood control commissions provide for two members from each member municipality and county which, in the case of a basin the size of the Passaic, would involve several hundred members to administer some sort of plan. The proposed Authorities would have nine members which I feel is a small enough number to provide for efficient operation and yet large enough to provide for diversity of ideas.

In view of these factors, I strongly support passage of A-2373 and A-2387. Furthermore, the Union County Planning Board, at its regular meeting on March 12, 1975, also endorsed these two bills.

However, I do feel that this is an extremely important subject and that we should work at arriving at the best possible approach to establishing Authorities. In view of this, I took another careful look at these bills, and I do have some suggestions which I recommend be added to further refine the bills and to address some of the comments that I have heard concerning the bills.

1. I think there is considerable confusion surrounding what we are talking about when we talk about the "basin," who is in the basin, and who comprises the drainage basins involved. The definition, as stated in the bill says: "'Basin' means the following municipalities: . . . and the following counties: . . ."

This simply implies that the total municipal and county

areas are involved in the basin. This is really not true. Actually, the basin may include only portions of municipalities and counties. To clear this up, I suggest an amendment that might read: "'Basin' means the Rahway River/Green Brook Drainage Basin, which includes areas in the following municipalities and counties: . . ." Beyond that, there should be a provision in that same section to provide for the Authority to prepare and adopt an official map of the drainage basin delineating the limits. This could be done very easily. There is much information available from the Corps of Engineers, the New Jersey Department of Environmental Protection, the County Planning Boards, and other agencies.

2. The maintenance of rivers and streams in New Jersey is a very important problem, mainly because there is no clear division of responsibility as to who will maintain rivers and streams. It is not fair for a downstream municipality to have to maintain a river which is draining many, many square miles of upstream drainage area. It is just too large a problem for an individual municipality to handle. So I feel that the Authority would be the best agency to handle this maintenance which would include desnagging and desilting, the maintenance of major projects. This really should be in there.

3. I think the Authority should seek to promote storm drainage and storm water control and land use measures designed to limit the amount of increased runoff which results from upstream development. This is one of the major problems causing flooding, the intensive urban development which has added extensive paving and other impervious surfaces and contributed to existing flooding. I think the Authority should seek

to establish controls that will, at the very least, prevent increased flooding.

4. The definition of "flood control" in section 3.i. of the bills would then reflect this type of measure as being a nonstructural type of flood control measure. There should be other non-structural measures identified which are important and which, in some cases, may prove more economical than a project. These would be things like flood plain management, flood proofing, acquisition of structures - moving them out of the flood hazard areas.

5. I would like to comment on the apportionment formulae. I feel comfortable with the way the bills handle the apportionment, but I am apprehensive about all the local concern of this assessment. I feel that maybe we should take a second look and try to come up with a specific formula. The factors identified in the bills are the right factors to use. It is just a matter of whether we want to, at this point, establish a specific formula based on those factors. I agree with Assemblyman Garrubbo in that it should be left to the individual Authority to determine. But, if it would mean a long delay in establishing Authorities, I think the time might be well spent in establishing a formula which might be acceptable by those involved.

6. A recent amendment involves the changing of the Local Government Committee's veto power over Authority actions from a two-thirds vote to a majority vote. I would rather have the two-thirds majority because a majority is not decisive enough. It is conceivable that there may be municipalities, possibly a majority of the municipalities, which don't have flooding problems, which don't have a vested interest, but which, again, contribute to downstream problems, that could veto

Authority actions and hold up progress and defeat the purpose of the bills. I think the two-thirds vote should be retained.

7. There is also considerable local concern, as expressed by the previous speaker, about gubernatorial appointment of Authority members. I suggest a compromise on this. I feel that the Governor should have input in that the next level of government above the Authority would be the state level, and there should be checks both above and below each level of government. I suggest that the Governor, as stated in the bill, make the appointments, but that the local Freeholder Boards and Planning Boards and, in some cases where they exist in drainage basins, Flood Control Commissions submit lists of nominations to the Governor from which he might select the Authority members.

8. I also agree with the statement made by Assemblywoman Wilson that, to avoid the problem of politics in the Authority operations, there should be a clause in the bill providing for bipartisan makeup of the Authority.

9. Finally, there is no statement in the bill as to when, or by what time, the Governor should make his appointments. It provides for the Governor to make the appointments, but there really should be a specific time limitation in it, measured with reference to the date of the establishment of the Authority, stating by when the Governor should make his appointments. Otherwise, there could be delays.

Those are my major comments. I have other minor comments, but they will be included in my written testimony. I don't think it is worth the time to go into them at this point.

I would like to summarize by saying that I do support these bills. The comments I offered were offered

as constructive criticism designed to create bills which will be the best possible approach to regional flood control.

Thank you.

SENATOR MC GAHN: Thank you very much. I think your comments were to the point, and this committee certainly appreciates them. However, you brought up one point that gives me some degree of concern, that is, citing specifically the particular portion of a municipality that would be in the river basin. When coming up with a formula whereby that municipality would pay, would the people in that municipality but not in the basin also be responsible, or would it be only those in the designated area?

MR. MARSH: That is something that really should be clarified, and I'm glad you brought it up. Let me dwell on it for a minute. Once the basin is delineated, in most cases - of course, in all cases, the basin limits will not conform with political boundaries, so a portion of the municipality may be in one basin, and a portion may be in another basin - the formula that would be used would assess the municipality. Let's assume the area involved is in the Rahway River Drainage Basin. If the formula were based on population, ratables, and weighted drainage area - some combination or any one or two of those - it would only be that population, that portion of the population, that area, or those ratables in the drainage basin, and they would be assessed accordingly. So it seems to be a simple enough thing to understand, but there is a lot of confusion about that. But the entire municipality would not be assessed.

SENATOR MC GAHN: Thank you very much.

Burton S. Goodman, Mayor of Cranford.

B U R T O N S . G O O D M A N : I would like to take this opportunity to thank you, Senator McGahn, and the committee for the opportunity to appear here today.

I have two letters that I would like to submit to the committee, one from the Cranford Environmental Commission and one from the Cranford Flood Action Committee. Their representatives, Messrs. Gessler and Tucci, could not be present today, but they have put their views in writing.

Cranford, known as "the Venice of New Jersey," is a highly developed community of 28,000 with the Rahway River winding through four miles of residential and commercial properties. Up until five years ago, the river was considered an ecological asset and a substantial recreational facility. But, after going through five disastrous floods in a five-year period, our asset has turned into a liability.

Since 1968, we have been devastated by heavy flooding five times where the flood waters went over the tops of the five-foot protective dikes that were built many years ago to protect nearby residents. On August 2, 1973, over 400 homes were inundated, many with water on the first level, and the damage estimates exceeded \$1 million. Assemblywoman Wilson mentioned walking in three or four feet of water. I live on a street called Riverside Drive, and we had seven feet of water in the street in front of my home.

Not only is Cranford heavily developed, but most of the other 22 communities and the three counties included in the Rahway River Basin are also heavily developed. Therefore, improper local improvements or failure of communities to act in concert can have a detrimental effect on downstream communities.

Like many of our neighbors that have also experienced flooding, we have expended a great deal of time and money to help solve our flood control problems

at a local level. We have widened our channels, dredged, removed snags, restored dikes, installed pumps, etc., but we realistically recognize that the only solution to our problem is a basin-wide flood control approach that will transcend municipal and county boundaries. We also, incidentally, recognize the fact that each time we raise a dike or widen a river that keeps water out of our residents' basements, we are also moving that water more rapidly to a downstream community, and we make these improvements recognizing that perhaps we are causing further problems downstream. But we recognize also the fact that the communities upstream are doing the same thing.

We recognize the need for regional flood control authorities, and we have tried for five years to establish such an Authority on a voluntary basis. Unfortunately, there is only interest immediately after a flood when the affected towns rush to get together. As soon as the streets dry up and the public clamor declines, the meetings stop, the plans die, and there is no more talk of flood control authorities.

Let me cite a few reasons presented by some of our neighboring communities for their apparent lack of interest in flood control authorities on a regional basis: Although they drain into the river, they have no flooding or only minor flooding on their streets, and therefore they cannot justify any potential costs. One of our more substantial neighbors, which drains approximately 95 percent of its storm water into the Rahway River and Cranford, indicates that the river doesn't touch their community and wonders why they are even included in the Flood Control Basin since they have no flooding in their community. I happened to remark to

one of the councilmen of one of these communities, "I think the way to bring you into the basin and bring you in fast would be to block one of your storm sewers." In that case, they would be the first ones at our door asking for an Authority.

There is another reason. Some of the communities that have been constructing local improvements without studying their impact on the downstream communities are concerned that their projects would not be approved by the regional authorities. They urge and work for delays until their work can be completed.

Yet we in Cranford want a regional authority, but the regional authority will never work without provisions for mandatory participation. This type of Authority empowered to raise funds through assessment or bonding is our only hope for solving our flooding problems in Cranford and in the basin.

I urge this committee to move rapidly on this most important piece of legislation. I think it is significant that this legislation is being studied and promoted today during a dry period, and I hope that it can be passed by this Legislature and implemented under these conditions rather than having thousands of irate citizens writing letters, appearing in Trenton, sending telegrams, etc., pressuring for approval. This, in my opinion, is positive action and not reaction to a crisis. The sponsors of this bill and this committee, for holding this hearing, should be commended for their foresight.

Assemblyman Garrubbo was asked a question regarding timing and the possibilities of implementing such a proposal. In our area, with cooperation from the county and the County Planning Board, I have seen plans for a Lenape Park Flood Basin, a large project that would benefit many communities. Plans have gotten off the

ground, studies are being conducted, and we are hopeful that, within a year or two, such a small project that will help two communities without adding to the water problem will be implemented.

We are also involved in a small regional voluntary program, Morse Creek. We are involved, and we have stayed involved, even though only two streets in our community flood with it. However, when costs are assessed for the Morse Creek Basin, we do get complaints from citizens who are not affected, "Why are we paying a share for two streets?" Knowing that we have a flood control responsibility, not only for the Rahway Basin, but for two streets in another area, we stay involved. However, on a voluntary basis, we could drop out of that at any time and give up the responsibility for helping our citizens on those two streets and helping the citizens in our neighboring communities.

So I think the emphasis must be on a mandatory Authority. Without it, we have nothing.

I thank you for the opportunity of testifying and for your interest in this bill.

SENATOR MC GAHN: Thank you very much, Mayor Goodman.

Frank Nero of Somerset County.

F R A N K R. N E R O: Senator, I would like to thank you and the members of the committee for allowing me to testify.

I speak here as a former Mayor of North Plainfield, a community which has suffered greatly from the ravages of flooding, as well as a Somerset County Freeholder who is greatly concerned with the problem of flooding suffered by our entire area.

Over the past years, various parts of the Green Brook Basin have experienced severe flooding. In 1938,

two lives were lost and at least a million dollars in damages occurred. In 1966, there was almost four feet of water on the streets of Middlesex, and the following year Dunellen faced a similar crisis. For Bound Brook, 1971 was the tragic year when Hurrican Doria inflicted \$18 million in damages on that borough and necessitated the evacuation of 1000 people. In 1972, again, heavy rains ravaged the area. In the severe storm of August 2, 1973, five people were killed in my community of North Plainfield and countless numbers were left homeless. Heavy damage occurred in many municipalities, much of which is still being rebuilt. I have brought with me photographs taken in North Plainfield which I feel dramatically show the effects and ravages of flooding in my home town. (Distributes photographs.)

If you will look at the photographs not in the folders, the first several show the places where several people were killed. One shows a car by a bridge where a youngster, a teen-ager, was trapped and killed. A fireman was also almost killed trying to help him. Similar photographs will show automobiles where residents from our community and other communities were killed.

Between these scattered dates, there have been many floods, some less severe, some less documented. But seven floods in the Green Brook Basin area in the last ten years is an indication of how dangerous the flooding situation has become.

Poor control of lands lying in the flood plain, haphazard and heavy upstream development, badly constructed bridges, filled in channels, obstructions in normal water channels, lack of yearly stream maintenance, lack of proper drainage, and lack of upstream detention and retention of water have all contributed to our flooding problems.

During this history of flooding, local governments have struggled to cope with this mounting problem. It has been an uphill struggle marked more by failure than success. For years, since the 1930s, the citizens of our area have cried out for solutions to current flood problems. All that is received in return are promises, false hopes, endless debate, petty bickering, buck passing, political charades, and no results.

In the 1930s, a flood plan was developed for the Green Brook Basin by the WPA. It is strikingly similar to the plan now being proposed by the Army Corps of Engineers some 40 years later. It was never constructed. For years, local officials pressed Congress and the Army Corps of Engineers to develop a flood control plan for our area. That finally became a reality in 1972. The Corps worked on developing the plan and presented four alternatives to the communities of the Green Brook Basin last April. As of the moment, not one plan really has been selected. Various communities have selected their preference of proposed plans and of modified plans later developed. But, almost one year later, there still is no real agreement. Berkeley Heights has tentatively agreed, but they have listed eight conditions, many of which will probably be impossible to meet without an Authority. The Union County Park Commission, this evening, is holding another hearing relative to the plan, and they are asking for additional studies. Upstream community interests have conflicted with downstream. Economic interests conflict with flood protection. It is recognized that any proposed plan would pose a number of problems for upstream communities, but it should be remembered that the downstream communities are continually threatened with loss of life and property. A few communities with small populations should not be able to block meaningful flood control programs that affect numerous communities with thousands and thousands of people.

Municipalities and counties have attempted to work together through the Green Brook Flood Control Commission. Although the commission has served as a successful forum to exchange ideas and make recommendations, I feel it has not produced any substantive results in regard to flood control. The history of the commission parallels the aforementioned flood history - organized in the 1930s, reorganized in the late 60s, and gaining official commission status in 1970. Yet still they have not been delegated the authority to do anything. In addition, I feel the commission, since its inception, has failed to face up to the decisions that have to be made in regard to flood control. The Green Brook Flood Commission has historically pushed aside handling controversial matters. A few years ago, in an attempt to get funding for the present study, the commission leadership said not to be critical of the Army Corps of Engineers or Congress. At the same time, the Corps was predicting funding for the study was five years away. I am sure the public will remember that, after a great deal of pressure, funding was forthcoming within six months. When the commission was asked to pass a Resolution urging a speed-up of the Army Corps study, when they were asked to take a stand in regard to building moratoriums, when they were asked to take a stand to make a flood control authority, the Green Brook Flood Control Commission either tabled the motion or refused to take a stand. We cannot allow flood control for this area to be placed in the hands of a body that either cannot or will not press for needed action.

An Authority as proposed in this bill is the only answer. There are several different proposals being presented to try and help solve our flood problem, but they all fall far short. There has been opposition to the Wilson bill, but I submit that the opposition, in most

cases, has been either politically motivated or due to reluctance of upstream communities to participate in meaningful flood control.

I take exception to the statement of the other Freeholder from Somerset County that there is almost unanimous opposition in the basin to that bill. Many municipalities have not taken a stand one way or another. I think it is interesting to note that most of the professional staffs from the three counties and their Planning Boards have, in one way or another, come out in favor of many of the provisions of these two bills. Additionally, the bills have received strong editorial support from all the local press in the area.

The Green Brook Flood Control Commission, as an example of not following the recommendations of professionals, created a legislative committee to study the contents of the various bills before the Legislature. That committee reported back to the commission, "We conclude that the only legislative bill worthy of consideration was Assembly bill 2387." But the commission did not heed the report of its own legislative committee which was made up of professional staffs of the counties of Middlesex, Union, and Somerset, and subsequently voted not to support A-2387, not so much, I feel, based on the merits of the bill, but rather in fear that they would no longer have a position. Surely our interests must be flood control and not political platforms for individuals in our area.

The Wilson bill is sound because it alone mandates membership in the Authority. Legislation that would allow each municipality the option of joining an Authority would doom the success of any Authority from its inception. Today there are communities, Berkeley Heights among them, that even refuse to join and pay dues to the Green Brook Flood Control Commission. Why then

would one expect that they would act differently toward an Authority that would surely assess them higher costs? You must have a mandated membership, for only then will you maximize cooperation, because not only will they be forced to participate, but it will now be in their best interests inasmuch as they will be forced to pay their fair share of any flood control projects. Additionally, the other bills that have been submitted in the Legislature would not meet, I think, the Army Corps of Engineers' criteria in serving as a local agency empowered to work with the Crops.

I recognize that home rule is a major consideration. But, unless we act affirmatively in the area of flood control, home rule will be placed in its greatest danger by not acting and reaching some solution.

Unfortunately, flood waters do not respect municipal and county boundaries, and I therefore feel it is of the utmost necessity that a regional Authority be created with the legislative ability to make decisions in regard to flood control. Not only is an Authority needed in order to select a plan that is viable and will protect the majority of our citizens, but, once a plan is selected, the implementation, construction, and financing will necessitate the creation of an Authority to see to it that it is administered properly with a minimum of delay, frustration, and parochialism. I would recommend against merely upgrading the present Green Brook Commission to Authority status. I feel that the proposed legislation as submitted by Assemblywoman Wilson and Assemblyman Garrubbo is the type of legislation which is absolutely necessary if we are to achieve some solution to the flooding problem in our lifetime.

I would like to make an analogy to problems experienced by the States under our first national Constitution, The Articles of Confederation. This

country almost fell apart because each State refused to give up some of its authority. Only the new federal Constitution, which claimed some of those powers, was able to pull the nation together and to deal effectively with problems of a regional and national scope. Let us not impale ourselves on the false idol of home rule while people are constantly in danger of flooding. The Wilson bill has adequate protection for local interests through its Local Government Committee. There are those that argue that the Wilson bill takes away home rule, but in its place they propose an authority created by the counties. This, to me, would actually provide for less local control since the municipal bodies would be dictated to by the county government with no say or power from local municipalities.

As Freeholders, we hear time and time again how the county government in our State is the invisible government. How then would that be more representative of the people than the local municipalities?

The argument presented by Freeholder Nevins relative to the taxing ability of the Authority, I think, is specious. I would like to quote an editorial in The Courier-News of March 24, 1975: "There clearly is precedent and justification for taxation without direct personal elected representation on governmental bodies. Perhaps the ideal would be an elected Authority, but ideals often aren't realistically obtainable in democratic government, and this is one of those cases if the Authority is to be operational without dangerous or needless delay. Suggestions made that an elected Flood Control Authority would not just be preferred, but is essential to its proper democratic operation, are specious at best. There are numerous workable instances throughout state and local government where appointed officials do excellent jobs, and, in many cases, the work

results in direct or indirect tax increases."

It should also be noted that Freeholder Nevins said that elevating the Green Brook Flood Control Commission would be acceptable. Those members are appointed; they are not elected. It is therefore no different than any other appointed Authority would be.

The argument that the counties should be allowed to form an Authority or that other bills should be drafted are merely delaying tactics to try and avoid confronting difficult problems before us. We do not need another bill to be drafted, for we already have a bill that will meet our goal, namely, A-2387. This bill will do the job and in the manner that it should be accomplished. It is time that we stop the talking and the abstract discussions and get on with the work at hand. As one of my constituents so aptly put it, "A drowning man doesn't care much about the shape of the life raft."

I strongly urge the Legislature to move as expeditiously as possible to create a Green Brook Flood Control Authority and to insure the members of such an Authority are selected with the utmost care without regard to political affiliation and self-serving geographic interests. The sole criteria must be individuals who are striving for a solution, both short- and long-range, to our flood problem.

I implore you: We need this legislation so that hopefully no one will have to relive again the harrowing events of August 2, 1973. As Mayor, I was confronted with some difficult problems that day. How do you tell a mother that her child isn't coming home, a family that their father will not return, or talk to a wife who has watched her husband die in front of her? How do you try and give hope and courage to people who have lost everything, seen their life's work disappear? Some of

them had their houses washed away for the second time in three years. How, as elected officials given the responsibility of the public's safety, can we face them? All of you should see the look of terror on the faces of our citizens every time it rains. I ask you to ride through my community at night when it rains, even a small drizzle. The people are outside their homes or have their lights on at 2 or 3 o'clock in the morning, unable to sleep, unable to rest, for fear that maybe this evening will mean another disaster.

If nothing else, we must provide some hope for these people. This bill can provide that. At least someone then will have the power to do something. If this bill seems strong, it is because strong action is needed. Please do not let local political maneuvering, rhetoric, stalls, and delays stand in the way of meaningful flood control.

Splitting hairs relative to the provisions of this bill will only serve to delay or kill any chance we may have with the resultant dire and tragic consequences. We need more than good intentions, for we all know where that road leads. We need action through the creation of a vital, realistic program which is exactly what these bills do. I urge your favorable consideration.

Again, just two days ago, The Courier-News stated: "Public safety alone dictates that prompt action be taken to create a flood control authority. Enactment of the Wilson bill would be a giant step towards preventing a reoccurrence of August, 1973. The time is now." And the time is now for this committee and the Legislature to do what must be done, that is, to report favorable passage of this bill and to urge your fellow Senators to see that this bill becomes the law of our State. I don't think we can afford a delay of any nature, for, literally, we are risking the lives of the

people we are all elected to represent.

Thank you.

SENATOR MC GAHN: Thank you, Freeholder Nero, for your testimony. I think it was most impressive, but certainly even more impressive were the photographs, because I think each photograph is equivalent to 1000 words. These photos were taken after which storm?

MR. NERO: The August, 1973, storm. The photos out of the folders were taken that morning, after the rain had stopped, but the waters were still in the streets. The other photographs, in the binders, were taken after that storm, but during the clean-up operations.

SENATOR MC GAHN: Are we talking about a storm only, or were there winds of hurricane force also?

MR. NERO: That was just flooding. There were no winds.

SENATOR MC GAHN: This was strictly flooding?

MR. NERO: Yes. The force of the water created a lot of the damage. The water pours out of the upper reaches of the Watchung Mountains, it comes down into the Stony Brook, which feeds into the Green Brook, which ultimately feeds into the Raritan River. We have a dual effect which is part of our problem. We have a tidal effect from the backing up of the Raritan River when the Raritan is at high tide, and the waters from these tributaries cannot get into the Raritan. We also have the problem of the force of onrushing water at tremendous velocity. It comes down as almost a wall of water off the mountains. That is what has complicated flood control because upstream communities cannot do anything really, unless it's part of the total picture, without harming the downstream communities. North Plainfield could have channeled its streams out very deeply and alleviated some of the problems, but we

probably would have blown Green Brook and Dunellen right off the map. To be responsible we all have to work together as part of an overall plan, and that is why cooperation between all the municipalities is important. You cannot go it alone because of the nature of the beast.

Senator, I would also like to present to you a letter from a resident in our community, Andrew Bartosh, who lives at 115 Sweetbriar Lane. Mr. Bartosh has suffered over \$38,000 worth of damage to his home. He has lost the contents of his home as well as the foundation on two different occasions. I submit this letter and ask that it be made part of the record. (Letter on file with committee.)

SENATOR MC GAHN: Thank you for your testimony.

Edward Zanat, Flood Coordinator of the Borough of Carteret.

E D W A R D T. Z A N A T: I would like to thank you, Mr. Chairman, for allowing me to testify here today. I never dreamt I would be sitting in this Chamber.

I will try to express the views of the front line and the taxpayers of our community. Therefore, I would like to place on the record the following:

I am Edward T. Zanat, Flood Coordinator, Borough of Carteret, County of Middlesex. Whereas the proposed bills, 2387 and 2373, would establish an Authority not directly responsive to the electorate of the Borough of Carteret with the power of condemnation and the right to impose unacceptable controls upon local government at additional costs without taking into consideration the home rule of the people and the governing bodies, you are beginning to take away the rights of people to govern themselves. The governing body and its people request that these bills be withdrawn, and we firmly oppose both of them.

I have listened to some of the testimony of those proposing to establish an Authority. Within the State of New Jersey, we are faced with many authorities that have become more powerful than the government itself: the Turnpike Authority, the Parkway Authority, the Authority of New York City, the Rahway Sewerage Authority.

In Carteret, we are the lowest stream; we are on the end, and we are on the Arthur Kill. We are faced with both of them. We are at the mouth where we have the Arthur Kill, and we also have the Rahway River.

I remember an authority years back: the Rahway Valley Sewerage Authority. Many of our citizens, not knowing or never able to participate, accepted certain governmental things. This authority was formed to divert from the Rahway River in order to eliminate a sulfite bed and bring a change into the tidal water. The Rahway Valley Sewerage Authority, through political maneuvering and various things, suddenly became all-powerful. They ran through our town an exposed pipeline that created a tremendous, tremendous flood problem. Furthermore, we now, as a community, cannot connect into that line. We have to absorb the cost to go into the Middlesex County sewerage line, and we now cannot dump into the river that we are on.

I take issue with the comment that many of the things that were done since zoning and planning became effective were because of negligence. Since man has been on this earth, each, in his time, has fought the environment, and we are fighting it today: solid waste, water pollution, sewerage, flood waters, air pollution. But, if we turn back the clock, if all of us would do our jobs, from the agencies that we have created--- We have a Corps of Engineers. I feel that they are negligent;

they havn't the staff to do the job. We have an agency on the state level, Water Pollution. I heard Mrs. Wilson say that they would turn this over and they would get an EPA study. They don't have enough help now, as the paper states and as they have told the Governor, to run their department. Now, you're telling me that the money would be provided for an EPA study for this Authority. Absolutely not, because I cannot see where the dollars would come from.

The vital thing here is money. I would like to see all types of authorities if they would accomplish their goals and do their jobs. I will say truthfully that appointing this Authority is not the answer, and they could not be everything to all people.

Let us take the Pecos River, a stream that doesn't even touch your toenails, but, when God creates the rains and tides, it goes to 33 feet in height. I flew over the Mississippi, and, at one point, on a bridge, they have marks, 33 feet, 23 feet, and the years of those floods. The people have to accept that there is no authority that will end all floods.

Our county has prepared a storm drainage plan, one of the first, a very intensive study, one of 24 books which cost the taxpayers plenty of dollar bills. It contains the story of the various regions, the northeast region, the Green Brook region, and it encompasses the Borough of Carteret. We have, as a community, accepted our responsibility. We have set aside an area which will not be built upon; it is along the Rahway River, and was set aside at the cost of the taxpayers of the Borough of Carteret. We have instituted a 1975 program in reference to the cleaning of various streams.

Let's go to the Public Utilities Commission which has run or guided our railroads. Many of the

railroad bridges, the abutments, the drainage basins, the railroad rights of way, add 20 percent to our community, but no one can do anything to the railroad because the PUC turned it over to DOT. DOT said that they don't have the manpower but they will try.

So, if all would assume the responsibility, whether they are Democrats or Republicans, and take positive steps along with the many engineering studies that are already available--- We have a Corps of Engineers, and, if we were to establish this new committee, we would have to have an office staff, we would have to have an engineering staff, and we would have to ask the people to open up their pocketbooks - and they don't have two coins to rub together today to pay their taxes - and say that we are going to have another agency, another authority, that may be the answer to all things. Gentlemen, I say to you now: This Authority would not be the answer. There are certain flooding conditions that even God Himself would have to come down to stop.

I listened to the fact that there were people who died. Yes, we took a boat from Cambodia and we sent some Marines, and some men died. Since man was placed on this earth, he has fought and died to protect himself, shield himself.

I cannot see where we should establish another authority when we have ample agencies within our State. We have Water Resources. Staff that agency so that they can cope. The Corps of Engineers should be staffed so they can cope. Don't create other agencies.

Local municipalities, by state-enabling legislation, were given zoning power. We, as a Borough, paid \$40,000 to \$50,000 for a master plan to guide us. What do we do when the butcher, the baker, and the candlestick maker--- The state-enabling legislation gave the power to this

zoning board to run its community and also, county-wide by a county master plan, the right to begin to join hands and solve some of these problems.

The Mayor from Cranford asked, "What if we block the pipeline?" What if we all built Chinese Walls around our communities? We are all one, and we have a problem.

The Borough of Carteret and its taxpayers cannot afford to fight two fronts.

Let's take the Arthur Kill and the Corps of Engineers report on another plan that says we should join in the cleaning up of the harbor and that we will be charged the monies. Where do we get these dollar bills? Let's take a look at this. The Coast Guard states that they have the authority to take the right of way or the chartered water. They always had that right, but they would always go down that river with blinders on and they would say, "It's not my job." If a ship sank or a dock was falling apart, they felt that was the job of the Corps of Engineers. So, after the permissiveness of these agencies, they say now that we have investments along these channels that should have been corrected then and there. We have industries with docks that are falling into the river. They own them, they have enjoyed the rights, but they are not fixing them.

Now you are asking the taxpayers in Carteret to help pay for a committee, and no one has said where they will get the money. Someone said we will get an allotment of federal funds. Let's take the Mississippi or the Johnstown flood or others that get a portion of these federal funds. Nine or ten years ago they told me the funds may be available for some of these problems in nine years. Where can this committee get the monies? You say they will get them from the

federal government. What would be the annual charge to our taxpayers? What about the authority in New York City that says, "Help clean up the Arthur Kill"? How will the fees be charged? The whole of Staten Island drains into the Arthur Kill, and they say they will charge according to what runs off into this. In no way would it be equitable because it cannot be controlled by man.

If the legislators would look into the various agencies that are established and have engineering know-how, they will see that they have maps and flue patterns. Let's not waste these things. We are going along, and we are making every effort, for the first time in our history, to move forward. The people are asking questions. The federal government is now paying for our flood hazard map. They are helping us because we could not burden our taxpayers with a flood hazard study. That study is being made by the federal government. We will control our community by a hard and fast rule. These are federal monies. I will also state that we have improved 20 percent of our problems and could cope with them here and now.

If you place a couple of million dollars in a paper tiger with no money to operate, that paper tiger is going to give you reports, reports, and reports. I cannot see how it could be functional if you cannot get the dollar bill. Right now our taxpayers are burdened to the point where someone will say, "I have five kids, I'm out of a job, I want to work, and I cannot pay my taxes now." When I retire, I may not be able to live in the house that I worked all my life for because the taxes are eating us up. I cannot see where you can put the burden of another agency on the taxpayers of my community. We feel that we are contributing, we

are improving, we have flood insurance, and we are moving some of the things that should have been moved ten or twenty years ago.

Thank you.

SENATOR MC GAHN: Thank you very much, Mr. Zanat.

Charles Curtis, Watchung Administrator, Somerset County.

C H A R L E S C U R T I S: Thank you for this opportunity. I had intended to read a Resolution passed by the Mayor and Council of the Borough of Watchung, but, since we have gotten emotional, I believe that I must preface the reading of the Resolution with a few remarks of my own.

Mrs. Wilson spoke of the property damage. I know from whence I speak also because I am involved in it. My property lies in the flood prone area of the Borough of Watchung. I was unfortunate in the last flood in that I was stranded at the Borough Hall at that particular time while my parents, daughter, and granddaughters were being inundated at my property. We suffered extensive damage. Yet today I have confidence in the Green Brook Flood Control Commission. I wish some of our leaders had that much confidence; I wish some of our leaders would take the time, instead of criticizing and playing politics, to get behind the commission and give them the cooperation they need. I am expending monies today to improve my property because I have that confidence in the leaders we have on the Green Brook Flood Commission. Hopefully our elected leaders will see the light and join us.

I am amazed that our leaders can today sit here and speak of another authority. I fought in the Marine Corps, and we lost two Marines just recently trying to preserve the rights and freedoms we deserve. What is the legacy for our children? More mandated ways to live?

Every day we are being mandated by something. Why don't we get together and work in constructive ways instead of making political headlines? I cannot see at this time how anyone could accept this type of legislation, this type of involuntary rule. What will we be giving up next? I wonder if some of those communities supporting this flood bill will wake up some day, if it becomes a reality, and find that they have lost something that they will not be able to get back.

The gentleman preceding me put it very aptly: We do have committees and commissions, and they are hamstrung at the present time by lack of funds and lack of personnel. I wonder what would happen to this one.

I think all communities should assess themselves in what they have contributed locally to flooding. We had heavy rains Tuesday; the Mayor, two councilmen, and myself were out at 11 o'clock inspecting every stream in the Borough of Watchung and Route 22 which affects North Plainfield. I am happy to say at this time that the Stony Brook, which, of course, is known only to us in the immediate area, presented no problems, but the Green Brook did at that time. I suppose that was because of where the rains were concentrated.

I wonder if we want to have our elected representatives leave for our children and grandchildren these mandated ways of life. I don't want it, and I'm going to resist it in every way possible.

I don't think it is necessary at this time, Senator, for me to read this Resolution by the Mayor and Council of the Borough of Watchung dated February 13, 1975. It was sent to the Somerset County Freeholders, Senator Bateman, Assemblymen Rizzolo and Ewing, and the Green Brook Flood Control Commission. I would, however, like to have it included in the record. (On file with committee.)

I would like to leave on this note: Before you jump hastily into something, mandated solutions will not be the ultimate end of our problems. We find, in spite of the political chatter that goes back and forth on the problem, we are working together in many communities without the help of the politicians because of the simple fact that we are neighbors. We will contribute police, fire, public works, etc., to one another as long as the equipment and people are there because we are neighbors. If we cannot live as neighbors and we have to mandate things, it is a sad commentary on the leadership we have today, and I care not from what plane the leadership is from.

Thank you, Senator.

SENATOR MC GAHN: Thank you, Mr. Curtis. Your Resolution will be included in the record.

Martin Spritzer, Attorney for the Borough of Metuchen.

M A R T I N A. S P R I T Z E R: I am Martin Spritzer, Borough Attorney for the Borough of Metuchen. I have been authorized by the Mayor and Council of the Borough of Metuchen to make certain statements in opposition to Assembly bills 2373 and 2387 creating the respective Rahway River Flood Control Authority and the Green Brook Flood Control Authority.

Metuchen is a small community, approximately 2.9 square miles, in Middlesex County with a population of approximately 16,000. It has no flood problems resulting from being in either of the two subbasins involved. As a matter of fact, in 1974, I would be surprised if you could have found more than ten people from the Borough of Metuchen who realized that the borough was part of the subbasin of the Green Brook or the subbasin of the Rahway River Flood Authority.

Whatever projects the Authority would propose certainly could not benefit any of the people in the Borough of Metuchen. This does not mean that the Borough of Metuchen and its residents are heartless in respect to the conditions in the areas that are flooded. However, the borough does have a responsibility to point out what it considers dangerous precedents in these bills and some defects in the bills.

To do this, Mr. Chairman, I would first like to summarize from a Resolution adopted by the Mayor and Council of Metuchen in April, 1975, voicing their objection to the bills. It may well be that the committee has a copy of the Resolution. If not, I will see that the committee is furnished with one. (On file with committee.)

The first objection is that the bill would allow the local annual services charges, imposed by the Authorities, to be levied on various municipalities without their consent. This basically, of course, is the home rule argument, and I don't think the home rule argument should be denigrated as perhaps it has been. Reference has been made to history, and, of course, our history in this country, to some extent, began on the basis of a resolution fought on the theory that there should be no taxation without consent or no taxation without representation. These bills could impose property taxes on the local residents of Metuchen without their consent, the type of consent that we normally feel is democratically given to people. These local officials in Metuchen are responsible to the community through public hearings, through personal contacts, through law suits, through referendum and, at election time, the most important, through the polls. Normally, the only way people pay local property taxes in Metuchen is after their own governing body makes a decision, for either bad or good.

A precedent is now being created, Mr. Chairman. For the first time that I know of, a local property tax can be imposed by an Authority not elected and not responsive to the people. The Port of New York Authority, which has been criticized tremendously, cannot do that. It has powers, but it cannot impose a local property tax on Metuchen residents.

Metuchen belongs to the Middlesex County Sewerage Authority. This was not imposed upon Metuchen nor was it imposed upon the other communities in Middlesex County. This was entered into voluntarily after a public hearing and after an ordinance adopted by the governing body. Whether the municipality now has representation on the Sewerage Authority is not important; it did exercise its consent.

This takes us to the second question, Mr. Chairman. What actually would be imposed in local annual charges? Statements have been made that home rule is protected by this Local Government Committee, and I ask your committee to examine sections 9.a., 10.a., and 11.a. of both Acts very carefully because those are the operative provisions. The protection, in the opinion of the Borough of Metuchen, is simply insufficient. I have heard statements today whereby the majority vote perhaps should be changed to two-thirds vote by the Local Government Committee. If that were done, Mr. Chairman, then the nine members of the Authority could impose it and could only be overruled by a two-thirds vote. As the bill now stands, I would like to make one correction: It is not that the Local Government Committee can approve by a majority vote; it can only disapprove what the Authority does by a majority vote. And that is a majority vote of the entire committee. If there is a tie vote or less than, let's say, if there are 23 members, 12 votes, then the Authority's rule, etc., would be upheld.

I would like to address myself briefly to the criteria. There are basically three criteria set forth in section 11.a., I believe, of both bills. Statements have been made - I almost thought one had already been decided relative to the Rahway River Drainage Basin - about the weighted drainage basis. I certainly don't know what is best. Not only are the three set forth, Mr. Chairman, but then there is a catch-all language that almost says anything else that is determined can be used. I think this is a dangerous precedent. If you are going to establish one precedent in an area where we have never had taxation before, I think it is certainly the committee's obligation to look at the criteria. What is fair to one community could be unfair to another community, and I think that has to be carefully reviewed by this committee.

Again, I compare the Sewerage Authority bill whereby the sewerage can be measured as it is contributed by people. There was a comment made concerning what had been contributed by the other communities. Well, I don't know where rain comes from. I thought scientifically that it certainly was from above. But we know that sewerage comes from people, and, based on that, people will really not be complaining because they know as individuals what they are contributing, and they can be taxed. A municipality can tax them on either the basis of the local property tax or on the basis of sewer tax. There cannot be any option like this. We are talking about perhaps subbasins within the municipality. How could the municipality ever figure out how to tax one portion of the municipality higher than another portion to recover the monies?

These are some of the philosophical problems - and I think they are real problems - with this bill.

Lastly, Mr. Chairman, whatever tax is imposed

upon Metuchen, after all the so-called safeguards have been decided upon, Metuchen will still have to impose an additional tax on its property tax. I think by this time, neither your committee nor anyone else needs lectures by me concerning the unfairness of the property tax, and we're just adding one discrimination onto another. The property tax has been discredited because of its discrimination against senior citizens, persons on fixed incomes, and low- and moderate-income people. This tax, as a result of these two bills, would be adopted. Whether it would be in Metuchen or anywhere else, it would compound this unfair discrimination. With everything that has happened in the last few years, and with the struggles of the Legislature for the last year and a half because of the property tax, I think this has to be seriously considered by the committee.

The borough is not against flood control. It has no solutions; it hasn't been involved; it hardly knew it was a part of the problem. It now knows, but, if certain areas require protection from floods and such flood protection is too expensive for the particular area, regional plans may be satisfactory. But, as far as taxation goes, Mr. Chairman, it seems to me that, if a particular local area which is getting flooded cannot bear the cost - and certainly we can understand that - then the burden should not be spread among the upstream communities but should be spread among all the residents of the State as education is now being spread to some degree, through state aid, and perhaps through federal aid. This would seem to be the fairest solution.

Thank you.

SENATOR MC GAHN: I have one question. Do you question the fact that Metuchen should be placed in either one of these bills?

MR. SPRITZER: I question that we are in the bill. At this time, I cannot give you a statement as to the reasons why. However, Mr. Chairman, there is no flooding in Metuchen, and I think certain maps would have to be delineated more closely before we accept the fact that we should be included in the bills and should contribute.

SENATOR MC GAHN: Let the record show that it is being questioned whether Metuchen basically should be involved in either one of the two basin plans, and this could be determined possibly by a survey by the Army Corps of Engineers. Perusing this, I cannot see it included either, and I do not know the answer to it. But we will address ourselves to that particular question. Thank you, Mr. Spritzer.

MR. SPRITZER: If I can send you any additional information on that, Mr. Chairman, I will.

SENATOR MC GAHN: Thank you.

Mr. Kleinhans of Somerset County. While Mr. Kleinhans is making his way to the microphone, let me say that we will next hear from Mr. Winter followed by Mr. Sullivan. We will recess at 1 o'clock for a period of an hour and reconvene at 2 o'clock.

J. F. KLEINHANS:

Senator, thank you for the invitation to testify. You have heard from Mr. Curtis who covered things pretty well. The question I have is this: Why do we need the Green Brook Flood Authority? We have a Green Brook Flood Commission that seems to be operating very well at the moment. Of course, nothing is perfect, and I don't imagine an Authority would be perfect either.

It seems to me that bill 2387 is going to take care of everything, and you have a copy of our Resolution opposing it. However, since the Green Brook Flood Commission came into being again, since our flood of August 2, 1973, the Army Corps of Engineers submitted

four plans. Watchung was opposed to all four plans. However, after due consideration, they came back with a modified Plan 4 which eliminated a detention basin in the center of Watchung comprised of about 60 acres. Well, that 60 acres, that detention basin, would have wiped out the center of Watchung.

Of course, we come back to the point of money. As I understand it, the modified Plan 4, which is up in the \$120 million range, would be junked if an Authority took over. That would mean having all the engineering again and a terrific expense to the State which is at the moment, I understand, pretty short of funds. I am also led to believe that, if we go with the Authority, things will be done quicker. But I might point out that there is a state highway, 87 - it's a beautiful highway - that ends in Watchung. It's been that way for years. I don't see where the State can do anything quicker.

Under the circumstances, Mr. Chairman, I would suggest that we stay with the Green Brook Commission.

Thank you.

SENATOR MC GAHN: Thank you very much, sir.

Mr. Winter of Edison Township.

R O L A N D A. W I N T E R: Mr. Chairman, Edison Township is grateful for this opportunity to speak against both bills and to request in the alternative that Edison be omitted from the statutory language of both bills.

While, as Township Attorney, I am spokesman for the municipality of Edison, I would like the record to show that in attendance with me today is Mayor Paterniti, Mr. Godwin, the Director of Public Works, and Mr. Delesandro, our Administrative Director.

I would like to offer the observation, Mr. Chairman, that, under the banner of regionalization, the thrust of

these two bills, 2373 and 2387, respectively, are parochial in effect. Quite contrary to the declared intent of creating a region which is to encompass these two basins, it appears to us that the net effect is to divide the responsibility for flood control between two small Authorities that may or may not eventually be effective. But whether this is the most efficient way, particularly with the economy and budget problems of today, we feel is subject to serious question. For example, the data that the technical people have accumulated over many, many, many years of studies inevitably are going to be confined to the wastebasket.

The language of the bill makes it permissive only that the expertise of the County Planning Boards, and the various professional and technical people who have done these studies in the past, need be placed at the disposal of, or appointed to, these various Authorities.

We feel further that, if not in the legal sense, certainly in the literal sense, the establishment of these Authorities will have the effect of taxing without representation.

Experience has shown us that, once these Authorities are created, they cannot be controlled through the democratic processes. While we have every confidence that the appointments will be in the best interests of the projects to which the people will devote themselves, it is repugnant to the democratic process to use our tax monies when the people in the Authority are beyond the pale of the electorate. We feel this is contrary to established and expected forms of government, and it is not the appropriate way to tackle these problems.

We find it interesting to note that, in the statutory language concerning the mandatory assessment of the named municipalities within the Authority's area of

jurisdiction, there is not mentioned any Authority, such as the Parkway, the Turnpike, or the Division of Transportation, which have created roads through our area that either created or complicated drainage conditions that have been very, very costly to the municipalities. In the terms of this bill as it is presently drawn, they would not bear any financial burden, even in instances where they created the drainage problems. We feel that this is very, very unfair.

Moreover, we suggest very, very strongly that the economic and efficient way to meet the problems at hand does not lie in the direction of creating numerous agencies. The proliferation of governmental agencies is the veritable quagmire of tax dollars. The most basic law of economics, the law of diminishing returns, applies here in a very, very basic and elemental sense. We can foresee that the tax dollars allotted to these Authorities will lose much of their economic efficiency through administrative costs, duplicated studies, and matters that will not go to the capital improvements that will actually control floods or protect lives and property.

If these bills are inevitable, we urge you with all our persuasive powers to eliminate Edison from these bills. It is important for your committee to understand that Edison, geographically, lies within both the Green Brook and Rahway River Drainage Basins, but, in addition to that, we belong, geographically, to two other drainage systems, both connected to the Raritan River, but they are known as the Mill Brook and the Ambrose Brook drainage systems. Conceivably, if not inevitably, if this legislation is adopted, the Edison taxpayers can look forward to supporting four separate and distinct Basin Authorities.

Edison urges this committee to think in the same

terms as the taxpayers. We look to the State of New Jersey as a region. We feel that there are agencies in existence today that can adequately cope with these drainage problems if they are given the personnel and if they are given the manpower to accomplish these tasks. Edison should not be put in the position of having to eventually contribute financial support without any representation on four separate and distinct Basin Authorities.

We thank you very much for the opportunity to present our views.

SENATOR MC GAHN: Thank you very much, Mr. Winter. Let the record show that this committee will take particular note of the objection raised by Mr. Winter concerning maintaining Edison in both of these basin plans in view of the fact that apparently it is not included in the Army Corps of Engineers report.

Mr. Sullivan, a citizen of North Plainfield.

J E R E J. S U L L I V A N: Thank you, Senator, for the opportunity to speak. I speak as a former Councilman of the Borough of North Plainfield, a member of the Flood Disaster Preparedness Committee, and a resident vitally interested in these bills.

Virtually anyone familiar with drainage problems and local flooding recognizes the regional nature of the problems and the regional nature of the measures necessary to alleviate these conditions. Those who oppose these particular Authority bills do not suggest that individual localities solve their own portions of the problem. Indeed, their arguments have centered on whether or not these bills are the best way to coordinate and solve our flooding problems. I have heard no arguments, to date, that a strong flood authority such as is proposed in these bills will not permit the problem to be solved.

I would suggest that we go over the various alternatives offered to date, and I believe the committee will be able to see exactly why these bills are needed.

Let's first look at the proposal to simply give the existing flood control commissions the power to raise money and construct floodworks. This viewpoint is represented by Assemblyman John McCarthy's bill. The most telling deficiency of this bill is the voluntary nature of flood control commission membership. For example, in the Green Brook Flood Control Commission itself, there are several communities that have refused to join. Among them is Berkeley Heights which has set eight conditions for its approval of the proposed Corps of Engineers plans. Some of these conditions will peril the progress of the planning phase. How many more conditions will be set when actual funding and construction is involved? Clearly, where the federal government requires unanimity, a voluntary commission will be powerless to act.

Furthermore, if the commission membership is made mandatory, then you have the very thing that opponents of the authority have mentioned as so objectionable, that is, taxation by nonelected officials. In addition, if someone on the commission were found to be incompetent or acting in an unethical or illegal manner, who would be able to remove that person? In the present bills being considered today, the members will serve at the pleasure of the Governor, and they can be removed. In the present bills, the actions of the Authority members will be subject to review by the Local Government Committee in a way which will prohibit any highhanded, arbitrary actions, but will still permit the majority to initiate needed measures.

Let's now look at the proposal to have an Authority created by the Freeholder Boards involved. Perhaps the best way to show why this approach is not acceptable is to examine the situation in the Green Brook basin again.

This area includes a total of 18 communities and three counties. As was stated previously, the situation where each community handles its own problems is simply not feasible here. In fact, the voluntary cooperation of these many towns is virtually impossible. In the case of the Passaic River basin, almost half a century has gone by, and local cooperation is still an elusive dream.

For three counties to cooperate on such a project, the respective Freeholder Boards would have to work very closely together. It certainly might be possible, but it would be fraught with uncertainties. What if one of the counties decided to pull out? Since the problems extend beyond county boundaries, the withdrawal of one county could effectively kill any meaningful control measures for the entire basin.

What about local control? This is a major concern of the people objecting. No locality would have much input in an Authority appointed by a county board. Clearly, the proposed Authority bill has more local safeguards. The bills do not suffer from divided leadership. The same criticism of a flood control commission, with regard to removal of members, can be leveled at the Freeholder-appointed Authority. Senator, a Freeholder-run Authority might work very well if only one county were involved, but it is the Articles of Confederation in disguise where three counties are concerned, as is the case here.

This is not a local problem; this is not a county problem; it is a regional problem. The only political entity to handle this type of problem is either the federal government or the state government. Since the federal government is not going to create a body to solve this flooding, it is the responsibility of the State to do so.

Another bill has been proposed by Assemblyman Patero. This bill simply establishes a mechanism to

arbitrate any dispute in settling on a flood control plan. Since there are many critical decision points in the completion of a flood control project - something like 25 according to the Army Corps of Engineers - this bill only addresses itself to one small part of the entire project. For that reason, I dismiss this bill as unworthy of serious consideration.

Senator Menza has proposed a bill which allows communities, counties, or combinations of political subdivisions to form their own flood authority. This bill suffers from the same weakness cited in Assemblyman McCarthy's bill. Communities or counties need not participate if they are not inclined to do so. This voluntary feature irretrievably flaws any legislation that contains it.

Why is it so important to have the membership of any flood control body mandated? The very nature of the drainage process helps to explain the difficulty. Communities that suffer flood damages are usually the downstream towns. While it is undeniable that some of their problems stem from their own shortsighted development of flood-prone land, this is not the entire story. The upstream communities also contribute in no small measure to flooding by developing the high ground and substantially increasing the amount of surface runoff. These are the facts of life in regard to drainage. They are not recriminations. The simple conclusion to be drawn is that all communities in a given basin have a role in the drainage and therefore in any problems as well.

The problem that arises is one of human nature. It is easy for upstream communities to see little benefits to participation in flood control. Likewise, downstream communities would like to see large detention basins in upstream communities to overcome their problems of unwise development. It is precisely this parochial attitude

that lies at the heart of every flood control impasse in this State. It is precisely this type of reasoning that requires some form of state-imposed mandate. Without it, the completely differing objectives of the upstream communities and the downstream communities will stalemate. Once the mechanism is created that prevents this type of stalemate, I am confident that compromises will be worked out, and the project can proceed. In my view, these flood control authority bills create this type of climate.

My final remarks will concern themselves with some of the strawmen and red herrings that have been thrown up by opponents of these bills. There is more local control in these bills than is present in the concept of Freeholder-run Authorities. Taxation without representation has been bandied about. This is a deliberate misrepresentation. Since the Local Government Committee created by this Act includes the Mayor or his representative from each community, elected officials are involved in this group. Furthermore, since the budget or any capital expenditures must be approved by a majority of the Local Government Committee, I see representation by this committee's role.

Senator, these bills represent hope for those people living now with fear for their lives and property. The bills are an effort to solve a very vexing problem, and they have had a great deal of work go into them. Like any complicated subject, there may be things that can be changed to make this legislation more effective or more fair. Your committee has an opportunity to begin the process of solving not only the drainage problems of the Green Brook and Rahway River basins; you can begin the work of facing up to the State's drainage problems. Amend these bills if you will, but do not simply allow this legislation to die here in committee.

SENATOR MC GAHN: Thank you, Mr. Sullivan, for your informed and articulate presentation. Our final speaker this morning will be Mrs. Joyce Schmidt.

J O Y C E D. S C H M I D T:

I am Mrs. Joyce D. Schmidt, member of the State Environmental Quality Committee in charge of environmental legislation for the N.J. League of Women Voters. The League has worked hard and long for an overall environmental program which would provide for a "physical environment beneficial to life." We have worked diligently for mandatory flood plain legislation and regulation since 1970 until the law was finally passed in 1972. We are certainly aware that until recently this law has not been promulgated through the regulation process except for the "Floodway" which is under the jurisdiction of the state by law. The municipal "Flood Fringe" regulations have yet to be determined. This is where the problem is - three years later.

We realize that the situation is part of our over-all fiscal problem -- the lack of funding and staffing which is supposed to be in the proposed pending budget. We realize that the bills on which we are speaking today are a result of these fiscal problems. They are the result of a dilemma but at the same time pose a dilemma for us for many reasons. Allow me to present to you some recent occurrences that reflect on the problem in general and then to our own more specific problems.

The League has been aware of the larger problem on a national level. The General Accounting Office has recently released a report lambasting federal agencies for their lack of progress in curtailing disastrous flood losses which exceed one billion dollars annually despite an investment of nine billion dollars in protective works. In issuing this report (RED 75-327) they conclude that "there has been little progress toward curtailing disastrous flood losses by planning for (flood management) and controlling the uses of flood-prone lands. The study team found that local officials were not regulating their flood plains "because of stated political opposition and the threat they felt regulation posed to their economic development."

The report cited several techniques to avoid damage for a 100 year flood level, 1. eliminating construction in the flood plain; 2. restricting land use to functions such as recreation and farming which will not be severely damaged; 3. require the lowest level where water can enter a facility to be above the 100 year level; or 4. require flood proofing or diking.

At the same time the channelization practice of Federal water resource agencies has come under fire in the Subcommittee on Conservation and Natural Resources, of the House committee on Governmental Operations, expressing their "continuing concern that federal funds are being expended by these agencies with little attention to the national policies aimed at preserving wetlands, discouraging flood plain development, and preserving and enhancing water quality". The E.P.A. confirmed through additional data that stream channelization is a major factor in the deterioration of water quality through sedimentation, eutrophication and accumulation of pollutants such as pesticides; and that the environmental impact statements continue to lack the kind of scientific documentation that can serve as a real basis for predicting a project's environmental effects, which sometimes takes several years of base-line studies. Other quotable statements from the hearings were - "drainage improvements ... invariably alter and usually reduce vegetative cover and remove what is considered excessive surface and subsurface waters more rapidly from adjacent lands" (John M. Wilkinson) Dr. Ruth Patrick, Philadelphia Academy of Natural Science, state "In no instance did we find that channelization had been beneficial to the aquatic life in the stream or to the plants and animals of the natural bottomland ecosystems".

Also, we all know that before a community may participate in the National Flood Insurance Program it must adopt and submit to H.U.D. for approval a comprehensive zoning and land use plan for flood plain protection, restricting construction and development and encouraging compatible uses such as open space, agriculture and recreation and forestry.

And then last year the federal Water Resources Development Act of 1974 became law.

One of the most significant features of the Act was Section 73 which for the first time stated the validity of non-structural approaches in water resources activity which will lead to significant changes in the manner which we must deal with the threat of future floods as a supplement to or substitute for traditional methods. The 1974 Act is very specific that in planning any flood protection project "consideration shall be given to non-structural alternatives to prevent or reduce flood damage". With the rapidly escalating cost of construction it is becoming mandatory that we look at other ways of achieving our goals.

Finally the League has long questioned the problem of government by authorities. Authorities have powers to make decisions which shape economic, social, environmental, and land use problems with far reaching effects on the life of its citizens. There are over 200 authorities in this state now; those established through compacts with adjacent states, major authorities within the state, multitudes of local sewerage and pollution control authorities. In the past year this legislature has passed legislation enabling the Industrial Pollution Control Authorities Act, (counties), the Economic Development Authority (State) and still to come is the County Utilities Authorities (S3084) and the N.J. Resource Recovery Authority (A 3083). Previously there were hearings for the Deep Water Port Corporation or Authority and the Power Authority Act.

In a curious sense, authorities are a deviation from the democratic process, since they are not sensitive to the electorate, but owe first allegiance to the bondholder, then the user who is served. They exist as financial entities, are not tax supported, are tax exempt, and are subject to limited public control both administratively and fiscally. In the words of Dr. Robert Smith, author of the comprehensive study entitled Public Authorities, Special Districts, and Local Government, authorities are "ad hoc efforts to meet particular contingencies". We are all familiar with authorities spawned by aggravated problems, problems which defied solution within established framework of governmental units. Authorities emerge as escape hatches when economic, political, geographical or sociological

barriers interfere with problem solving. Dr. Smith comments - "Authorities provide reserve funds and commit future surplus for added improvements or additions to their facilities in such ways that it is virtually impossible to know how much profit they are making". This is all to say therefore that we are aware of the dilemma facing the state in funding flood plain management programs, but recognize the authority may be the only mechanism or alternative solution to a drastic fiscal crises.

I have outlined the larger problem that exists at the federal level concerning new laws and policies, and the problem with authorities as it exists in the state, now I would like to be more specific on the bills being considered today.

You are aware of the Cranford Leagues major concerns with the bill which they will allow to be their testimony for the purpose of this hearing. The State league has previously offered our comments at the request of Assemblywoman Wilson. These are attached and speak generally to amendments concerning the non-structural terminology. We would also suggest the membership on the authority be chosen from the committee to encourage knowledgeable "carryover"; we would specify a time limit of 2 or 3 years to develop the plan; we would specify a work assignment for the committee; and a re-evaluation of the authority and its effectiveness in 5 or 6 years.

On the whole, we feel the bills, A 2373 and A 2387, are well written- precedent setting legislation, balanced by recognizing and including state and federal agencies. They are basically concerned with watershed or river basins instead of county or political jurisdiction yet recognize them ; requires mandatory membership; involves the public through public hearings; requires environmental impact statement which includes the economic cost-benefit ratio, and the bi-level governing system is unique.

But we would like to re-iterate that this type of legislation could possible be abused because there is the potential of 85 or more possible watershed authorities

that could evolve from it. A more positive solution might be the establishment of 4 or 5 Basin Authorities with sub-basin commissions which would act as local work-study committees with each Basin authority doing the bonding work. This possible solution would alleviate the proliferation problem if the Senate committee decides it necessary to go the route of authorities as the means to answer our fiscal problems.

SUGGESTIONS FOR AMENDMENTS TO A 2373 AND A 2387
FROM JOYCE D. SCHMIDT, LEAGUE OF WOMEN VOTERS

- Pg. 1 line 4 ... minimize flood losses *through storm water retention and erosion control;* (and) to prevent the degradation...
- Pg. 1 line 12 ... flood control *and storm water management * plan for ...
- Pg. 2 line 28 ... capacity of such lands, *and involving the use of non-structural methods for flood control* or for
- Pg. 3 line 51 ... remove - (or channel improvements .. up to... all other alterations.) add - *or other non-structural methods*.
- Pg. 3 line 53 ... shall mean the plants, structural * and non-structural means * and other ...
- Pg. 4 line 86 add new definition q. "Storm water management" the means of drainage and storm water control aimed at maintaining or reducing run-off rates and flooding levels to that approaching natural hydrological conditions such as detention/retention basins.

OTHER THOUGHTS AND SUGGESTIONS

1. Require re-evaluation of the authority and its effectiveness in 5 or 6 years.
2. Require or suggest membership of authority to be chosen from committee to encourage knowledgeable carry-over.
3. Page 6 - Specify a time limit to develop the "plan" such as 2-3 years.
4. What is the committee assignment? Suggestion
- a. to conduct surveys and compile data in existence or being generated by municipalities and other agencies with respect to natural resource inventories, flood plain delineations, topographical, soil and land use maps areal photographs. etc.
- b. to conduct studies in the area of flood plain management, flood control, erosion control land use regulations, storm water run-off control and other studies deemed necessary.

c. to investigate criteria and develop guidelines for site location, design and construction of storm water retention facilities, using agency and department expertise.

d. to appoint such technical, legal or other special purpose subcommittee as deemed necessary to develop a comprehensive water resource management program.

Thank you, Senator, for the opportunity to present our views.

SENATOR MC GAHN: Thank you very much for your testimony, Mrs. Schmidt.

We will now recess for approximately an hour for lunch.

(Recess)

AFTERNOON SESSION

SENATOR MC GAHN: Good afternoon, ladies and gentlemen. We will reconvene the public hearing on the two Flood Control Authority Bills.

The first individual to testify this afternoon is Stephanie Cedervall of Rahway.

S T E P H A N I E C E D E R V A L L: Thank you, Mr. Chairman.

Ladies and gentlemen of the Assembly and guests: I am here to speak informally. I do not have a prepared statement. I am representing the Rahway Citizens for Flood Control, Incorporated, which was organized in 1969 to help alleviate problems at a local and regional level. I have served as secretary and publicist of the group. For over two years, I have been Acting Chairman of the Rahway River Environmental Coalition, a rather loose organization of very concerned citizens from regional towns - Springfield, Mountainside, the Cranford Flood Action Group, Woodbridge, etc. So I have had quite an input as to flooding via their concerns as well as my own experience as a flooded homeowner, living at 521 Central Avenue, Rahway, along the Robinson's Branch of the Rahway River. It is right in the flood hazard area as depicted by a Flood Plains Ordinance which was passed in Rahway in July of 1972, just in time to meet the deadline to guarantee us flood insurance coverage. At that time, we had bumper stickers saying, "Rahway needs flood laws now," trying to get that through.

My main concern here today is to develop the theme of home rule and to support the bills as presented by Assemblywoman Wilson and Assemblyman Garrubbo which give us the greater protection that we need so sorely. Home rule is inadequate and it should be viewed from a different perspective.

If you are depending on federal and state agencies, then a regional organization, such as the Rahway River Authority, would in essence be more home rule. If you are speaking of home rule as limited by the boundaries of your municipality, then you are unnecessarily limiting yourself. This has not worked in the past to solve flood control problems and it will not in the future. We have to try something else.

The bill, as presented, need not be perfect. There is always an area for amendment. I was sorry to see that Bassona's bill was not signed by Governor Cahill shortly before he left office. We worked very hard for that passage and were happy that the Senate and the Assembly had approved it. Its shortcomings could have been amended.

The fact we have had so much flooding in the past, reviewing the testimony on flooding, it is surprising that we are still here talking about another bill which is already many years too late. We have to have mutual trust that those in charge will be fair to all who are members of the organization. Voluntary membership has proven ineffective.

Regarding home rule, I am here today to cite a case in Rahway at the present time. In today's paper, there is a headline, "Councilmen call for new hearing on Sisto landfill; Mayor Martin criticized by Cedervall and Marsh." Councilman-at-Large Tor Cedervall is my husband. I am also representing his opinions here.

This is what has happened in Rahway. We thought we were one of the first ones to pass a flood plains ordinance, but we find that it does not protect residents who are already flooded who live within the flood plain, but is being used as a vehicle to allow the filling in of a flood plain which was always a natural water detention area. The flood plain ordinance is being used as a tool for those who are seeking profit by unscrupulous development. The

opening section of the ordinance states the purpose and policy and one is to prevent further unwise development in unprotected flood plains, thus reducing future expenditures for protective measures. This has not been done.

One gentleman here felt that we have agencies that already can help us with the flood problem. Now the towns were forced to have flood plain ordinances, which I suggest should all be re-examined to see if they are serving their purpose. Our case is a test case as to how a flood plain ordinance works because the application for a permit to fill and get an encroachment line was placed before the Planning Board which should have treated it under conditions of a zoning ordinance. However, no one was notified. No one within 200 feet was notified that this application was under consideration.

I say this because some of the members of the Planning Board felt that they should automatically act because the Department of Environmental Protection, namely, the Bureau of Water Resources, had issued a permit, an encroachment line of 90 feet from the center of the stream.

Here is a case where existing agencies often actually hinder and help to break the laws that they are supposed to support when they should be working for conditions and policies favorable to the environment. There is a veil of secrecy existing here. Now, if we hadn't the Rahway River Authority, I would assume that this could act as a watchdog agency, coordinating the work of the Army Corps, the Department of Environmental Protection and the Rahway Valley Sewage Authority, if it is involved in some way. Incidentally, that is a very good model of how an environmental authority can work. I have known some of the members who have served on that authority. They work for funds at the federal and state level, not just taxing communities.

With regard to the gentleman who was worried about taxation, I think it is a false assumption that all projects would be paid for by the taxation from the municipalities. I should think that the Authority would be endowed with the power to work for grants to help get some of these projects going and not duplicate the work and studies - the costly, repeated studies that generation after generation somehow has to pay - and the projects never get off the drawing boards.

Regarding the problem in Rahway, I want to cite that in 1972 I represented the Rahway Citizens for Flood Control, along with our attorney and chairman, at a hearing before the Water Policy Council, with a complaint against the Sisto Realty Company which was asking for a permit to fill an area 380 feet along the Robinson's Branch of the Rahway River, already now appearing as a high levee or dike on one side of the stream with absolutely no protection for adjoining homes and properties, including mine, on the opposite side of the stream.

This is what is happening now because we don't have another intermediate authority. I am using the word now in the broad connotation, not just "authority" as a structure, but a power to somehow intervene. Citizens alone can do a great deal to help build public opinion, but we cannot solve the problems, ourselves, and somebody is always paying for it. You have to consider the costs of police protection for overtime during floods, the traffic inconveniences, etc. I don't want to go into the problems of flooding because we know them so well and you have heard them over and over again. I merely want to stress the need for some such agency as the Rahway River Authority, imperfect as it may be, and it must be approached with mutual trust that somehow the people who will be working in it will be thinking of our needs.

I have already at a regional hearing that Assemblywoman Wilson and Assemblyman Garrubbo held voiced the fear that we mainly have people such as mayors and planning board people, and that we need some citizen input. The flooded homeowners, after all, can give you the best research on the problem. In all the meetings that I have attended, the most creative thinking has come from citizens, not from engineers, not from Planning Board people, not from planners.

In Rahway, the Planning Board, in approving this application for permit on a local level, although having the power to rescind it, has violated its own Master Plan, which it almost simultaneously passed. The Master Plan is funded by HUD money. It is written to impress HUD in order to get all these federal grants for the tremendous development that is going on in Rahway, such as a new Fire Station, a new City Hall, a new Police Station, all very commendable. One of its requirements, incidentally, was to have city input.

The Sisto landfill property was pictured and publicized in the Elizabeth Daily Journal and the Rahway Record. This particular property is shown on a couple of maps in the Master Plan and there are citations amounting to at least twelve which argue against its filling in. As a matter of fact, the Planning Board simultaneously approved a Master Plan which recommends this area for semi-public use as a park and for water retention. Meanwhile, at the same time, they approved a permit to fill it to a depth of some 16 or 17 feet. This is a displacement of tons of water and the action is a fraud. I think that the federal flood insurer should investigate this. We are in communication with them. The government is not going to pay for federal insurance moneys if you don't have a workable flood plain ordinance that prevents flooding. To have a flood plain ordinance that merely fills in the

flood plain so you can no longer define it as a flood plain and then allow permits for homes or other buildings to be constructed thereon and be sure that they are flood-proof is sort of a hoax on the whole public, not only those who are flooded but those who have to pay for the bills of flooding.

As far as mandates are concerned, so many people here are afraid that they will lose their democratic privilege. The fact that the Assembly, itself, is duly elected and acts on passage of this bill is already a democratic process at work.

Regarding mandates, if you do not pass this bill and take a chance on it -- after all, the problem of flooding is greater than any of the problems or obstacles presented by those in opposition. You must remember that all flooded people and the communities that are flooded are being forced to continue to wait for help, to continue to suffer, to continue to lose moneys, and to continue to lose lives.

I very humbly and sincerely hope that all the Assemblymen and Assemblywomen will vote in favor of the bills.

I would like to present a copy of this newspaper and just one short release for your record. You already have on file letters from our organization in support of the bills.

(Newspaper clippings submitted by
Mrs. Cedervall can be found on pages
6 X and 7 X.)

SENATOR MC GAHN: Thank you very much, Mrs. Cedervall. We will see that what you have submitted is included in the record.

Mr. McArdle from North Plainfield.

F R A N K M c A R D L E: Senator, thank you for the invitation to appear and testify.

Quite frankly, I was thinking much better before lunch. My stomach was growling and my mind was going much

better at that time. I do not have a prepared text.
I will be speaking off the cuff.

North Plainfield is a proud little community and, for the most part, a beautiful one when the sun shines. However, when it begins to rain, the fears and the frustrations and anxieties of the people are quite apparent. You have already testimony about how, when it rains, the residents of the borough go out and take a look at the brooks two, three and four o'clock in the morning. I, myself, have moved cars for my neighbors and my own on many, many occasions. Actually, you are placed in a situation where you are afraid to go to sleep. It is too early to tell whether or not you will have to evacuate, which we have had to do in the past, but you are placed in that anxious situation, betwixt and between, not knowing what to do.

I would like to describe for the record what I experienced since I have moved into the Borough of North Plainfield. I reside on Upper Somerset Street on the north end of town, a block away from the Watchung border. I am located at the foothill of the first gorge of the Watchung Mountains. As I said, on a sunny day, we have a brook which is approximately 140 or 150 feet away from my home on the opposite side of the street, which is quite placid. As a matter of fact, you could walk across it without getting your ankles wet. However, shortly after moving into the area, in 1968 and in 1969, we were surprised to learn that the area does have a flooding problem.

It is not a problem that is present in other areas of the State where you have a cresting of a river or a brook or a stream where the water just ebbs over. What we are faced with is rampaging water, the velocity of which is frightening.

Remember I reside 140 or 150 feet away from a brook. In August of 1973, the height of the water that was passing in front of my house on a public street, mind you, was in excess of seven feet. There were automobiles which came out of driveways that were forced downstream, struck homes, destroyed foundations and destroyed bridges, to which the pictures will attest, with little or no warning.

Of course, after a flood, people become very up tight, they become very concerned and they want action. We have always wanted action, but it becomes a bit more apparent immediately after a flood, as you can well understand. We then become involved in the lengthy clean-up process. You have also heard testimony with respect to the federal flood insurance, as to whether or not the people had it. I, myself, did not have it when Doria hit in 1971 nor in August of '73 when we had flooding. I incurred considerable damage to personal property, in addition to structural damage. I had to take it on the chin for that. Fortunately or unfortunately, depending upon your viewpoint, the federal government came in with the Small Business Administration and we were allowed to apply for Small Business loans at a moderate interest rate. That helps, but the only problem is that it has to be repaid. In my particular case, I am talking about paying back somewhere in the neighborhood of \$9,000 for the two floods. Admittedly, it is over a long period of time, but I am still paying nonetheless. I am now paying federal flood insurance as well. However, if we were faced with a minor flood that did not create the havoc and devastation of the major two that we had in '71 and '73, we would have to incur a deductible. I forget the exact sum of money, but obviously we are talking about a couple of hundred dollars for each and every

individual.

You start totalling up those costs - and we still don't have anything in the way of meaningful flood control and a rather laissez-faire attitude with respect to it - it becomes mind-boggling after a while.

With respect to the Green Brook Flood Control Commission, for the past two years I have been the representative to the Green Brook Flood Control from my borough. I represent the people of the borough. The other representative from my community is our mayor, Mayor Novack. He represents the governing body.

There has been testimony given earlier with respect to the Flood Control Commission substituting for the local government committee in 2387. I strongly believe, although I am a member of that Commission, that that will not work. I will offer as evidence the minutes of the Green Brook Flood Control Commission, which I hope the members of the Committee will read, of the April 1974 meeting to the present time. I think upon perusal of these minutes, you will find that the Flood Control Commission is neither equipped nor capable of handling the problem because it is too massive for them.

Another thing that is important is that some of the membership of the Commission have had long-term appointments to that body. At the time they were appointed, they represented the governing body of their respective communities. However, that has changed through the elective process and they now find the people who appointed them are no longer in office and they may not be responsive to the people or the wishes of the people. Yet they still retain membership in the Commission because of their appointment for a multi-year span.

Again we get back to the question of home rule. Should we have home rule from a group of people, whether they be laymen or professionals or elected officials, who

may or may not be responsive to the people? I suggest that that should not be so. I would much rather have the representation from the local government committee because you have the built-in safeguard that if they make an improper decision, the electorate can take care of it at the polls in November.

The third thing I would like to mention: You have heard testimony from one of my county's freeholders that Somerset County is responsive to the people. Mr. Nevins went on at great length to explain how the desnagging and the cleaning of the brooks would take place within a week. I respectfully suggest to you gentlemen that you think about that point for a moment because if Somerset County was, in fact, responsive to the people, then where have they been for the past two years, and certainly since August of 1973? They have miserably failed the people of my county, not only in the sense that they have not done anything, but in other areas as well. One was the hiring of a hydrologist to examine the Army Corps' plans, to go over them in detail and to prepare an interim flood control plan until the Army Corps was in a position to move in with their more detailed plans. Certainly, there are some areas that we can improve ourselves while waiting that eight or nine years for the Army Corps' plans to come out. Somerset County did not take the initiative in hiring a hydrologist. They did take the initiative in allocating federal revenue-sharing funds for interim flood control work to the tune of about \$500,000. However, with no hesitation on their part, they also voted for a two-million-dollar ice-skating arena to be built in the western end of my county.

I recognize the parallels are not quite the same. But, as far as I am concerned, I am all for recreation and enjoyment by the people. However, I think they are somewhat misguided in direction when

they issue bonds and allocate specific funds and spend them for a project which will have little effect on the serious problem that we have with respect to flood control. I think they have missed the boat and I don't use the word "boat" as a pun because we have been using them in our county.

Had we had the Authority that is proposed in 2387 - and I am speaking specifically with respect to the Green Brook area because I am not that conversant with the Rahway River area - about 15 months ago, we would have been in a position today to make a decision with respect to a more detailed study that the Army Corps is now making. We have a conditional approval of an Army Corps plan known as the modified plan for flood control projects. It has taken us 15 months to get what the Army Corps suggested to unanimous approval by all the communities and the county governments involved. This involves about 16 public bodies, in addition to an autonomous agency, the Union County Park Commission. Had we had an Authority at that time, the Authority could have acted on behalf of all the people on a regional basis, made the decision, which probably would have been the proper one and which has been made now, and been able to enter into the agreement with the Army Corps on behalf of everybody. We would not have been waiting this unnecessarily long period of time for that decision. Then, as we go through the various steps of the Army Corps project, we will have to again go back to all the communities and the county governments involved and again request unanimous approval on the plan of action.

It just doesn't make sense to waste 15 months or even 5 months or even 1 month unnecessarily if we can avoid it. I am afraid what we may be faced with now because of this unnecessary delay is the situation where the Army Corps is now in a position where they may

miss the next omnibus bill in Congress which could possibly mean a two- to three-year wait for the necessary funding to proceed with the next phases of the project. This gets everybody up tight. When this was first mentioned, the Army Corps had considerable heat on them from our elected officials and the people to get the project completed. They did their part. They then came to us and said, "Now it is your turn to act. Here are the plans; which one do you want?" We didn't do what we were supposed to do and that is unfortunate because everybody like myself and the other people here this morning are suffering as a result of it. As a matter of fact, everyone in the area is suffering because when you have a flood with the devastation we have had in the past, everybody is paying for it. Whether you just get a drop of water in your cellar or don't get any, you are still paying in the sense that your tax dollar is going for damage and repair and restoration of public property, in addition to your federal tax dollar which is paying for the Small Business Administration to make small interest loans available to the people involved. Of course, we are still underwriting the cost of the federal flood insurance. That is not free by any stretch of the imagination.

I am quite upset over some of the comments that were made here this morning. I think most of the arguments that were made against these bills, in fact, indicate why we should have these bills passed.

I would also like to submit to the Committee - Freeholder Nero alluded to this earlier - an editorial in the Courier News of this past Tuesday, May 13th. I am going to paraphrase it because of the lateness of the hour. It says, as the second anniversary of the 1973 disaster approaches, there appears to be little progress in

moving toward creation of a Flood Control Authority. Instead of backing one plan, the one proposed by Assemblywoman Betty Wilson of Union County, efforts toward establishing an Authority are becoming increasingly fragmented as counter-proposals, all of them well-meaning, are offered. The latest proposal comes from the Somerset, Union and Middlesex County Freeholders. You heard testimony earlier with respect to that. Somerset and Middlesex reportedly are near agreement on draft legislation to establish an Authority. This proposal though is similar to one already introduced in the State Senate by Senator Alexander Menza, a Democrat from Union. Why must yet another bill be introduced? The concern of Somerset and Middlesex Freeholders for a strong voice in selecting members and in maintenance assessments is understandable. The Wilson Bill also offers a strong degree of local control through a committee of municipal and county representatives. This group could veto assessments and be overridden only by unanimous vote of the Authority.

The Freeholders desire for a strong role in appointments also would be met in the Wilson Bill. The Authority to be appointed by the Governor must be bipartisan.

Flood control plans have languished since the 1930's, hampered by political squabbles and fears of usurpation of local control by the State. Public safety alone dictates that prompt action be taken to create a Flood Control Authority. Enactment of the Wilson Bill would be a giant step toward preventing a reoccurrence of August, 1973. The time is now.

I submit this on the basis that the Courier News is a well-respected and well-known newspaper in the State of New Jersey and certainly conversant with the problem in our area.

My last comment to this Committee is a plea to you as representatives of the people because you have the opportunity and, indeed, the responsibility to bring about a positive approach to the solution of our flooding problem by endorsing A 2387. My only wish is that that duty and obligation will not be shirked and that the vote will be affirmative for passage of this measure. Thank you.

SENATOR MC GAHN: Thank you very much, Mr. McArdle. Did you say you were submitting copies of those minutes and the editorial as well for the record?

MR. MC ARDLE: Yes.

SENATOR MC GAHN: Fine, and thank you very much.

I have one question to ask you: Is your municipality still developing on flood-prone areas of North Plainfield?

MR. MC ARDLE: No, sir. We had a building moratorium for a period of time until we had a detention-retention proposal approved by our Building and Planning Board and the Board of Adjustment. As a matter of fact, in many ways the building going on now is improving rather than making worse any flooding conditions.

SENATOR MC GAHN: The mistakes of the past are not being perpetrated.

Ms. Barbara Kantor, President of Homeowners Association, North Plainfield.

B A R B A R A K A N T O R: Thank you so much.

As you stated, my name is Barbara Kantor. I am not an Assemblyperson and I am not a Freeholder, a Mayor, a flood coordinator; all I am is a citizen at this point. I don't even contemplate running for office. So all my statements come from the heart basically because I don't have a prepared text either.

I would love to tell you all of my problems in

my home because of my brook. But I feel, after sitting through all the meetings that I have, that this has to be thought of on a grander scope than just my town of North Plainfield or the town of Watchung or Cranford. This is an areawide problem that must be dealt with. This is why an Authority is important.

I have heard a lot of people talk in the first person singular today. I don't blame them. I don't blame them for not wanting to be taxed more money. But I would like to pose the question: Who do they think is paying for the flood devastation and for the clean-up? Of course, the loss of life you can't pay for. An Authority is necessary.

I asked Sam Tarsi, who is Chief Engineer for the Army Corps of Engineers, at an open meeting of the Green Brook Flood Control Commission, if the Army Corps would be better able to work if they had an Authority to deal with as a regulatory agency. His answer was, yes, it would be easier and faster with an Authority.

With regard to the Green Brook Flood Commission, I am not a member, but I attend every meeting. It doesn't take long after attending the monthly meetings to become well aware that the one thing this Commission has proved is the definite need for an Authority. It has become of late a political base for everyone to stand up and give his opinion on flood control. I have heard the word "concept" bandied about for months. Everyone is for the concept of flood control. You can ask a nomad in the Sahara Desert if he is for the concept of flood control and he is going to tell you, yes. Personally, I am for the concept that every American should be a millionaire too, but there is nothing that I can do about that. So the word "concept" really has little meaning in this area.

I foresee larger things for an Authority. I feel it is well outlined in Mrs. Wilson's bill. One must realize if you do not live in a flood area today, but your upstream neighbor builds a shopping center, you may very well be in a flood area tomorrow. We need some foresight here.

Flood control is essential. The time to have acted is not now; the time was many yesterdays ago.

Mrs. Wilson asked for input from every community and she amended her bill many times and listened to many arguments. Most of the proponents now against this bill are the very ones she tried to accommodate in the beginning.

Another thing, Mr. Nevins sat here and said he was a member of the Green Brook Flood Control Commission. Well, if he is, he must have just been appointed because I have been there since last October and I have never seen him at any of the meetings at all.

Our Somerset County Freeholders have come out against this bill. My feeling is their reasons for being against it are because the Governor would appoint the members of the Authority. I remember when the Governor was running for office. At that time, the comment I heard most often about him was, "He's an honest man." I believe he is an honest man. I believe he would appoint people to this Authority that would do an extremely good job and be representative of the entire area - businessmen and homeowners alike.

Personally, I wouldn't care if nine people that I didn't even know or like were on it, as long as the job gets done. It doesn't matter to me as a citizen who is placed on the Authority. It has been alleged that Governor Byrne would appoint people to the Authority as a political payoff, and that was the objection. In

this day and age of indictments every day, I doubt that that would be the case. I have every confidence in the Governor and believe he would appoint capable people. We need the Authority and we need it now.

I can see in the future when the Authority is in operation that it will be a place where citizens could go with their own town's problems or their own brook problem because it would be under the Authority's jurisdiction. I feel the Authority can do nothing but good for the residents of Somerset County and the State of New Jersey.

I appreciate your allowing me to speak and I would urge you bring this bill to the Assembly floor for a vote because, frankly, the only other alternative I can see is for us to go home every night and pray to God that it doesn't rain. I have been doing that, but it rained two days ago and the water was coming in my back door.

SENATOR MC GAHN: Thank you very much for your articulate presentation, extemporaneously given, coming strictly from your heart.

Mr. Edward Brady from North Plainfield, New Jersey.

E D W A R D B R A D Y: Thank you very much, Senator. I appreciate the opportunity to speak before this group. I really have to give you credit because I am pretty well punched out listening to everybody making their comments. So I know how you must feel.

I believe that legislation on a State level is going to be the only way to alleviate regional flooding problems in the State of New Jersey and these proposed pieces of legislation that are being considered have been carefully conceived to get the action necessary, without the loss of local input and control.

Much has been made in the press and here today

in this meeting of the fact that localities can be assessed for the funds necessary to do the work. It has been called taxation without representation, and vague references have been made that these bills may even be unconstitutional. I expect that we will hear a great deal of the same kind of arguments by opponents of this bill all along the line, but let's really take a hard look at the facts.

The only reason that the State Legislature should address itself to this problem is to solve these very serious regional problems and prevent future loss of life and property. Nobody on either side of the question has argued that the proposals in these two bills are ineffective and will not produce a solution to the problem.

I think that is the major consideration. When a person is in a burning building, he doesn't care what the ladder is made of, just as long as it reaches the ground. These bills reach the ground and unless you have something better that will reach the ground, you shouldn't throw away these bills.

What makes these bills effective and renders every other proposal that I have heard ineffective? The requirement that the communities, counties and other entities in the regional basin must work with the Authority to achieve flood and drainage control. Without this mandatory requirement, effective flood control measures are not possible. If I were a member of this Committee, I would ask why at this point. The major reason is dictated by geography and the laws of physics. In any drainage area, some communities are located on high ground and some occupy the valleys. Some counties will have a large portion of their counties involved in the basin and others will have little area involved. Most importantly, water always runs downhill.

What it all boils down to is that in different communities and different counties, they have different interests. What may be a selfish attitude to the man in the valley or the flood plain may be completely justifiable to the man who lives up top. With what are often diametrically opposed points of view, various communities go round and round on flood control and never reach agreement on anything. This has been the pattern in the Passaic River Basin and it is in progress at this time in the two basins that these bills concern themselves with.

Water has always been a difficult thing to legislate. In the more arid portions of our country where a lack of water is a problem, we have what is known in engineering terms as the dual of our flood problem. Simply stated, our flooding problems are the mirror image of the problems encountered in the western part of our country. There, the upstream communities in the absence of law could take all of the water flowing in their stream and use it for their own purposes. This would leave downstream communities without any water and without the means to continue their existence.

Because this situation was patently unfair, a body of law has sprung up which legislates water rights. Upstream communities cannot take advantage of geography and physics to squeeze out their neighbors. The important thing to take note of in this example was the necessity for strong, definitive law. Before this law took effect, the bloodiest confrontations of the old west often took place around the water holes. Voluntary cooperation didn't work there, it hasn't worked in the Passaic River, and it isn't going to work in these two basins.

The joint statement that was made today by the Freeholder Boards of Middlesex and Somerset Counties is

shot through with misrepresentations, and in some cases straight-out lies. To listen to the statement, one would think that the flood control project involving the Green Brook Basin is in high gear. In point of fact, we are no closer to a successful completion of this project than we were last April. The agreement cited by the Freeholders included approval by Berkeley Heights, who listed eight separate and distinct conditions for acceptance. Several of these conditions do not appear to be attainable. What happens then? Furthermore, any town, county, or park commission can add new conditions at any future date. Some of the people involved have indicated that this is the way that they will deal with things that they don't like. This may be progress to the Freeholders, but it is extortion and blackmail to me.

Let's focus our attention on the Flood Control Local Government Committee as spelled out in Section 9 of the proposed bills. This committee consists of the chief executive of each town in the basin and the chairman of each county's planning board, or the appropriate delegates. This results in a membership that encompasses every community in the Basin and every county in the Basin. This committee can overrule the nine Authority members by a simple majority vote of its members. Furthermore, the nine-member Authority, composed of members from all geographic areas, the hills as well as the valleys and the flood plains, would need the vote of all nine members to overturn the Local Government Committee veto. This is what the Freeholders characterize as "a local veto option clearly too weak to satisfy the concerns of the governments involved." What they are saying is: We want the absolute right to veto anything we don't like.

This local veto power as incorporated in this bill may even be too strong, as Mr. Marsh, the Planner from Union County indicated. He felt that a two-thirds vote

might be more appropriate. It certainly is more difficult to overturn than a veto by a Governor or a President. There a two-thirds vote is sufficient. You must make the decision whether or not there is sufficient local control, but I think the facts are clear on this matter.

Senator, this is not a problem that communities can solve individually or collectively. It is not a problem that Freeholder Boards could or should solve, even if they were particularly suited for it. This problem crosses county boundaries, and the only logical political entity to assume responsibility is the State government. The only apparent reason for the opposition of the Freeholders would appear to be a reluctance to relinquish such a juicy patronage plum. I can understand this attitude, but I can't condone it when people's very existences are threatened by this attitude.

I have yet to hear of another plan that will work and has the safeguards that the proposed bills have. No one has questioned the ability of the proposed authorities to act and get results. On the other hand, virtually every other plan or bill proposed has holes and flaws that prevent tangible flood control.

This may not be the most important piece of legislation that this committee will consider, but it is for some of us. Six people died in my town one morning, and if these bills aren't worked into effective law, more people are going to die. The saddest part of all will be that they didn't have to die. Please report this bill out and make what changes you may feel are needed.

Thank you very much.

SENATOR MC GAHN: Mr. Brady, thank you very much for your testimony. And thank you very much for your concern for me, but I will tell you very frankly I am accustomed to waiting for something to happen and there

is no great problem in that respect.

The thanks of this Committee are extended to each and every individual who testified today. I must apologize for some of the members not being present today; but, right at this time, Senators Dwyer and Ammond are at a conference that the Democrats are having. Of course, Senator Dunn is out of the country. However, I can assure each and every individual who testified that the matter will be related to the Committee. The members of the Committee will be given a chance to peruse this and, hopefully, will get to the gut issue of the situation.

Some valid points have been brought out in the testimony we heard today which we will investigate. The record will be kept open for a period of approximately ten days because we are anticipating a statement from the Army Corps of Engineers on question we have raised. If any other individuals or organizations wish to submit any further remarks, please address them to Mr. David Mattek in care of our Committee. We will be most happy to consider them.

I wish to thank each and every one here today on behalf of myself and the absent members of my Committee.

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May 30, 1975

New Jersey Senate Committee on
Energy, Agriculture, and Environment
State House, Room 223
Trenton, New Jersey 08625

Gentlemen:

In accordance with an invitation from Senator Joseph L. McGahn, Chairman of your committee, I respectfully offer the following comments relative to the Rahway River Flood Control Authority Act (A2373) and the Green Brook Flood Control Authority Act (A2387). Since the bills are identical, except for the drainage basins involved, my comments apply for both.

The following excerpt from the introductory remarks of my testimony on April 2, 1975, to the Senate Committee on County and Municipal Government relative to the Regional Flood Control Authorities Law (S765) summarizes why I feel that regional flood control authorities are so sorely needed:

"It has long been accepted that the complex, inter-municipal and inter-county nature of water resources management, like many other aspects of environmental planning, is best handled on a regional basis. The New Jersey Department of Environmental Protection, the most logical existing agency for regional water resources management, has not been able to function effectively in this respect due to limited budget and staff. Furthermore, there are no state funding programs for flood control projects.

In view of this, I strongly feel that regional flood control authorities offer the most promising agency solution to flooding and the most logical vehicle for regional flood control."

A2373 and A2387, in my opinion, are the best current approaches to establishment of regional flood control authorities because they embody the following general principles which I consider essential to effective regional flood control:

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1. The area of jurisdiction is the drainage basin, or watershed, which is the most logical regional control area for surface water runoff. Political boundaries are merely imaginary lines which surface water flows across both overland and in streams. In passing from municipality to municipality and county to county, the water holds no respect for such boundaries. Therefore, any flood control authority, to be truly regional, must have as its area of jurisdiction the drainage basin, or watershed.

2. Mandatory membership is required by all municipalities and counties with area in the drainage basin. In view of the historic lack of cooperation amongst municipalities in New Jersey, I feel that few municipalities would voluntarily form a regional flood control authority. Municipalities with no real flooding problems, but which, through their surface runoff, contribute to the flooding problems of downstream municipalities, should be required to join in a flood control authority and pay their fair share for control of the problems they help create. In view of this, a regional flood control authority should provide for mandatory membership of all those municipalities and counties in a given watershed or drainage basin.

3. Ability to finance capital projects. Inadequate funds at the local level and absence of other funding sources for flood control are major impediments to flood relief in New Jersey. The proposed authorities would have the power to issue bonds for financing flood control projects.

4. Equitable cost apportionment. The bills provide for a "local annual service charge" based on a formula which would equitably distribute the cost of bonds and other expenses of the authorities amongst the member municipalities and counties.

5. Power of land acquisition.

6. Local government representation. The bills provide for a Local Government Committee, comprised of representatives from all member municipalities and counties, which would have veto power over authority actions and, thus, allow for exercise of "home rule" power.

7. Workable size. The proposed authorities would be composed of nine members, which is small enough for efficient operation, yet large enough to provide for a diversity of ideas.

In view of the above, I strongly support passage of A2373 and A2387. Furthermore, the Union County Planning Board endorsed both bills at its regular meeting on March 12, 1975.

However, because of the importance of flood control authorities, the bills should provide for the best possible approach, one that could serve as a model for flood control authorities anywhere in the state. Therefore, I offer the following comments and suggestions which I feel would improve the bills to where they would provide for the most effective regional flood control authorities.

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1. According to the definition in the bills, the "basin" would include the entire area of each municipality and county with some area in the respective drainage basins. Since many municipalities and counties are only partially located in the drainage basin, the definition of "basin" should be amended to read: "Basin means the Rahway River/Green Brook Drainage Basin, which includes areas in the following municipalities and counties:..." Also, the bills should provide for the authorities to prepare, and adopt an official map delineating the limits of the basin. This could be done with assistance from the U. S. Army Corps of Engineers, the N. J. Department of Environmental Protection, the various County Planning Boards, and other agencies with relevant information.

2. One of the most serious regional problems affecting surface water control is maintenance of rivers and streams. There is no clear division of responsibility in the state concerning this function. A regional flood control authority would be the most logical agency to assume this responsibility, which could be one of its more important functions. Therefore, I recommend that the bills provide for the authorities to be responsible for desnagging, desilting, and other maintenance functions.

3. Since all land in a given drainage basin generates storm water runoff and, hence, contributes to flooding, the bills should provide for the authorities to establish basin wide storm water control and land use regulations designed to prevent increases in runoff caused by land development.

4. The definition of "flood control" in Section 3.i. of the bills should be expanded to include non-structural measures such as flood plain management, flood proofing, acquisition and/or relocation of structures out of flood hazard areas, and the storm water control and land use regulations mentioned in item 3., above. The definition of "flood control" also includes "...natural detention areas or such areas returned to their natural state,..." and "natural or restored detention areas,..." which is an unnecessary redundancy.

5. While the bills identify the various factors to be used in determining the local annual service charge, no specific apportionment formula has been included. In view of the widespread apprehension on the part of affected municipalities about the equity of cost distribution, I would recommend inclusion in the bills of a specific formula based on the factors identified in Section 11.a.

6. A recent amendment to Section 10.c. of the bills gives the Local Government Committee the power to veto authority actions by a majority vote, as opposed to the originally required two-thirds vote. It is conceivable that there would be more municipalities without flooding problems than with, and these municipalities could consistently block authority actions and impede flood control progress. Therefore, I recommend that the required veto vote be restored to two-thirds of the Committee.

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7. There should be a specific mechanism in the bills by which local storm drainage facilities would be coordinated with any comprehensive flood control plan which the authorities would promulgate.

8. There is considerable local concern over the fact that the Governor would appoint authority members and, hence, have considerable control over the authority. In order to gain more local input into selection of authority members, I recommend that the bills provide for the Governor to make appointments from a list of nominations submitted by the respective county freeholder boards and planning boards, or, in the case of the Green Brook Flood Control Authority, the existing Green Brook Flood Control Commission.

9. The bills should provide for bi-partisan makeup of the authorities to avoid political favoritism.

10. In Section 4.b., there should be a specific length of time after establishment of the authorities by which the Governor must appoint the authority members.

11. The bills provide for authority members to be residents of the respective drainage basins, which could result in the exclusion of some highly qualified people who might reside in the areas of the member municipalities or counties outside of the drainage basin. Since the Local Government Committee would have representation by all the municipalities and counties, I would recommend that the basin residency requirement be replaced by the requirement of residence in a member municipality or county.

12. Section 9.a. provides for members of municipal environmental commissions to be appointed to the Local Government Committee as designated alternates to the mayors. Municipal planning board members should also be allowed to serve as such designated alternates.

13. The definition of "cost" in Section 3.f. provides for the authorities to remove or demolish buildings or structures. There should also be a provision here for relocation of structures out of flood plains.

14. The definition of "flood" in Section 3.h. should be amended to read "Flood means an inundation of land caused by the overflow from a river, stream, or other body of water, or from an artificial channel or conduit constructed to replace a natural river or stream or other water-course."

15. Section 2.a.20 should read "...flood control system."

16. Add a comma after "machinery" in Section 3.f.33.

17. In Section 6.m.46, the word "with" is misspelled.

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In summary, then, I strongly support speedy passage of A2373 and A2387 with consideration given to the above mentioned comments and sincerely thank you for the opportunity to offer my testimony.

If you have any questions concerning this matter, please feel free to contact me at any time.

Very truly yours,

UNION COUNTY PLANNING BOARD

Kenneth B. Marsh

Kenneth B. Marsh, P. E.
Principal Hydraulic Engineer

KBM/nmt

cc: Union County Planning Board Members
Union County Board of Chosen Freeholders
Senator Thomas G. Dunn
Senator Peter McDonough
Senator Alexander J. Menza
Assemblyman Joseph Garrubbo
Assemblywoman Betty Wilson
Ms. Joan Buhrendorf, Union County
Environmental Health Advisory Committee
Mrs. Phyllis J. Quain, Union County
Environmental Health Advisory Committee
Mr. Lewis Goldshore, Assistant Counsel to the Governor
Green Brook Flood Control Commission
Morses Creek Flood Control Commission

THE FOLLOWING CLIPPING WAS SUBMITTED BY MRS. STEPHANIE CEDERVALL.

The headline was: "Councilmen call for new hearing on Sisto landfill; Mayor Martin criticized by Cedervall and Marsh." It appeared in the "Rahway News Record," May 15, 1975.

The Rahway flood control ordinance was labelled "a fraud and a hoax" by Democratic councilman - at large Tor Cedervall at the May 12 city council meeting.

His comment came during debate on whether a new public hearing should be convened by councilmen on the granting of a landfill permit to the owners of Sisto Realty Company of Linden.

The controversial landfill is taking place on Sisto-owned land on the northeasterly bank of Robinson's Branch near Central Avenue and New Church Street in Rahway.

After close to 45 minutes of often heated arguments, councilmen voted 7-2 to hold a new hearing at an unspecified date. By the

same vote the resolution was amended to require appropriate city department heads be present at the session.

Voting against the measures were Democratic councilmen-at-large Francis R. Senkowsky and Wilson D. Beauregard, council president.

The amendment was criticized by mayor Daniel L. Martin who said he has instructed department heads not to testify in such matters as zoning or subdivision cases in Rahway where they might throw the weight of their office to one side or the other.

However he said he encourages them to testify as expert witnesses in other municipalities.

Second ward Republican

councilman John C. Marsh said department heads should testify to inform the residents who pay their salaries.

A hearing on the Sisto landfill was held by councilmen on April 25. At that time the mayor told city administrators there

was no need for them to attend the session since it was not properly called under section no. 8 of the city flood control ordinance.

According to councilman Cedervall, the April 25 meeting was called by "the inherent right" of council-

men to hold a hearing on any topic of public interest.

In convening the new hearing the council members were careful to note

the session would be held under section no. 8 whereby councilmen are to review landfill permits issued by planning board members with the right to override board action.

According to city attorney Alan Karcher, the only party which can call for a hearing under section no. 8 would be the owners of the land in question.

He said the only recourse opponents of the landfill have is to take the matter to court.

Howard E. Baker, chairman of Rahway Citizens for Flood Control, said members of his group would seriously consider a court action to stop the operation.

Councilman Cedervall said mayor Martin stood in contempt of council "if not legally then at least ethically" by his attitude on the landfill and his refusal to have department heads testify.

In response to comment by councilman Senkowsky

that councilman Cedervall should meet with Mr. Karcher to discuss the legalities involved with section no. 8, the flooding foe said the attorney was of no use to council since "he has assumed a personal client relationship with the mayor."

The mayor countered saying it was not a case of him telling the attorney what legal opinions to express, but instead a case of city officials following the opinions of the attorney.

Comments made by councilman Marsh were attacked by councilman Senkowsky who noted the former gentleman expressed similar feelings at the April council session yet did not appear at the first Sisto hearing.

After replies were made to certain statements made by councilman Cedervall, it was learned no councilmen, and apparently no member of the planning board, knows what will be constructed on the Sisto property when the landfill is completed.

The mayor's stand on the matter was labelled "arrogant" by councilman Marsh who said an injunction should be sought by city officials anytime any landfill of any size is begun anywhere along a river flowing through the city.

Earlier councilman Cedervall criticized the weekly expenditure of \$3,800 in overtime for two city police officers to cover the strike at Regina Company.

City business administrator Joseph M. Hartnett said the men were assigned to maintain law and order and guarantee the rights of both labor and management.

Land Filling Bid Opposed In Rahway

RAHWAY — Councilman-at-large Tor Cedervall has asked city council for a public hearing before land filling operations in a flood-prone area is resumed.

The Democratic councilman said "it is my understanding from a casual response from Mayor Daniel L. Martin that a permit has been issued by the city to allow resumed filling in of the floodway and flood hazard area commonly known as the Sisto property, located on the north bank of Robinson's Branch east of St. George Avenue."

Cedervall claims the action to permit this fill is in violation of the city's flood plane ordinance and will cause a great deal of harm to homeowners in the flood-prone areas.

"If any cynical interpretation of the ordinance that would try to justify the action taken is allowed to stand," Cedervall said, "then a fraud has been perpetrated upon the Federal Insurance Administrator, who, in good faith, certified Rahway homeowners as eligible for subsidized flood insurance on the assurance that the city had enacted an ordinance to protect against development practices that would increase flood hazards and would express dedication to the elimination of those hazards that existed prior to such enactment."

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