

Public Hearing

before

SUBCOMMITTEE ON URBAN ENTERPRISE ZONE AUTHORITY PROCEDURES of the SENATE COMMERCE COMMITTEE

"Conduct and proceedings of the
New Jersey Urban Enterprise Zone Authority
in regard to the granting of sales tax benefits to
Kearny and the operations of other urban enterprise zones"

LOCATION: Hackensack Meadowlands
Development Commission Hqtrs.
Lyndhurst, New Jersey

DATE: February 25, 1993
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator John P. Scott, Chairman
Senator Raymond J. Lesniak



ALSO PRESENT:

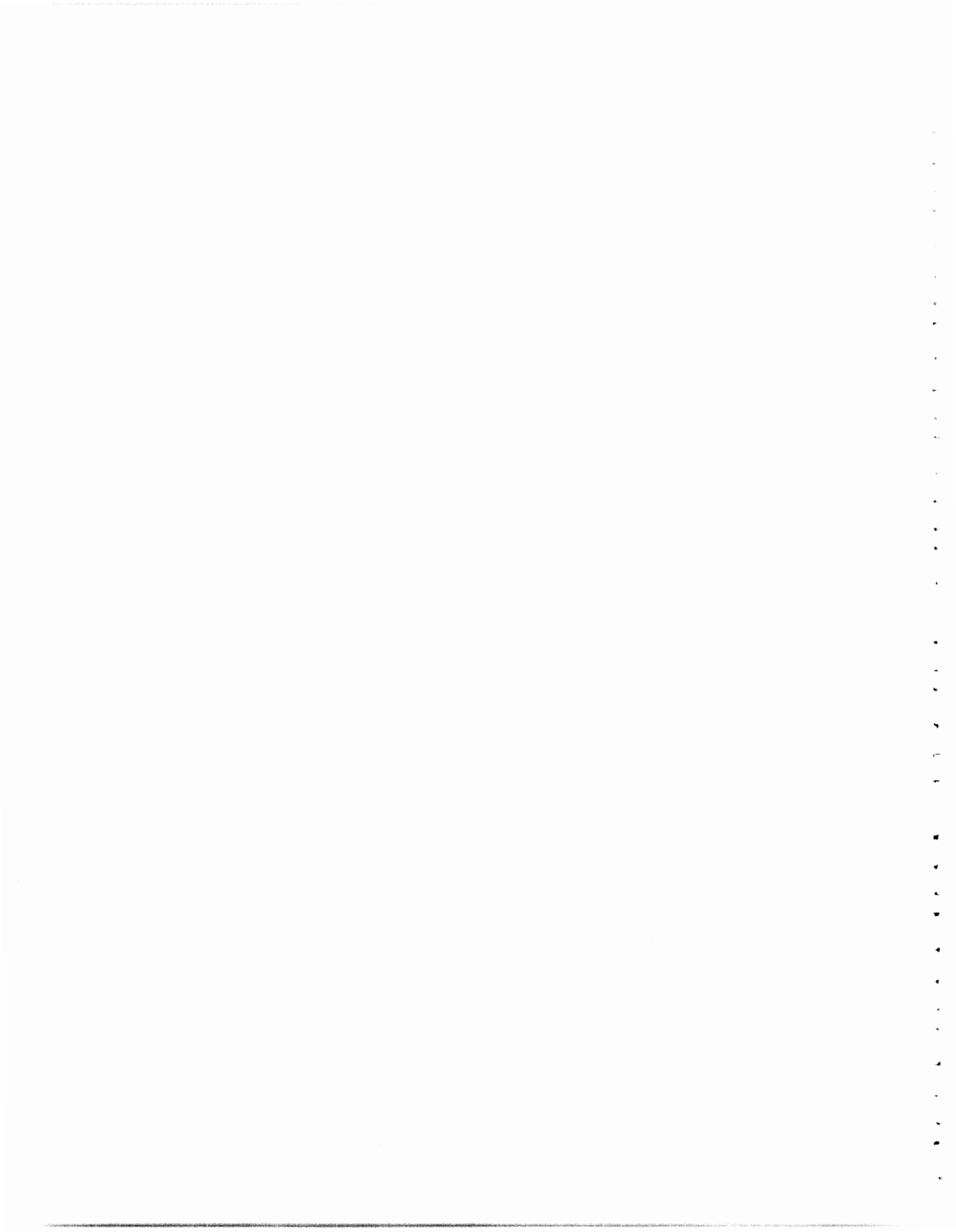
Dale Davis
Office of Legislative Services
Aide, Subcommittee on Urban Enterprise
Zone Authority Procedures

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New Jersey State Legislature

SUBCOMMITTEE ON URBAN ENTERPRISE ZONE AUTHORITY PROCEDURES OF THE SENATE COMMERCE COMMITTEE

John P. Scott, Chairman
Gerald Cardinale
Raymond Lesniak

Legislative Office Building, CN-068
Trenton, New Jersey 08625-0068
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NOTICE OF PUBLIC HEARING

The Subcommittee on Urban Enterprise Zone Authority Procedures of the Senate Commerce Committee will hold a public hearing on the conduct and proceedings of the New Jersey Urban Enterprise Zone Authority in regard to the granting of sales tax benefits to Kearny and the operations of other urban enterprise zones.

The hearing will be held on Thursday, February 25, 1993 at 1:00 P.M. at the Hackensack Meadowlands Development Commission Headquarters, One DeKorte Park Plaza, Valley Brook Avenue, Lyndhurst, New Jersey.

The public may address comments and questions to Dale Davis, Committee Aide, or make bill status and scheduling inquiries to Arlene H. Bezek, secretary, at (609) 984-0445. Those persons presenting written testimony should provide 10 copies to the Subcommittee on the day of the hearing.

DIRECTIONS TO THE HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION HEADQUARTERS IN LYNDHURST, NEW JERSEY ARE ATTACHED.

Issued 02/17/93

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SENATOR JOHN P. SCOTT (Chairman): I'd like to call this hearing to order, if I may? As we said earlier, anyone who hasn't signed up to testify and would like to, please give your name to Dale Davis.

I'll call this hearing to order. As people come in-- I believe there will be people dropping in from, perhaps, down in Newark right now on the Allied Junction and Secaucus Transfer hearing.

We're here today to get information and input as to what happened back in July of the past year regarding the awarding of a 50 percent sales tax exemption to four towns. There was question as to the timing of it. There were questions as to the validity of the criteria used, and for that reason, we asked the participants in the Urban Enterprise Zones -- many of those who would benefit, or would not benefit, but who are included in various reports -- to answer a mail piece, and let us know exactly how it has impacted upon them. Now, we have quite a few -- we have quite a few who did not -- but based on what we have, we do have some basis.

I'd like to hear testimony, and I appreciate everybody coming here today. I hope you enjoy the 36th Legislative District. This is Lyndhurst. My office is not too far away. My home is almost as close, so we thought we'd make it convenient for the Senator who is the Chairman. It's one of those perks you get; you get to be close to home when you have a hearing.

At this time I'd like to start the session. I had promised Dr. Donald Scarry, who would like to testify first, and I believe-- Am I right? Mayor Lindenfelser will not be here, is that right? He's on jury duty?

GARY BENNETT: That's correct. I'm speaking for him.

SENATOR SCOTT: Okay, fine. Thank you.

Dr. Scarry, if you would? If I may, you're part of the Urban Enterprise Zone Authority?

D O N A L D M. S C A R R Y, Ph.D.: Yes. I have recently resigned, but I was a member of the Authority at the time of this action.

I'm also happy to be in Lyndhurst. I'm a Jersey City boy and remember this area from when I was a youngster. It's a lot nicer. Probably higher quality representation, as well.
(laughter)

SENATOR SCOTT: That's a good start. If you would like to make a statement-- We had spoken briefly several times, and you know the concern I have, number one, as to what happened on that July 8 morning that we were advised it would not be brought up, because I wanted to testify. I felt it important enough to my town of North Arlington, and we had a lot of other people that wanted to testify on behalf of the Town of North Arlington, and we were told the day before-- We have letters saying that it would not be brought up at that meeting, and, of course, the next day we found out that it was not only brought up, it was voted on, and it was gone. It was a done deal. Parliamentary procedure, from what I gather, was maintained because it was old business; therefore, it could be brought up without being on the agenda.

Since that time, of course, we've had somewhat of an adversarial relationship, because I want to find out, number one, why wasn't I advised -- and the people in North Arlington -- and why weren't we given the opportunity to be a part of this procedure? It's a very important procedure. It's a serious business, and secondly, the criteria that was used as establishing Kearny as eligible--

I hope you're not too uncomfortable -- my looking down like this. I know I mentioned it was great at the inquisition; I think they did this. I know it's perhaps uncomfortable looking up.

I have a concern and I expressed that to you before, and I'd like you to perhaps just give me a rundown of what

actually happened, and why you felt that the situation required that you give them that exemption.

DR. SCARRY: Right. It's appropriate that you took me first, and I appreciate it. I have some scheduling problems for the day.

Some of the questions that you asked me are probably better answered by Chairman Designate Albers, but it's appropriate that I go first because I was the Authority member who did move it on that morning.

I think it was on April 3 or April 6-- (speaks to member of the audience) Michael, tell me the date.

UNIDENTIFIED SPEAKER IN AUDIENCE: April 8.

DR. SCARRY: --April 8 meeting in which we had a public hearing and we took testimony. I recall people from North Arlington and from a variety of places. Frankly, at the time I was more interested in the Bayonne application, or more interested in Bayonne's issue, but I remember everyone being there. At that date, Chairman Albers indicated clearly that the 100 days in which we had to act would run out on August 1. (speaks to member of the audience) Is that the correct date, Michael?

UNIDENTIFIED SPEAKER IN AUDIENCE: Yes.

DR. SCARRY: Would run out on August 1. We took everyone's testimony, and-- I was part of the Projects Committee at that time, and I want to tell you that we were very serious when we looked at these applications. We did an awful lot of work in attempting to understand them and understand their implications for the zones. We did listen with great interest and sincerity to every applicant and opponent who came before us at the public hearing.

There was no meeting scheduled after the date on which I moved it, and we were probably at 80 days at that point. I don't want to be so certain on the count, but we were very close to the 100 days, and there was no dissatisfaction among

the Projects Committee in terms of what we had seen. It was sitting on the agenda for a period of time as a matter of old business. The evening before that, I indicated to Chairman Designate Albers that it was my intention to move it the next morning, and when we got to the matter of old business, I did move it and it was voted out.

SENATOR SCOTT: Well, it was just that we called that morning and were told it was not going to be on the agenda.

DR. SCARRY: Senator, maybe I want to share this table with Chairman Albers. Could I ask you who you called? Had I known that you wanted to testify -- and I'm sure while I can't speak for Chairman Albers, I will do it anyway -- that had we known that you wanted to testify, I think we certainly would have heard you or anyone.

SENATOR SCOTT: Well, Mr. Garofalo knew, for one thing.

DR. SCARRY: I didn't consult-- I'm sorry, Senator. I didn't mean to cut you off. I didn't consult with Mr. Garofalo when I spoke to Chairman Albers about my intention to move it, and Mr. Garofalo, I don't think, communicated to me that he had indicated to you that it wasn't on the agenda. But, Gary will be up here shortly.

SENATOR SCOTT: All right, and at that time we want to-- You know, we have correspondence here, too, that I had sent down requesting an appearance before. You heard that.

DR. SCARRY: As a member of the Authority, Senator, I don't think I saw that correspondence.

SENATOR SCOTT: Well, here's one dated June 15: "It was brought to my attention that the meetings of the UEZ are open public meetings. I respectfully request that I be added to the meeting notification list," and so on. "Appreciate it," and so on. "Regarding the UEZ, has the Kearny matter been scheduled yet? If so, please let me know the meeting date that has been determined for this matter." And, so on.

DR. SCARRY: Well, perhaps in the nature of the correspondence and just in the timing of the correspondence, it might not have picked up my intention formed the evening before, or communicated, really, the evening before, to move it as a matter of old business.

SENATOR SCOTT: We have it on the agenda, I think on the agenda for July 8--

DR. SCARRY: Yes, sir.

SENATOR SCOTT: --where it's number six here: Discussion on Urban Enterprise Zone -- Program Zone Assistance Fund Guide -- Guidelines and Contract Agreement. Then you have: Old Business -- Millville's request for amendment of the UEZ 91-34 and so on. So, what I'm saying is, like, old business here -- we looked, and it's Millville's, which was of no concern to us at the time. That's the agenda that we have on June 10, so, if this was going to be moved under old business, why was that not put under old business on the agenda?

DR. SCARRY: Well, I don't mean to duck your question at all. You'll have to ask Chairman Albers or Mr. Garofalo who prepared the agenda. My understanding of the statute and the cases and my understanding of "Roberts's Rules of Order" -- and I'm not an expert on it, but, you know, I have a general understanding -- is that when a matter is considered and put into old business, that any member of the Authority can move it as a matter of old business. And, basically, I didn't see that agenda or, really, and I don't mean to be fresh, didn't pay attention to what was specifically listed as old business, because I knew it was a matter of old business, and--

SENATOR SCOTT: Not to press the issue any more than this, but you have Millville's, that was-- You knew you were going to do that, and, obviously, at the last minute, decided to go with this. Now, the day before, I personally had called. We have staff who had called and actually went over to the hearing and called me after the hearing when they realized

it was on the agenda. I was in Lyndhurst, so there was no way I could make it down to the hearing. It was just too far away. And that's a major concern that I have; I feel that I was just ignored. I'm representing the people up here, and I don't think I should be ignored on a request such as that.

DR. SCARRY: I want to respond very carefully. I didn't ignore your request. Had I known that you wanted to speak before us one more time, all right? I would have let you know. I mean, I see you in Trenton in other times and places other than the Urban Enterprise Zone Authority meetings, and I certainly, as a matter of human courtesy and respect for your office, would have let you know. Your concern with this was not communicated to the Authority.

SENATOR SCOTT: Okay, who was the--

DR. SCARRY: Let me be precise: to the Authority members.

SENATOR SCOTT: Okay. Who's on the Projects Committee?

DR. SCARRY: The Projects Committee at that time, and I can be corrected by Chairman Albers, was Chairman Albers, myself, Steve Frakt, from the Department of the Treasury, Gary Garofalo, and some rotating representation from the New Jersey Department of Labor.

SENATOR SCOTT: Okay. You've answered some of the questions. Now at least I know your participation.

DR. SCARRY: Right. I want to assure you that there was no intention on the part of any Authority members to ignore your request personally, or to ignore a request from a State Senator, or to ignore a request from any individual to come and speak before us. It would have been just as easy and much more courteous for me to allow you to speak and then move it.

SENATOR SCOTT: As a member of this Projects Committee, do you get a chance to evaluate the applications?

DR. SCARRY: Yes. What the Projects Committee does is we evaluate the applications in a variety of ways for form and content, and our function is to recommend them to the full

Authority for action. Frequently applications come in where some explanation is not adequate. Some documentation is not adequate, some laws misinterpreted or something, and we try to guide the applicant to make a more perfect application. And when we think it is adequate for full Authority consideration, we recommend it for the agenda.

SENATOR SCOTT: As far as you're concerned, the application from Kearny, in particular, was in order? It looked like it gave good reason as to why it should be approved?

DR. SCARRY: Yes, sir.

SENATOR SCOTT: And what did you base your-- You're from Jersey City, so you're familiar with Kearny. Did anybody ever take a ride up when you're looking at these applications-- Did anybody take a ride up to physically see the area that you're going to designate as--

DR. SCARRY: We've had a-- I'm sorry. I didn't mean to cut you off.

SENATOR SCOTT: --where you're going to designate this a depressed area in need of help. Did you do that in the case of Kearny?

DR. SCARRY: I didn't do that in the case of any application this time. I was involved in this program earlier and did some work in the initial selection of some of the initial zones. However, the presentations that we saw had photographs and maps, and a variety of things that was on the--

Give me the date, again, Mike?

UNIDENTIFIED SPEAKER IN AUDIENCE: July 8.

DR. SCARRY: --July 8 meeting. There were present--

SENATOR SCOTT: And who has all these maps and pictures.

DR. SCARRY: I have no idea.

SENATOR SCOTT: All right. We'll find out later.

DR. SCARRY: Honest, I really don't know, but there were presentations -- there were fairly complete presentations,

and there were fairly complete presentations of opposition, as well. I thought, combined with my general knowledge of this area, that was a sufficient basis on which to make a judgment.

SENATOR SCOTT: You were familiar with Kearny Avenue and Ridge Road.

DR. SCARRY: I don't want to say, in any precise sense, but in a vague sense, I am. I'm familiar with how Bayonne bumps into Jersey City and so on.

SENATOR SCOTT: Newport Center and so on?

DR. SCARRY: Yes. I travel. I have family in this area. So, I have-- Please don't let me overstate myself. I have a general familiarity with the lay of the land up here.

SENATOR SCOTT: And you knew the difference between South Kearny on the original application that was approved and Kearny Avenue at Belleville Pike?

DR. SCARRY: Yes, in a general sense. Yes, in a general sense I am familiar with that.

SENATOR SCOTT: Because South Kearny is almost a separate town.

DR. SCARRY: Yes.

SENATOR SCOTT: It's physically separated from the Town of Kearny with the Meadowlands, and now, of course, you do have some warehousing and so on along the Belleville Pike.

DR. SCARRY: One of my understandings of the Urban Enterprise Zone legislation is that the impact of zone designation and zone benefits, the impact of that on surrounding municipalities is not a part of the--

SENATOR SCOTT: No. That's right.

DR. SCARRY: --statutory framework. And we had received positive comments from existing zones or comments that said the creation of a zone here or there will not affect our zones, so that we were satisfied that we were not negatively impacting any existing zone. The statutory framework -- or the statutory schema -- does not take into account surrounding municipalities.

SENATOR SCOTT: You're correct on that.

DR. SCARRY: It very well may be that it should, but it does not. I think for us to create a statute to fit our own needs, as a member of an Authority, would be an act beyond our ability.

SENATOR SCOTT: What do you feel are the criteria to be used when you're applying it to an applicant for the 50 percent sales tax exemption?

DR. SCARRY: Well, generally, they were the criteria that were laid out in the applications. This program is a job-oriented program, and, if you review the applications from the other towns, there was a more-or-less standardized table that would tell us what would happen in terms of employment impact. I think that is a good criteria for this program.

SENATOR SCOTT: Well, I think there's a lot more to it than that: jobs. I think we're talking about somewhere there's unemployment; we're talking about an area that is downtrodden and so on; it needs help. We're trying to build up inner cities with it, originally.

DR. SCARRY: Yes.

SENATOR SCOTT: We felt that the inner cities would be the ones to benefit. I don't think Kearny qualifies as an inner city.

DR. SCARRY: Well, Kearny qualifies within the statute.

SENATOR SCOTT: As what? An inner city?

DR. SCARRY: It qualifies as being capable of being designated as an Urban Enterprise Zone.

SENATOR SCOTT: Well, I know. That did happen back in '84 or '85, whatever that may be, and we can't deny it. It's there now.

DR. SCARRY: Yes, I'm not attempting to disagree with you, but there is a list of municipalities that qualify under this statute.

SENATOR SCOTT: About 36, or whatever it may be.

DR. SCARRY: Right. In my current county at the moment, Mount Holly and Willingboro both qualify, and while there are certainly some distressed parts of those places, I wouldn't think that Mount Holly or Willingboro are inner cities either, yet they do qualify under the statute as written, and the Authority does not have the power to exclude them.

SENATOR SCOTT: Well, taking a zone and changing the area-- I'm a little upset that a little bit more physical contact, why the people in the Authority-- You say there are pictures. I'm glad to hear that. Presentation pictures and maps, and-- We haven't seen those things yet, and I'll be glad to find out who has them.

DR. SCARRY: There was a fairly complete presentation.

SENATOR SCOTT: By the Town of Kearny?

DR. SCARRY: I can't tell you whether it was by each particular town, but I know that I was quite satisfied, as an Authority member, coupling my general knowledge of the area with the presentations that I received, that I had a reasonable idea of what we were talking about.

SENATOR SCOTT: They showed you a picture of Kearny Avenue?

DR. SCARRY: I'm not saying they showed me a picture.

SENATOR SCOTT: Well, I'm just saying, you know, I can take pictures of Kearny -- I'm sure I could pick them out -- that you would say, "Yeah, I think we could help that area," but that's not Kearny Avenue. That's not the Kearny Avenue you and I could ride down to right now, park, go shop, and, unless you know the area, you're not going to know where North Arlington and Kearny ends.

DR. SCARRY: I was, to some extent, aware of that problem and that there was a-- I may not have the name correct, but I think it was a North Arlington Merchants Association -- that may not be the correct title of the organization -- that came and made some parts of that case.

SENATOR SCOTT: And they wanted this?

DR. SCARRY: No, no. They were testifying, I guess, in opposition to our vote on it. I'm pretty sure it was the North Arlington Merchants Association, but I'm not 100 percent sure. Maybe Mr. Albers has more precise information on who they were.

So that, I mean by not quite in an adversarial process, but by successive testimony which was for our granting the sales tax amenity, and then some testimony opposed to our granting the sales tax amenity, we did develop at that moment what we thought, what I thought -- I'm only speaking for myself -- was adequate information on which to base my judgment.

SENATOR SCOTT: Well, since I'm the only one, the only Senator here, I don't have to ask another Senator if they want to question you, and we do want to get on. We do have other people here to testify, so I appreciate your remarks, and we'll be taking a look at the whole project.

DR. SCARRY: Thank you for the courtesy on the timing.

SENATOR SCOTT: Thank you very much.

Chairman Albers, Commissioner Designee of the New Jersey Urban Enterprise Zone Authority.

A S S T. C O M M. J A M E S N. A L B E R S: Good morning.

SENATOR SCOTT: Good afternoon.

ASSISTANT COMMISSIONER ALBERS: Good afternoon.

SENATOR SCOTT: Time flies by when you're having fun.

ASSISTANT COMMISSIONER ALBERS: Right.

Assistant Commissioner of Commerce and Chairman Designee. The Commissioner of Commerce is the ex officio chairperson of the UEZ, and as you probably know, the Commissioner sits on 20 or 30 boards, so I represent her on a variety of them. I happen to be the Acting Chair or the Chair Designee of the UEZ.

SENATOR SCOTT: Do you have a statement?

ASSISTANT COMMISSIONER ALBERS: No.

SENATOR SCOTT: Okay, you're just here to get questioned?

ASSISTANT COMMISSIONER ALBERS: Absolutely.

SENATOR SCOTT: Okay.

ASSISTANT COMMISSIONER ALBERS: Let me just-- I would like to state for the record that Dr. Scarry turned around to ask counsel when the presentations were made. There were no presentations made at the July 8 meeting.

SENATOR SCOTT: Oh. So, in other words the maps, pictures, and--

ASSISTANT COMMISSIONER ALBERS: The process was ongoing. I don't mean to preempt your questions. I just wanted to correct that before we went into it.

SENATOR SCOTT: That's all right.

ASSISTANT COMMISSIONER ALBERS: But I have to check-- I know you have the minutes of the meetings. The April 8 meeting was the final meeting because the Project Review Committee had deemed the applications complete, effective April 1, which was their April 1 meeting. So, the April 8 meeting was the meeting where the municipalities that were applying, came in and made their presentations along with some of the municipalities that were opposed, including, I think, the North Arlington Merchants Association.

There were no presentations on July 8.

SENATOR SCOTT: Jim, as a member of the Projects Committee, you received information and you supported -- I guess it was unanimous -- the Kearny application? Are you familiar with the area?

ASSISTANT COMMISSIONER ALBERS: Yes, sir. I toured the area.

SENATOR SCOTT: You toured the area before you--

ASSISTANT COMMISSIONER ALBERS: Yes. A number of members of the Authority toured the area. If I recall correctly, Deputy Commissioner Oliver Quinn from Labor. I

believe a Treasury representative also toured the area. Maybe Gary can remember if there was anybody else, but I know the three of us were there.

SENATOR SCOTT: And what you saw--

ASSISTANT COMMISSIONER ALBERS: If I could just-- In their defense, it's hard to ask people that don't get paid to do this kind of stuff, to take the time and tour these zones, so-- It's not an excuse, but we get paid working for the State, so we were up there touring them.

SENATOR SCOTT: Well, it's such a critical issue for a town that's going to receive that type of a designation that I think, perhaps, maybe we should make sure someday they all do get an opportunity--

ASSISTANT COMMISSIONER ALBERS: I've encouraged them all to go to the zones at least-- We try to hold the meetings around also. We've held meetings in Jersey City, so we do get around to the zones, but--

SENATOR SCOTT: Let me welcome Senator Lesniak.

SENATOR LESNIAK: Thank you. Sorry I'm late.

SENATOR SCOTT: That's okay. If you'd like to make a comment? I'll give you a chance to take your coat off.

SENATOR LESNIAK: I believe in listening first and speaking later.

SENATOR SCOTT: Okay.

So, basically, you went down-- Who, actually, on this Projects Committee would have gone and taken a tour of it? Yourself, I guess Mr. Garofalo?

ASSISTANT COMMISSIONER ALBERS: Yes. That was another misstatement. Administrator Garofalo never has a vote. He does the staff work for both the Project Review Committee and the Authority, but doesn't have a vote. So the votes on the Project Review Committee, I believe at the time, were Treasury representative, the Labor representative, and myself, the Commerce representative, and Dr. Scarry.

SENATOR SCOTT: Okay, fine. So that's really who made the vote on that day and determined to put it on the agenda--

ASSISTANT COMMISSIONER ALBERS: Right.

SENATOR SCOTT: --and to approve it.

You heard my problem with the moving of the Urban Enterprise Zone from South Kearny, and we've discussed this at one other time, over to its present location on Ridge Road. What is your opinion of the criteria to establish an Urban Enterprise Zone? Maybe I'm reading this wrong. I'd like to get somebody's official opinion.

ASSISTANT COMMISSIONER ALBERS: Well, let me just back up and give you a brief sketch of what I think my role is. As sub-Cabinet Officers in the Executive Branch, we're responsible for executing the laws that the Legislature makes. We interpret those laws, and we write regulations to help us interpret those laws, and we publish those regulations so that people have a chance to comment as to whether we are going forward in the way that they believe that the law should be put forward.

The amendment to the law in 1988 that allowed the Authority to extend the 50 percent sales tax amenity, or benefits, if I recall the language -- I'm thumbing through this as I speak -- spoke about-- Here it is. In 1988 the language said, "Notwithstanding the provisions of this Act to the contrary, the Authority may, in its discretion, determine whether or not the provisions of this section shall apply to any Enterprise Zone designated after the effective date, 1985, provided; however, that the Authority make such a determination only where the Authority finds that the award of an exemption of 50 percent of the tax imposed under sales and use tax will not have an adverse economic effect on any other Enterprise Zone." That's the only thing the law says.

Now, as you're aware, we went through a very comprehensive process to adopt regulations to allow us to put that forward. It happened in 1988. I joined when the Florio

Administration came into office in 1990, and I took over the Program in 1990. Nothing had been done to enact regulations based on that change in the law from 1988. We were very much aware, right away, that the four municipalities did not have the full benefits of the Program. In fact, the four municipalities all contacted me within a short period of time. I put a moratorium on all actions of the Authority for 90 days, and I put a year's moratorium on any extension of benefits until we really got a handle on the Program.

In early 1991, we worked on regulations, and those regulations were published in June of 1991. The notice of proposed rules invited submission of public comment to the Administrator, which is Gary Garofalo, of the Urban Enterprise Zone Program, by July 17, 1991. On July 26, we published a notice of public hearing advising that the hearing of the proposals would be heard in Trenton on August 14, 1991, at the Authority's regular meeting. At the 14th hearing, we received some comments, none from any municipality opposing the adoption of the regulations. Following the hearing of the Authority on September 16, because we had not heard any opposing arguments against the regulations, we decided to reopen and hold the comment period open until October 16. The Authority adopted the rules on November 14, which was the next meeting, and they became published in the December 16 "New Jersey Register."

So it was a very comprehensive process that allowed us to adapt the regulations. We were the ones who wrote the regulations that were concerning unemployment, creation of jobs, all the things you talked about with Donald Scarry. That is not written in the law; that was our regs that were adopted to make it fair. All we really had to do under the law, as I read to you, was determine that there was no adverse impact on any other Enterprise Zone.

SENATOR SCOTT: We discussed that some time ago, I believe, in Senator Cardinale's office.

ASSISTANT COMMISSIONER ALBERS: Right.

SENATOR SCOTT: I think you and I -- we all agreed -- that perhaps there should be an impact study.

ASSISTANT COMMISSIONER ALBERS: That's right. As a matter of fact, we were very active in putting that clause in the DiGaetano bill.

SENATOR SCOTT: Right. That is critical, I think, for any future action the Urban Enterprise Zone Authority takes.

I still feel that, based on some letters, and we have here a report from Kearny. Oh, everybody's involved in this. There's a whole bunch of people here that gave reports on how many full-time and part-time people they expect to have, and I believe this is what you went by, and the capital investment projects and so on. I'm not overly impressed with it, especially parts of it that appear to me to be--

Well, let's take one here. I think we have a ShopRite, because they're going to invest \$1.2 million and I'm saying, "Well, all right, the actual employees they--" Big estimates, you know, the increase in employees, but they were going to do this anyway.

And, I have something from-- Who is it? This from Furniture Land in Kearny, and here's what happened. It very proudly says, "We have even succeeded in drawing shoppers to the area from outlying suburbs." Now the only outlying suburbs are North Arlington, Lyndhurst, Rutherford, Belleville. And I say, well, is that what it's designed to do? Now this fellow is very happy, I'm sure, because he's cornered the-- He's got a little extra perk there, on the 3 percent. Have you seen the advertisements in the windows and all the billboards, IKEA, and--

SENATOR LESNIAK: If I may, Senator, let me address the IKEA thing, since you mentioned it. There's no doubt that IKEA is reaping a bonanza and has really riled the New York legislators and the businesses there because they are attracting tremendous amounts of business from across the river, so we're very pleased with that.

SENATOR SCOTT: Well, I'm glad. As far as the New York money coming into New Jersey, I'm happy, too. I am concerned with the draw from Bergen County towns and Essex County towns contiguous to Kearny. And this fellow tells us right there how happy he is it's happening. I don't know, is-- Let me ask you the intent. Do you feel that's the intent of this type of legislation? Is that what we wanted to achieve? It's shuffling money from this town to the next town.

ASSISTANT COMMISSIONER ALBERS: It's hard for me to really speak of the intent of the original sponsors of the bill. If there seems to be a supply-side tinge to the bill, which I've never particularly believed in-- In other words, you lower the taxes, you increase the size of the pie. For whatever reason, my Department and my feeling as an economic development professional is that the sales tax amenity wasn't the primary motivation for the program; it was the sales tax exemption for purchase of personal property for use in the zone.

So the specific answer to your question is I really have no idea, but I can only tell you that the Program has been in effect since 1985, and we have always had on the books the criteria that when we certify a business -- when we qualify a business and we allow them to participate in the Program -- they need to do two things: They need to add employment and they need to certify that they're not going to create unemployment in other parts of the State. I have never, in the whole term -- of course, I haven't been there the whole time, but in the last three years that I've been there, and previously in any record that I've ever seen -- have never seen any documented evidence that it hurt or created unemployment in other parts of the State.

So, specifically, I can't tell you that I have seen-- I have heard anecdotal stories that the people from adjacent municipalities have said that their businesses are hurting;

their business is down, but I've never seen any evidence that it's the Urban Enterprise Zone being adjacent to those businesses that specifically hurt it.

SENATOR SCOTT: I don't think it had to-- As you said, you qualified it earlier by saying you really didn't have to consider that, at the impact on a contiguous zone because they're not zones; they weren't qualified zones. So, therefore, you really didn't have to worry about them.

ASSISTANT COMMISSIONER ALBERS: No, but I've asked for it. I've had numerous public forums where I've heard the question, "Don't we hurt other municipalities?" And I've said it on television; I've said it on the radio; I've said it in print, that if there's any empirical evidence that this program is hurting businesses in the adjacent municipalities, I'd like to see it.

SENATOR LESNIAK: Senator, if I may address the issue with regard to the intent of the Urban Enterprise Zone legislation? One of the things we have seen throughout the years and throughout the decades is the deterioration of shopping areas, and the deterioration of urban areas, not only in this State, but, of course, in cities across the nation. Needless to say we saw dramatically last year the ultimate effects of that deterioration in parts of Los Angeles. I think the Urban Enterprise Zone was, as I recall, legislation designed to counter some of the effects that have discouraged people from shopping in urban areas and have also increased the property tax burden on people in urban areas. We know how much higher the property tax burden is in urban areas than other areas. We also know how our very successful Federal -- mostly federally funded -- road building program has made it an awful lot easier for people to get in their cars and shop at malls in distant areas. So one of the goals of the Urban Enterprise Zone is to help urban areas that have been put at a

disadvantage over the years and to encourage people to shop in those areas. So, in terms of intent of the legislation, I can certainly tell you that that was a strong factor underlying it.

SENATOR SCOTT: Well, I did read that, and I know I've been told. I can see the impact it had in Trenton and different areas. Deterioration is something that concerns me. I think in Jersey City, for example, down in the Newport area, that's not a deterioration; that's a brand new facility. The whole complex -- the Newport complex -- is beautiful when you drive down there, and they benefited by it, but better we take a look at the--

Once again, the focus that started this originally was Kearny Avenue, in Kearny. I'm concerned that no one really took a look at those stores. I did. I've walked the street. I've gone down and walked, and I'm looking for the deterioration. I haven't seen it. I can't tell the difference between North Arlington and Kearny when I walk that street, or when I drive up the Belleville Turnpike; I don't see the difference. And that's what concerns me, that this was done arbitrarily somehow by somebody. I don't really know how it came about and to whose benefit, but I feel that yes, in certain areas, perhaps we could help a city, an urban area that needed some help, and I think that's what it was designed for. I can understand that, Senator. My primary concern is an area that is not deteriorated; it's not suffering unemployment; incomes are the same; the towns are almost the same, and yet one has an advantage, and that's what I'm trying to point out today -- how that came about.

ASSISTANT COMMISSIONER ALBERS: If I could comment?

The laws and the regulations which help us determine which municipalities are urban aid communities -- meaning the neediest communities in the State -- don't take into effect the conditions that may exist whereby one strip, or one road, or one street, or one block would be significantly higher level

or higher quality buildings, or shops, or have higher employment rates. The towns are rated by towns, so Kearny qualifies by the fact that the mass of Kearny -- the whole town of Kearny -- is considered an urban aid community, a needy community, as Orange, and Jersey City, and some of the other areas are.

The Zone Program was designed to bring the focus back to some of these urban municipalities and aid the whole municipality. When the people come into an urban aid community and shop in an urban aid community, they help the tax ratables of the people that are there. They're going to help people invest in the municipality. All these investments -- and you can see the numbers, because I think we provided you with them, the private sector investments that we've generated so far -- helped the municipality as a whole. We, frankly, have no-- Well, we have no mandate, but neither would we have no way of administering a program that was specifically targeted towards one area or another.

I understand your point that you believe the philosophical underpinnings of the program were designed towards the center core of the city, but we have no regulatory direction in that area.

SENATOR SCOTT: If I may, one of the things that I would think, if you're going to consider someone for this distressed area, this relief, it's not too hard for anybody to come up with some information. The per capita income in Kearny is \$12,800; North Arlington, \$14,600 -- an \$1800 difference. The average home sells in Kearny for \$165,000; in North Arlington for about \$176,000. The school budget per pupil, in Kearny, is \$6800; North Arlington it's \$7000. According to Moodys, both towns have an "A" credit rating. When you compare the two towns with this type of information, you cannot justify-- And remember, if you will look down the street, you go down Kearny Avenue, you're going to see all the stores doing

a -- go down on a Saturday afternoon, you'll see people walking back and forth into the two towns -- at least they did -- because there was no difference in shopping at this store and that store. They're all going to cross Belleville Pike. No problem. There was no difference.

There is the difference today, because across the street in Kearny you see 3 percent sales tax. It's a great grabber. People in Belleville, now, know that, "Oh, that's only a short hop right across the bridge." It will take them no more than five to ten minutes and you're in any part of Kearny. Take a look at that per capita and so on. Take a look at the demographics of the towns. This is the problem with what happened. Whether or not the law says you do not have to take into consideration-- I think common sense would dictate that somebody take a look and say, "Wait a minute. What are we giving you here? Why? What is the big problem that Kearny has? Is it a downtrodden area? All the stores are vacant?" Not that I've seen. I've shopped there, and I've walked between Kearny and North Arlington, and of course I know the difference because I happen to know the area.

That's the problem I'm having with this. I don't understand. I know what the law says, "You don't have to do that," but I'm wondering about common sense that would dictate someone to say, "Well, they had the UEZ Authority." Are you familiar with the original area that's down in South Kearny?

ASSISTANT COMMISSIONER ALBERS: Yes, I am.

SENATOR SCOTT: Okay. Fine. That's a world of difference down there. It's all heavy industry. I worked in Western Electric down there. I worked in a trucking company down there. I know the area well. I remember the shipyards in South Kearny. God, you have heavy industry. Now when they lost the Western Electric and some others, maybe that's what the idea was, "Well, Kearny needs some help because they lost a lot of jobs." And they did, but those jobs were not Kearny

people. There were 17,000 people working in Western Electric. Do you think they all lived in Kearny? I don't know what the population is, but it's not much more than that.

So, therefore, all those jobs that left, the ratables and so on, I understand, but good grief, is that what we're doing? Now we say, "Well, we already took care, and it didn't work. Nothing much happened down there, but now that we've taken care of that, let's move it on up to a commercial zone and we're going to compare it. We're going to lump it in with Elizabeth, and Orange, and Jersey City, and Trenton, and places like that." That's my biggest problem with this. I cannot, for the life of me, understand how you can take that zone from South Kearny and just move it up to Kearny Avenue. It makes absolutely no sense. There is no justification, and I can't find the criteria that really would matter in 1992.

I don't care what happened in 1912, 1940, 1970, or anything like that. When it was awarded in July of '92, what was Kearny's condition? That's what I thought would be taken into consideration. That's what I wanted to testify to. I wanted to see all the demographics. I wanted to tell somebody, "Here, I'll make a video of all the streets of Kearny." It's the same town as the-- It could be South Bergen except that somewhere along the line they put it in Hudson County. You wouldn't know the difference, and here we are saying, "Oh no, Kearny, you're different." Well, they're not different. One section of it is quite different, but I think I said that same speech to you awhile back.

ASSISTANT COMMISSIONER ALBERS: Well, you raised a lot of points, and I'll try to answer them all, if I recall them all.

The first problem you seem to have is in the determination that Kearny is an urban aid community and North Arlington is not an urban aid community. I'm not aware of where-- All the municipalities are ranked, and the top 36 are

urban aid communities. There is a line between an urban aid community and nonurban aid community, and frankly, I can't tell you whether North Arlington is 50th or 70th. I don't know where they fall on the list. Eighteen hundred dollars may be a drop of 20 towns, maybe a drop of 100 towns, I don't know. That's not something the Department of Commerce does. All I can say in defense of those regulations is that the-- Some of the criteria that you talked about are considered when an urban aid community is designated, and unemployment is one that you didn't raise, and I don't know if it's that much different in North Arlington than it is in Kearny. However, that's not my job.

My job, as I saw it, was that there were 10 Urban Enterprise Zones in the State; that some of them have full benefits and some of them didn't. Four municipalities did not have full benefits, and they had the right under the law to apply to us for all those benefits.

Now, your second criticism is, as I see it, anyway, I don't want to put words in your mouth, but one of your criticisms was that you know what the law says, but, why not use common sense. All I can tell you, Senator, is I don't think you want the Executive Branch going on that kind of basis to make their decisions, and the reason is because that puts us in an untenable position. We have to interpret the laws as narrowly as possible. You hear people complain about DEPE. You hear them complain about regulatory agencies. We're not a regulatory agency. We don't regulate.

I don't think you want us in a position where we're interpreting your laws -- you or the Legislature -- by commonsense terms. We are restricted by the law. So, we're faced with those two things. We're faced with an urban aid community list from which Kearny was picked and which North Arlington would not be eligible to be picked from.

Secondly, now, and this is 1992 that-- In 1985 they were on Urban Aid Community List; 1992 they're still on the Urban Aid Community List. We're faced with an opportunity, or at least we're presented with an opportunity to make a decision as to whether we're going to put forward the full benefits to four municipalities that qualify under the law for those benefits. They're already Urban Enterprise Zones. They've been Enterprise Zones for some time. That's the decision that's before us. So, I don't know--

SENATOR SCOTT: Jim, I think that's the decision-- Of course, I'm questioning as to-- I think it's arbitrary -- an arbitrary decision at the time. I feel that at that particular time when you were going to award it, someone should have been aware of the situation in Kearny as to why it would be qualified the same as some other city.

ASSISTANT COMMISSIONER ALBERS: Again, all I can tell you is I am aware of it. I did tour the zone. I did tour the whole municipality. I was aware of the formation of--

SENATOR SCOTT: Let me ask you this, though. Did you see a depressed area in Kearny?

ASSISTANT COMMISSIONER ALBERS: Kearny is a qualified municipality.

SENATOR SCOTT: No, no. That is not what I asked. I know that. But when you took this tour before awarding this sales tax exemption, did you see a depressed shopping area?

ASSISTANT COMMISSIONER ALBERS: Did I see a depressed shopping area?

SENATOR SCOTT: Well, some vacant stores, and--

ASSISTANT COMMISSIONER ALBERS: I saw vacant stores.

SENATOR SCOTT: Jim, okay, you may have seen one along that area, but I don't think you would see more than one. The only reason--

ASSISTANT COMMISSIONER ALBERS: I understand where you're going and, unfortunately, I don't agree with you. We're

talking about the totality of a municipality and aiding the totality of that municipality. You could take a block or a section of a municipality and hold it up and say--

SENATOR SCOTT: Take the main shopping area of Kearny, just as Rutherford and Lyndhurst have Ridge Road and Park Avenue and Washington Avenue in Belleville, Franklin Avenue in Nutley and so on. Every little town, they all have their main shopping area. Now, what happens down on the Harrison Pike or Belleville Pike somewhere, and somebody happens to have a store down there, well I'm not interested. That's a different world. I think if someone doesn't recognize the difference, they're in the wrong job in Commerce, because there's a world of difference between them. If I go down the Port of Elizabeth, it's not the same as the Town of Elizabeth; it's completely diverse, you know. It has no relationship other than the ratales. So, I think that's what I'm getting at -- why wasn't that taken under consideration?

ASSISTANT COMMISSIONER ALBERS: Well, all I can tell you is, again, I have to go back to my other argument that we have to apply the law. If I had applied the law otherwise, I would have been open to criticism from the other point of view. If I had denied benefits to the Town of Kearny, or the Town of Jersey City, or the Town of Elizabeth, because of Newport or because of Kearny Avenue, or because a store is prosperous, that would be subject to, probably, suit. And I would imagine that I would have no standing in court. I'm not an attorney, but I have to apply the law the way it's written. And that's what I did in this case.

SENATOR SCOTT: Okay.

Senator, do you have any questions or comments? (no response) Okay.

Jim, I appreciate your taking the time to be with us today, and your testimony.

ASSISTANT COMMISSIONER ALBERS: There was an area that you discussed with Dr. Scarry that I didn't get a chance to discuss, and I don't know whether you want to discuss that with me.

SENATOR SCOTT: What was that?

ASSISTANT COMMISSIONER ALBERS: Regarding the meeting itself.

SENATOR SCOTT: Well, you were at the meeting. I think that was answered.

ASSISTANT COMMISSIONER ALBERS: Well, there was a conversation-- All I wanted to do was reiterate what Dr. Scarry had said, that there seems to be a question, and of course you know there is a lawsuit pending, regarding the holding of the meeting, whether it was on the agenda or not on the agenda.

SENATOR SCOTT: Right.

ASSISTANT COMMISSIONER ALBERS: And I can only say, from my point of view, that we had not made a decision whether or not to bring this to a vote until the very last minute. Dr. Scarry had called me, as he said, the day before the meeting and told me it was his intention to put it forward as a board member, under old business. The call from your staffer -- and it didn't come to me or my office -- from my understanding, and according to the affidavit that was filed, it said that Mr. Maffey--?

SENATOR SCOTT: Maffei.

ASSISTANT COMMISSIONER ALBERS: --had called and spoke to "the Authority" on June 7 and "was informed that the subject matter of Kearny's application was not on the agenda." And that was the truth. It was not on the agenda, nor had staff been instructed that it would be on the agenda, nor was staff aware that Dr. Scarry had called me and told me--

SENATOR SCOTT: So, you were the only two who knew?

ASSISTANT COMMISSIONER ALBERS: I wasn't even sure I was going to let him put the motion through, to tell you the truth. I told Dr. Scarry at the time, when he told me of his intention to put it forward, that that was his right as a board member, but that I would informally poll the Authority prior to the meeting to see if there was consensus; and there was consensus.

SENATOR SCOTT: All right, Jim. I don't doubt that that's what happened, but that's incredible, knowing that I have letters in here and everything else, asking to be informed, and I wanted to testify, you know, and there we sat on that afternoon--

ASSISTANT COMMISSIONER ALBERS: I would reiterate what Dr. Scarry said: I had no intention of excluding anybody. We did have three open public meetings where the subject was there. Many people were there at the April 8 meeting; they had an opportunity to speak out. And I have to be honest with you, even if we had had the opportunity, and someone had had the opportunity to speak out, I think the actions of the Authority would have been exactly the same.

SENATOR SCOTT: That's a question that was brought up to the Mayor of Jersey City. At that time, I was informed he was there at the July 8 meeting and knew he was going to get it. Why would he know?

ASSISTANT COMMISSIONER ALBERS: Well, I can only tell you I received a phone call from the Coordinator of the Jersey City Enterprise Zone, either the morning of the event or the day before, asking me if it was going to be under consideration. I told him the truth. I said, "It could be." I said, "You're very well aware that we have--" and this is July 7, so we had less than 30 days to make a decision on this -- "we have 23 days to make a decision on this. This is the last scheduled meeting. It may very well be brought up." And I probably would have told you the same thing if you had called.

SENATOR SCOTT: It was a matter of calling the wrong person, then.

ASSISTANT COMMISSIONER ALBERS: All I can tell you is it was old business. It was tabled. You're aware of procedural-- You know that it could be--

SENATOR SCOTT: No, no. I understand that.

ASSISTANT COMMISSIONER ALBERS: I mean, my feeling is Jersey City and whoever else showed up, showed up because they figured it was the last scheduled meeting before the August 1 deadline.

UNIDENTIFIED SPEAKER IN AUDIENCE: (Indiscernible)

SENATOR SCOTT: That's okay. You'll have your chance, Mayor.

Jim, thank you very much. We appreciate your testimony.

ASSISTANT COMMISSIONER ALBERS: Okay. Thank you, Senator.

SENATOR SCOTT: Mr. Gary Garofalo?

S. C H A R L E S G A R O F A L O: How are you, Senator?

SENATOR SCOTT: Very good, Mr. Garofalo. It seems that you and I miscommunicated somehow, and as a result I never had a chance to testify, and we're here today.

MR. GAROFALO: I understand.

SENATOR SCOTT: I have a real big concern. In my letter to you on June 15 notifying you that I was very much interested in this, and I, in fact, would like to testify -- that I would be down any time you called. I would make sure I was there -- only to find out that we didn't. Now we seem to be getting information that Mr. Scarry told Mr. Albers and didn't tell anyone else, except that-- It looks like somebody called Jim Albers' office and was told it could very well be, and they took it upon themselves then to go down in the hopes that it was. But you did not know?

MR. GAROFALO: No, I did not. As a matter of fact, we were constantly in touch with your office, as you know--

SENATOR SCOTT: Yes.

MR. GAROFALO: --your representatives. We gave you all the information that you requested, to make sure that you were fully apprised of what was going on.

SENATOR SCOTT: All except the time of the meeting.

MR. GAROFALO: Well, the time of the meeting is always 10:00, which everybody is--

SENATOR SCOTT: No, no. I should say the time of the meeting on the UEZ.

MR. GAROFALO: No, but the point was, and the question was, was it on the agenda? And I think the people called, and my staff and I responded it was not on the agenda, and it was not, as you well understand and which you just recently heard. So, all we do, as the administrators of the program, is to administer it. We don't have any vote. We simply bring it forward, and that was the information that was requested. Now, I know that Mr.-- Russell, I forget--

SENATOR SCOTT: Maffei.

MR. GAROFALO: --Maffei, was at the meeting, and the Chair did ask for comments from the audience, and perhaps he might have asked on your behalf. I don't know.

SENATOR SCOTT: No, no. He didn't ask on my behalf because I wanted to be there myself, because I had a few things to say.

MR. GAROFALO: As was told, my staff and I, as far as we knew, the agenda did not include that item, and it was brought up as old business at the date of the meeting.

SENATOR SCOTT: Well, there's not much I can do since Mr. Scarry is the one who wanted it, and Mr. Albers had this conversation, and I guess you really weren't aware of it until you got into the meeting.

MR. GAROFALO: That's right. Exactly.

SENATOR SCOTT: So I'm no longer mad at you.
(laughter)

MR. GAROFALO: Don't be mad. Hey, listen, I appreciate your--

SENATOR SCOTT: We had to find out exactly what happened. Now, I don't like it any better, but I see what did happen. I still feel that we were left out in the cold, whether intentionally or unintentionally, whatever. I was left out in the cold and didn't have that opportunity to go through the process, and I was very unhappy.

Are you familiar with any maps and pictures that Donald Scarry had at that presentation?

MR. GAROFELLO: What he was referring to, as these applicants came before the Authority to present their cases, they showed alignments in that kind of a scenario, and he may be making reference to that -- where the line went to include the zone.

SENATOR SCOTT: I gathered that you-- I thought that he was really saying it was quite a presentation with-- Between maps and pictures and so on-- Why I'm saying that, if you had maps and pictures, I would certainly like to see the pictures that were shown about Kearny. You know, I'm not sure what--

MR. GAROFALO: I knew about the maps where we had to identify the area--

SENATOR SCOTT: No, we have that. Right.

MR. GAROFALO: That's part of the record. I'm not familiar with any pictures, per se. Actually, he may have some other reference. I'm really not sure what he was referring to.

SENATOR SCOTT: Mr. Garofalo, am I correct -- and this is not to be personal -- you live in Belleville?

MR. GAROFALO: Yes.

SENATOR SCOTT: You're quite familiar with North Arlington and Kearny.

MR. GAROFALO: Sure.

SENATOR SCOTT: You have to be if you--

MR. GAROFALO: As a matter of fact, I'm familiar with a lot of the area because I cover the State in what I do.

SENATOR SCOTT: Well, I mean, living so close, I know you'd have to be. Were you asked for your opinion on the Kearny Avenue as to whether or not it would meet the criteria?

MR. GAROFALO: The representation-- See, I don't vote, so it's not my--

SENATOR SCOTT: I understand.

MR. GAROFALO: --my judgment or even my input. If I'm asked I will respond as I would see according to the documents that are presented, but the identification of the area and its implications on the economy are all part of the presentation that the Town of Kearny made.

SENATOR SCOTT: Do they ever ask you your opinion?

MR. GAROFALO: Sometimes, perhaps, they might have.

SENATOR SCOTT: Did you have an opinion on this one?

MR. GAROFALO: I think that Kearny is a community that is eligible as an Enterprise Zone. Under the law it is allowed to expand its zone by presenting certain criteria, and that's what it did. It was presented to the Authority. They reviewed it, and then they made a judgment based on that review.

SENATOR SCOTT: Mr. Garofalo, you know, I've been told that 75 times in the past eight months, whatever it is. It's the same thing--

SENATOR LESNIAK: Seventy-six.

SENATOR SCOTT: What is it?

SENATOR LESNIAK: It's '76 now.

SENATOR SCOTT: Okay.

MR. GAROFALO: I think the point for you to remember, if you don't mind my suggestion--

SENATOR SCOTT: Well, what I'm pointing at is this: Look, I understand-- Believe me, if I didn't know the law when I started looking into this, I know that part of it by heart, because--

MR. GAROFALO: Well, then you should make reference to the law as written, as was identified by Mr. Albers; that we have to respond the way the law is written--

SENATOR SCOTT: I understand.

MR. GAROFALO: --and the law said that the impact on other UEZs is the consideration. We recognize your input. The meeting was held on April 8. Testimony was given by pros and cons, including the Administrator from North Arlington, who made his comments for the record, and it was included in the minutes.

SENATOR SCOTT: And that's when I was alerted, and they asked me to see if I could help them out. No, I understand-- Believe me-- Please, anybody who testifies, don't tell me the laws. I agree with you. I know the law, now.

MR. GAROFALO: Well, that's what you have to make reference to on the action that was taken.

SENATOR SCOTT: No, I-- Well, I do understand that, though. This is something that we're getting into because we want to find out the criteria used in awarding this particular sales tax exemption.

Did you, for example-- We have all these letters from different companies throughout-- I guess they're from all four cities, mainly Kearny, Jersey City, and quite a few from Elizabeth. I only have one or two from Orange. In taking a look at them -- some very interesting information that they would have built anyway, had no problem, didn't mean a thing to them and so on; and every now and then somebody will pipe up and say, "Oh, this is going to be good. This will be good eventually." Things like that. Not that they're necessarily going to hire people, and what follow-up do we have? As an Executive Director, do you have any input on that? In other words, is there a follow-up? What's the procedure? It has been awhile now. Are you going to give it one year and take a look to see where they are? Have they actually done this, or do we say, "Well, they said they would; therefore, we'll allow them--"

MR. GAROFALO: You talking about the applicants for the--

SENATOR SCOTT: The applicants--

MR. GAROFALO: Do you want me to go through the procedure?

SENATOR SCOTT: Well, I would like you to briefly tell me what happens after one year, perhaps.

MR. GAROFALO: Sure. Okay.

SENATOR SCOTT: Do you have letters in addition to this? Have you really contacted everybody? We sent letters out to everybody who applied. We have some very strange responses.

MR. GAROFALO: I don't have the benefit of your inquiry. However, for a business within the boundaries of the Enterprise Zone -- in any of the 10 zones -- they make an application; they identify their full-time and part-time employment, and they justify it with what we call an EZ-7 form, an employee data sheet, those exact people by name and social security, etc. Then they say on their application that we have four full-time now. We will go to five within that year.

SENATOR SCOTT: And those four are identified?

MR. GAROFALO: They're identified. And then they say we'll go to five -- for example, just using a hypothetical -- within that year. Then they mention in the D2 section of the application what kind of capital investment they plan to make within that year; they might put a new roof on the building for \$3000; they might buy a new computer system for \$10,000; and then they sign the application. It goes to the local coordinator who identifies that that business is within the boundaries of that zone, and then it comes on to our office for processing. That application goes through the process through my office. A letter is sent out to the business, qualifying it in the zone, with a copy of the application going over to Taxation, who reviews it and sends out the appropriate certificates that business is entitled to.

Every year prior to their anniversary date, that business has a recertification application that is sent to them by the local coordinator in advance of their anniversary, saying, "Okay, you're due for recertification by "X" date. Please fill out this recertification form, return it to the local coordinator," and then it comes on to us. So, if they show now whether, in fact, they created the job or not, and then they show their capital investment, and then they project for the following year if they have any advancement to make. So they are always being reviewed on an annual basis prior to their anniversary date.

SENATOR SCOTT: If they had said in the beginning that they plan to put one extra full-time and one extra part-time person on, they're going to invest \$40,000 for a roof, or whatever it may be, and the following year they have not, in fact, done this, that there is a status quo. What, at that point -- what happens then, after this is reviewed by someone?

MR. GAROFALO: Yes. We have a one-time conditional opportunity for a business as long as they're projecting the following year. In other words, if they came back and said they still have the four, however they're going to do the job the following year, and they also identify new capital that they might be investing, they will get a conditional letter saying, "Okay, you're approved on a conditional basis." Within six months of their recertification they receive another letter saying, "Okay, you were approved conditionally. How are you making out creating that job and doing what you said you were going to do, because we want to see if there's any help the local people can give you, we can give it, to make sure that you are creating that job." If they do not, they're dropped from the program.

This is a "jobs for benefit" program. You have to create jobs and sustain them to be eligible to keep getting the benefits in this program.

SENATOR SCOTT: When you take the original application -- there's some really wild numbers in here -- a Realtor is going to invest in Jersey City \$15 million -- it has nothing to do with it, the Urban Enterprise Zone. That's some of the numbers-- That's a number that was used. I think I polled \$48 million like that out of Jersey City, \$65 million investment -- that would not impact; it has nothing to do with it.

MR. GAROFALO: That has nothing to do with it?

SENATOR SCOTT: With the Urban Enterprise Zone. In other words, a Realtor, Morgan Guarantee, "We're going to have \$14 million of investments," something like that. And I questioned them and they said, "Well, you know, we're going to have nationwide more business coming in." And the answers don't pertain to the Urban Enterprise Zone, but when you take a look at the application, it's in there. Oh, this is what they're going to do, and the total investment is this and so on. It has nothing--

MR. GAROFALO: Well, the important ingredient in this program, sir, is the creation of new full-time jobs. The capital investment, we collect it because we want to see that kind of investment being made in these cities that are economically distressed to be Enterprise Zones under law. But the real nuts and bolts are the jobs; the creation and sustaining of the jobs. And that's the criteria.

SENATOR SCOTT: Because of the 50 percent sales tax. That's what we're talking about now.

MR. GAROFALO: The 50 percent sales tax is an amenity that is available to qualified retailers.

SENATOR SCOTT: Well, what we're talking about now is the awarding of that 50 percent sales tax exemption.

MR. GAROFALO: Right.

SENATOR SCOTT: So whatever they're doing, I assume, has to do with their receiving this exemption means they will invest, and they will hire people because of the sales tax exemption.

MR. GAROFALO: Not necessarily.

SENATOR SCOTT: Oh, no?

MR. GAROFALO: No, because manufacturers or other organizations are able to receive the exemptions that Jim made reference to.

SENATOR SCOTT: But they already have those in the zone.

MR. GAROFALO: You get those-- Those are the two ingredients that every business gets. The retailers within these Enterprise Zones have the additional amenity of charging 50 percent for allied purchase by coming into the area.

SENATOR SCOTT: No, I understand that. Now--

MR. GAROFALO: And the intent is to bring people back into those cities where they need reinvigoration.

SENATOR SCOTT: I understand that.

MR. GAROFALO: So, when you come in to buy, you'll go next door to buy something else.

SENATOR SCOTT: Mr. Garofalo, unless I'm missing this-- Senator, you can help me out with this one. They all had all those amenities before they were qualified UEZs.

MR. GAROFALO: Before they were qualified?

SENATOR SCOTT: They were qualified, so therefore they had that. What happened on July 8, you awarded all four towns -- cities, I should say -- the 50 percent sales tax exemption. Am I right?

MR. GAROFALO: I don't award anything. I'm just the--

SENATOR SCOTT: Okay.

MR. GAROFALO: The Authority does. But, the point is--

SENATOR SCOTT: The Authority, then. Good Lord. Okay, bear with me, Mr. Garofalo, you were a part of it, you collectively, you corporately, you know, you as a representative of the State of New Jersey. You were sitting in there. You're on the Projects Committee even though you don't vote. Am I correct?

MR. GAROFALO: I present the instruments for them to review.

SENATOR SCOTT: Fine. You were a part of this process. Now, can you answer the question that once you're a new UEZ, which they were -- the four were already approved -- the only part that they did not have was the 50 percent sales tax exemption.

MR. GAROFALO: Exactly.

SENATOR SCOTT: Is that right?

MR. GAROFALO: That's correct.

SENATOR SCOTT: Okay. Now, next. When the letters went out, when the applications went out, and they sent back everything they were going to do; they predicted this was going to happen because they were going to receive the 50 percent sales tax exemption. This is what they would do additionally; that Savage Hardware and Supply on Kearny Avenue would add one full-time and one part-time--

MR. GAROFALO: They would do that anyway in their application process.

SENATOR SCOTT: Wait, just one second. They're telling you, "If you give me, if the Authority allows me to have this sales tax exemption, I will then be able to hire additional people."

MR. GAROFALO: I'm not aware of that being the implication for that benefit.

SENATOR SCOTT: Why would you send the application then?

MR. GAROFALO: Well, any business can qualify as long as they're in the zone. See, for a retailer, having that 50 percent amenity may be the impetus for them to create that full-time job. They may not have participated before because they didn't have that particular amenity, so they may have made a judgment that with that they now can create that job. They may have said--

SENATOR SCOTT: That's what I was asking. It pertains to that.

MR. GAROFALO: They may have said-- I don't know if that necessarily would be the methodology. Could be.

SENATOR SCOTT: All right.

Senator Lesniak? (no response)

Thank you very much for your time. I appreciate it.

Is Mayor Rutkowski here? (no response) Mayor Perna from Belleville, I don't see. The Honorable Tom Dunn, I don't see. Well, the Honorable Bret Schundler, Jersey City -- Mayor of Jersey City.

MAYOR BRET SCHUNDLER: Senator Scott, I can understand your concern in the peculiar case of Kearny, where you have a street where on one side of the street you have the zone, and, on the other side of the street, you don't have the zone. It would seem to me that the best way to resolve that might be to actually append the other side of the street into the Zone, and then you take your--

SENATOR SCOTT: That can't be done.

MAYOR SCHUNDLER: Well, it may not be able to be done through this process, but I wonder if we might take a different process? I guess my sense is what we're now talking about is whether or not the action taken on July 8 was appropriate and proper. I can at least testify, as far as Jersey City is concerned, the Mayor of Jersey City at the time, Joe Rutkowski, when he went down to the State to testify, did not do so knowing that they were going to take up the issue. As you know, we, in Jersey City, have had some dislocation in our mayoralty or mayorship -- whatever the word would be -- over the course of this last year. I went down with a group of merchants from Jersey City in April, and we presented a strong case for Jersey City getting the benefits we felt we were long overdue at that time.

When Mayor Rutkowski subsequently came into office, he had not even had a chance to go down and speak himself. At least he had a chance as a Councilman, but hadn't availed himself of it. Now, as Mayor, he wanted to go down and speak on behalf of Jersey City receiving the benefits of the sales tax reduction and the expansion of the zone. So he went down there not knowing that it would be brought up, expecting to speak for the zone and actually not really having much of a chance to speak because the zone was granted on that occasion.

But, clearly, it was legitimately old business, and our feeling--

SENATOR SCOTT: Well, Mayor, that part is already gone. We concede it was old business following "Robert's Rules of Order" and so on. It's fine. That's gone. What I thought you were here to tell me the wonderful aspects of the 3 percent sales tax for Jersey City.

MAYOR SCHUNDLER: Well, I do want to do that. I appreciate the opportunity very much.

SENATOR SCOTT: That's what we'd like to hear, if it has done you any good at all. Maybe, if it hasn't done any good, we could call Mayor Dinkins' office and ask him. (laughter)

MAYOR SCHUNDLER: Well, I think he would probably concur.

In Jersey City it really has had a very dramatic impact. I have here with me a study done by The Commerce Department in 1989, about the seven cities where it was in place at that time, and it created about 3000 jobs per year in those seven cities. Now, of course, we've only received the full benefits beginning in November -- I should say taking effect in November of last year -- but immediately there was positive impact. It has helped to invigorate our shopping areas.

For instance, your comment about the malls' business drawing in New York commuters. Yes, clearly that is something that we're all very happy about. I might add that our decision in Jersey City with regard to the reinvestment of the sales tax proceeds is to take that money and to spend it on our main streets -- the deteriorated areas most particularly receiving the most assistance. And so when we talk about the inclusion, for instance, of the Newport Mall in the zone, I think it's right to have it there because it gives us an opportunity to fund reinvigoration in a place like Martin Luther King Drive, as an example. If you were to walk down Martin Luther King Drive today, you would think you were in Berlin after the Second World War. There are vast stretches of that Drive where there are no buildings standing, and yet this gives us a dedicated funding source without penalizing the taxpayers of Jersey City, to reinvest in that street.

I would say that if we look at this from just a perspective of tax sense, it doesn't make sense to charge a sales tax in one of the poorer cities in the State, to take that money and send it to Trenton. Jersey City is one of the poorer cities. It makes sense not to send that money to Trenton and then to recycle it and bring it back, but rather just to let us keep it in Jersey City.

And the benefit of the UEZ is not only the increase in jobs that it results in. It is not only the increase in the revenue that -- by being able to retain the sales tax -- allows us to reinvest in our shopping districts, but there are two other very important considerations. Many of our people do not have any discretionary income in the sense that all of their spending is necessary spending. They have enough just to get by, so, if we leave them 3 percent more in their pocket, that immediately has an impact in that shopping district servicing them. It means there's 3 percent more buying power in that deteriorated, depressed shopping district. That also means

that their quality of life has now increased 3 percent, because they have a little bit more in their pocket that they can go and spend for the necessities of life that are, in their instances, desperately short. So it has many direct impacts on the consumer, on reinvestment in those deteriorated areas, on the creation of jobs, and it has been a tremendous boon to Jersey City.

I can tell you right now that there are a number of manufacturing concerns which are preparing to come to Jersey City because of the benefits afforded by the Urban Enterprise Zone, and there are a number of retailers planning to come to Jersey City because of the benefit of the Urban Enterprise Zone.

Now, in the specific application that was approved in July, we not only received for the first time the sales tax reduction, but we did expand the zone as well, and the zone until that time did not include most of our main shopping districts. Now it does, and the zone incorporates a significant part of Jersey City today, whereas it did not truly encompass much before.

SENATOR SCOTT: Enlighten me as to exactly where-- I know Jersey City, so--

MAYOR SCHUNDLER: Right.

SENATOR SCOTT: If you could tell me some of the areas that it now encompasses.

MAYOR SCHUNDLER: It encompasses all of the major main street shopping areas, which is to say Central Avenue and Journal Square and Westside Avenue and Newark Avenue downtown. So, these are areas which have all been under tremendous pressure.

SENATOR SCOTT: Bergen Avenue? Out to the Bayonne line?

MAYOR SCHUNDLER: I don't actually-- Tom Ahearn would have to-- (speaks to unidentified member of audience)

Do we go all the way to Bayonne?

UNIDENTIFIED SPEAKER IN AUDIENCE: We go all the way to Bayonne (indiscernible) Just a portion of Bergen Avenue.

MAYOR SCHUNDLER: Yes.

SENATOR SCOTT: Route 440, that whole area?

MAYOR SCHUNDLER: Right. Route 440 is also included.

SENATOR SCOTT: Downtown-- I'm just trying to think of the impact. What is your opinion of the impact on Bayonne?

MAYOR SCHUNDLER: Well, I think if you're looking at a small retailer, let's say someone who has a card shop or--

SENATOR SCOTT: Let's say somebody who has a furniture or jewelry store or things like that, when they have a high priced item, that's where the impact--

MAYOR SCHUNDLER: I think if you're thinking about an individual retailer who may deal in very high-cost items, I think it's very conceivable that they could see some of their business come to Jersey City because the sales tax on a high-cost item is very significant. I don't think that will happen for 95 percent of the businesses. And then we say, "What happens to the rest of Bayonne." Except for, perhaps, the one retailer who may be involved in a very high-cost item. Well, for the rest of Bayonne, I think they benefit because Jersey City being invigorated has ripple effects that benefit them.

And we look at, as an example, I have here a story from "Nation's Business" which appeared very recently talking about the successful Urban Enterprise Zones across the country, but particularly featuring many examples right in Jersey City. In fact, the lead paragraph deals with one manufacturer who located in Jersey City specifically because of the benefits of the zone. As we've expanded the zone, we now allow more manufacturers to come into the City and gain the benefit.

SENATOR SCOTT: Where was it expanded? Not to interrupt you, where was it expanded? Where was the original zone?

MAYOR SCHUNDLER: (speaks to member of audience) Do you want to deal with--

Because we have-- As you know, Jersey City has a lot of little circles, essentially, on our map. It's not one big conglomeration.

SENATOR SCOTT: It's not a contiguous zone?

MAYOR SCHUNDLER: Well, it is a contiguous zone, but it is not one circle. It stretches into different areas.

SENATOR SCOTT: It just goes along--

UNIDENTIFIED SPEAKER IN AUDIENCE: Originally, what it was--

SENATOR SCOTT: Who are you, sir?

EUGENE NELSON: I'm Gene Nelson. I work with New Jersey Economic Development for the Urban Enterprise Zone Program.

Originally, what it was, was a lot of the businesses of building gratis were in the Urban Enterprise Zone where abandoned warehouses--

SENATOR SCOTT: All right. No, I don't need the background on that. I have a very specific question. Where was the original zone and what was the expansion?

MR. NELSON: The original zone was mainly an industrial type setting.

SENATOR SCOTT: Can you give me a street?

MR. NELSON: A street?

SENATOR SCOTT: Can you give me a street where it was located?

MR. NELSON: Yes. One of the streets where it was located would be a portion of -- out toward the Liberty Park Complex. We have a lot of land out there originally that has been included in the zone adjacent to the Liberty Park Complex.

What we did was in order to slack off, in order to maintain the monetary (indiscernible), we slacked that off so that we could encompass Ocean Avenue, Central Avenue, so we could offer the benefit to the retailer.

SENATOR SCOTT: Ocean Avenue and Central Avenue are three or four miles apart? What I'm trying to determine is this: The original zone had to be-- Was it down town on Newark Avenue?

MAYOR SCHUNDLER: No.

SENATOR SCOTT: It was not.

MAYOR SCHUNDLER: No.

SENATOR SCOTT: Was it down on 440, I gather? Was it on Central Avenue?

MR. NELSON: The original site--

SENATOR SCOTT: Was it on Bergen Avenue? It had to be some place. All right, maybe we can get that information.

MAYOR SCHUNDLER: Well, the original zone was essentially-- Was, if you want it on a map, it was just one chunk of the City, and now it stretches out to benefit through the City.

SENATOR SCOTT: All right. That one chunk had to be located somewhere in the City.

MAYOR SCHUNDLER: Yes, and we're saying essentially--

UNIDENTIFIED SPEAKER IN AUDIENCE: It was located along the river.

SENATOR SCOTT: It was along the Hudson River?

MAYOR SCHUNDLER: Right.

SENATOR SCOTT: And that's it?

UNIDENTIFIED SPEAKER IN AUDIENCE: From the Hudson River and essentially to Garfield Street.

SENATOR SCOTT: On Garfield Avenue.

UNIDENTIFIED SPEAKER IN AUDIENCE: To Garfield, to Grand, down Grand to--

SENATOR SCOTT: To Ocean?

UNIDENTIFIED SPEAKER IN AUDIENCE: --to the Exchange Place area in Jersey City. That was the first zone -- the original approved zone -- went from somewhere near Exchange Place back along the River, up Grand Street to Garfield, down Garfield to the (indiscernible) essentially.

SENATOR SCOTT: I didn't know where the original one was. If that's the case in point, we expanded Central Avenue, 440, Bergen--

MAYOR SCHUNDLER: We covered a lot of fallow ground, and what we're doing now is we're taking it to where development is more possible and where reinvestment is more probable.

SENATOR SCOTT: Is there a development going on down along the Riverfront?

MAYOR SCHUNDLER: Yes, that was covered before.

SENATOR SCOTT: Not where Newport is, or anything like that. There's more vacant land--

MAYOR SCHUNDLER: Yes, but if you go up by Liberty Park, for instance, there are toxic problems there. There has been reinvestment, you know, there, but you had a lot of land which is just a much harder sell in terms of reinvestment. So we have, by redrawing the map, we've essentially targeted areas where it can really make a difference. You know, where it can provide the marginal attractive advantage so that you will get, you know, jobs created.

SENATOR SCOTT: What you're saying basically, the 3 percent helped, but you're also quite involved in developing manufacturing and so on?

MAYOR SCHUNDLER: Absolutely.

SENATOR SCOTT: Because that's what the UEZ, I believe, was originally intended to do.

MAYOR SCHUNDLER: I think by redrawing the map so that we are going to areas where, again, they're not quite so out of the way, it's a little bit easier to get someone to reinvest. You know, we still have some of the most distressed areas, but on Martin Luther King Drive, while being very distressed, shouldn't be. It's a main thoroughfare, so by including it, you know, we think that we will get the reinvestment that's necessary to really get what you're looking for. So, we have--

Two things occurred with our application: One is we redrew the maps so we could have greater impact with the benefits that we have already, and, two, we got the incremental benefit of the sales tax reduction. I think both of those are having a very significant impact in Jersey City.

SENATOR SCOTT: I would be interested, Mayor Schundler, and hopefully you'll do a study at the end of the year to see exactly where Jersey City stood with the retail and the manufacturing, it would help us, I think, in determining the value of the UEZ and the extension of the sales tax.

I would appreciate that.

MAYOR SCHUNDLER: I'd be happy to. I can testify this as one example, however, right now. We have one zone right now where the various developers have already been in to speak with me about locating a fairly significant retail complex because of the advantages of the zone. Now this particular retailer sees New York as being, you know, their market. And they will site themselves specifically in Jersey City, will create -- I think the number that they were talking about was essentially about 400 or 500 jobs which is a wonderful boost for a single site.

SENATOR SCOTT: It's significant. Yes.

MAYOR SCHUNDLER: Yes. So it has-- We can talk about what already has occurred, even before the amendments and the incremental benefits received in July, and I think if you were to look at what it has already received here-- In "Nation's Business" they quote, you know, the number of 8000, which is the State's records -- 8000 jobs since 1987, but I can see what is coming down the pike, which the State doesn't have the numbers on because the developers come to see me first. And I can see a tremendous flurry of investment interest in Jersey City, because, as of November 26, I guess, we have the extended benefits, and we have territory which is more attractive for reinvestment and redevelopment in the zone.

SENATOR SCOTT: Well, I appreciate your testimony and I'm glad to hear-- Having read the newspaper, Mayor Dinkins was crying, so we knew something was going well over here.

MAYOR SCHUNDLER: Something's going well. Yes.

SENATOR SCOTT: If he's crying, we must be doing something right.

MAYOR SCHUNDLER: I just want to reemphasize one point that, again, I believe overall, cities like Bayonne, cities like Union City will have tremendous benefits received as a result of Jersey City's reinvigoration.

SENATOR SCOTT: Well, I don't know if Mayor Rutkowski would agree. He'd like to see that over in Bayonne, I believe.

MAYOR SCHUNDLER: Well, you know, sometimes people don't have vision, but when they walk into a tree they discover it. (laughter)

When Jersey City-- We go down the pike a couple of years, Jersey City will be a bustling, thriving city and Bayonne will benefit as a result. No one will question then the benefits of the program.

I will add one additional thought: It's not, again, only business being captured from New York; it's not only investment drawing dollars directly, but again, if you allow a Jersey City consumer to spend 3 percent more in his neighborhood store because you didn't take it out of his pocket, now you've got 3 percent more buying power in that immediate vicinity simply because you didn't take it out of his pocket and send it to Trenton. That right away creates an economic benefit and creates jobs that is not a result of transferring one from Bayonne, let's say, but rather through allowing-- You might want to call it a magical State increase in income in the sense that it's increased spending power.

SENATOR SCOTT: Well, the State doesn't see that income, but the city does and I guess--

MAYOR SCHUNDLER: But we get a job out of that. We get a job and we get a ratable, so it rebounds. And we have that also. They did those analyses as well in this study of 1989.

SENATOR SCOTT: Well, I'd like to see it in a study in 1994.

Thank you very much for your time and your input.

MAYOR SCHUNDLER: Very good. Thank you.

SENATOR SCOTT: All right. Gary Bennett. Mr. Gary Bennett from Kearny, representing Mayor Lindenfelser. Mr. Bennett, do you have a statement on behalf of Mr. Lindenfelser?

MR. BENNETT: I do, Senator, and I also have ten copies pursuant to the request in the call of the meeting.

SENATOR SCOTT: Thank you.

MR. BENNETT: I have been requested by Mayor Lindenfelser to attend today's public hearing and to provide a statement based upon his own unavailability.

"I received notification on February 19, 1993 from Senator John P. Scott that the Subcommittee on Urban Enterprise Zone Authority procedures of the Senate Commerce Committee would conduct a public hearing on February 25, 1993. Through the offices of the Kearny Town Attorney, I notified Secretary Arlene H. Bezek that I would be unavailable to attend this public hearing due to the fact that I am serving on jury duty. Despite my inability to attend, however, I feel compelled to make the following statement.

"I am highly offended and disturbed to find that the sole focus of this Subcommittee appears to be an attempt to attack the sales tax benefits provided to the Town of Kearny by the New Jersey Urban Enterprise Zone Authority. In fact, the call of Senator Scott's meeting indicated that the public hearing was 'concerning the granting of sales tax benefits to Kearny, and the operation of other urban enterprise zones.'

"It seems patently unfair, prejudicial, and discriminatory to single out the Town of Kearny and to provide a cursory review of the other urban enterprise zones. It has been clear since the granting of Kearny's application for sales tax benefits that Senator Scott is satisfied to focus his attention solely on the Town of Kearny's benefits in an attempt to procedurally set aside this important economic benefit for which Kearny diligently worked. This focus on Kearny, rather than the overall concept of sales tax benefits, is offensive and unfair to the residents of the Town of Kearny and those who have worked so hard to achieve this benefit.

"There has been proposed legislation and Senate resolutions since August of 1992 which have been nothing more than an attempt to strip the Town of Kearny of its rights rather than investigate the procedures and criteria for sales tax benefits. I wish to reemphasize that the Town of Kearny and myself as Mayor are extremely displeased and hesitant to participate in such a biased and clearly prejudicial and narrow procedure.

"If Senator Scott and the Committee truly wish to review the impact of sales tax benefits in each of the urban enterprise zones, then why not engage in an open-minded and thorough review of the entire concept as opposed to a personal and political attack upon the Town of Kearny.

"Again, I regret my inability to attend this hearing and trust that my objection to this process and the method of investigating is clearly spelled out in this statement. Despite my displeasure, I respect the authority of this Senate Subcommittee and each of its members, and I will ensure that representatives of the Town of Kearny are present to answer any and all appropriate questions."

Respectfully submitted, Kenneth H. Lindenfelser, Mayor
of the Town of Kearny, dated February 25, 1993.

There are ten copies of it that I will provide.

SENATOR SCOTT: Yes, of course. Well I guess that takes care of Mayor Lindenfelser. I guess we understand where he is coming from.

I would like to say this in response: If the Mayor doesn't understand why, then he better read the newspapers and the letters that have been going out regarding this. There is a significant difference between the other urban enterprise zones and the one that Kearny has received. Kearny received it on a street that's contiguous, that is the same street as North Arlington. They have received unfair political, or rather economic advantage. As far as it being personal and political and biased, and all the rest, I shall answer the Mayor's letter item by item. He's offended? Well, I'm offended that he would write such a letter. I think perhaps we'll let that go for now, because we have a hearing to move with, and we have a lot of work to do. But it's a shame that he couldn't get out of the jury duty to attend perhaps one of the more important meetings for his town. I would think--

MR. BENNETT: Senator, If I might--

SENATOR SCOTT: No, no -- just a minute -- you may not. You left the seat, if you would like to come back down here and sit.

MR. BENNETT: Now, I would like to speak personally.

SENATOR SCOTT: No, you're not going to speak personally, not while I'm speaking. Sit down.

MR. BENNETT: Okay.

SENATOR SCOTT: We'll give you a shot. No over here, at the table, so you can be recorded.

MR. BENNETT: Thank you, sir.

SENATOR SCOTT: So, if the Mayor feels that he could not get out of jury duty to attend a rather important meeting, that's his business, of course.

As far as personal, I think I only met the Mayor twice in my life. As far as political, I believe we are in the same political party. I don't intend to run in Kearny; it's not in

my 36th legislative district. Bias, I don't-- If I'm biased-- I'm not sure what that means, but I guess it's the rhetoric that some people use when they run out of facts. I will answer the Mayor personally.

Mr. Bennett, if you would like to make a comment of your own regarding the UEZ, that's fine.

MR. BENNETT: Senator, my comment is not with regard to Mayor Linderfelser's statement. My comment is to clarify so it's extremely clear, for the record, the inability of Mayor Lindenfelser to be here. He has been impaneled in a Superior Court jury. I think, and I would hope, that you would agree as a State Senator that it's a vital, vital part -- and I surely understand as an attorney -- a vital part of the judicial system in this country, and specifically critical in the State of New Jersey, that people address their civic duty to serve on a jury. He has not volunteered for the jury, he has been summoned to appear before that jury. In fact, he is not sitting in a jury room reading a newspaper, waiting to be called but, in fact, is impaneled on a jury, in a trial that started in the Superior Court in Hudson County this morning.

To that extent, Mayor Lindenfelser has not minimized the impact or importance of this hearing upon his constituents, or upon the Town of Kearny. He has been called upon to address a duty that is his obligation under the law, and he has not utilized in any way, shape, or form his position as Mayor, nor the fact that he enjoys a extremely beneficial job to take that opportunity to excuse himself from his civic duty. If he had been able to be here, he would have been here.

In fact, Monday when I contacted your office, it was his hope that one of two things would happen. Either he would perhaps not be selected for a jury and then be available, or that there could be some consideration given to his inability to appear. Based upon the fact that I never got a response as to whether or not the hearing could be postponed or would be

postponed, he requested that I come here with this statement today. I only make that statement on his behalf to make it clear that in no way has he shrugged, nor neglected the importance of this meeting. He is physically, legally, and morally unable to attend this hearing. That's the reason for this statement.

I will make no comment relative to the contents of this statement because it represents his personal feelings and not reflective or intended to be my own feelings.

SENATOR SCOTT: Thank you very much. I am glad you clarified that.

MR. BENNETT: Thank you very much, Senator.

SENATOR SCOTT: Mr. Joseph Skelly, of Kearny?

COMMITTEE AIDE: S-K-E-L-L-Y?

J O S E P H S K E L L Y: That's correct.

SENATOR SCOTT: Mr. Skelly, you, I believe, are the individual who prepared the report for the Township of Kearny, for the UEZ.

MR. SKELLY: I prepared, or assisted in the preparation of the applications both for the expansion of the zone and for the 50 percent sales tax benefit.

SENATOR SCOTT: Are you familiar at all with a report that was in the newspaper regarding -- let me see if I can read this here-- There was a study done, and Mayor Lindenfelser quoted a study that was done to show support. Are you familiar with that?

MR. SKELLY: No, I'm not familiar with any report. It would probably be better to address that to Mayor Lindenfelser.

SENATOR SCOTT: That's why I had hoped he was here. I haven't received a copy of that study, even though we did request that on December 14.

MR. SKELLY: However, with me today is Mr. Fred Michaeli, from the firm of Planners Diversified, who assisted in the preparation of both of those applications and prepared a lot of the back up material for this.

SENATOR SCOTT: All right. Let me ask you this though: As far as you know, there is no -- you don't have knowledge of a study that was done? It was quoted in the newspaper and that was the only way we know about it. We were curious to why we couldn't obtain a copy of this.

MR. SKELLY: We had done a great deal of study ourselves and a great deal of investigation and preparation in the process of preparing those applications. Perhaps that's what he was referring to.

SENATOR SCOTT: It says, "But our study shows that there would be a limited impact on the adjacent towns."

MR. SKELLY: The adjacent enterprise zone communities.

SENATOR SCOTT: It doesn't say that. It says "I certainly understand their position," -- talking about North Arlington -- "but our study shows that there would be a limited impact on the adjacent towns." That's very important, and, if they had that study done, I would certainly like to look at it. We're not trying to hurt North Arlington, we're trying to do the best for Kearny. I understand that, but--

MR. SKELLY: The adjacent towns of Newark and Jersey City are enterprise zone communities.

SENATOR SCOTT: Yes, right.

MR. SKELLY: I'm sure that's which towns you were referring to.

SENATOR SCOTT: The fallback position is other zones, but he was not quoted that way. That's one of the things we requested. We really wanted to see that.

You live in Kearny, so I won't ask you the obvious question of Kearny Avenue, the problem that started everything. Can you tell me how desperate Kearny Avenue is for revitalization? Or would you say, in that four block area, two blocks on each side of Ridge Road and Kearny Avenue from the Belleville Pike, what is your opinion of that zone, that area?

MR. SKELLY: That area is a retail, part retail area and is also part office. It includes at least one store -- large area store I can think of which is vacant. It is an area which is part of the Town of Kearny, which is an urban aid city, and, therefore, would be eligible based on that criteria to be a part of the Urban Enterprise Zone, based on other facts that we've assembled in our application.

SENATOR SCOTT: Mr. Skelly, I know -- I guess this is the position that is going to be taken by everyone concerned, that you're following the law as written in the public -- what is that, public register -- on Urban Enterprise Zones. Would you evaluate Kearny Avenue as a depressed area?

MR. SKELLY: Yes, I would.

SENATOR SCOTT: You would?

MR. SKELLY: Yes. As compared to what?

SENATOR SCOTT: As compared to the next block of North Arlington. Looking across the street, standing on the south side of Belleville Pike near that nice candy store that I used to go to on the corner there. I forgot what it is. I went in there a few times, a great little store. Now, if I was looking north and then I looked south, east, and west, would I see a depressed area? Is that what you're saying in Kearny?

MR. SKELLY: Based on the criteria that we were given, yes.

SENATOR SCOTT: Based on the criteria that--

MR. SKELLY: Based on the law, yes.

SENATOR SCOTT: Does the law say that if, in fact, you have empty stores, high unemployment, things like this, isn't that part of it? Do you have that in there?

MR. SKELLY: We have that in Kearny, and we do have that along that strip, yes we do. No more than 100 feet down from Belleville Turnpike lies a vacant store.

SENATOR SCOTT: There is one?

MR. SKELLY: A business that had been in business for 22 years and is now gone.

SENATOR SCOTT: So, there is one over there. Okay, I wasn't sure if there was one there, but I guess there is one there.

MR. SKELLY: Part of the criteria and part of the law isn't that if you look at it, it looks depressed. That's not in the law.

SENATOR SCOTT: Do you have any knowledge of the-- When you were doing this, I know somewhere in here, you quoted the Pathmark, I believe, as being big time, as far as jobs and investments and so on. Did you talk to the people in Pathmark?

MR. SKELLY: No, that was based on a plan that they had presented to the Kearny Planning Board and was in process at that given time.

SENATOR SCOTT: How many years ago did they determine that they were going to move there? Do you have any idea?

MR. SKELLY: I would guess about three years ago. It had been before the Planning Board for some time.

SENATOR SCOTT: Do you know if they had plans to move in there? They had decided to move because they now have the 3 percent sales tax and it's an Urban Enterprise Zone. Is that the reason that they were going to go there?

MR. SKELLY: I don't really know that part.

SENATOR SCOTT: You used those numbers.

MR. SKELLY: We would assume, of course, that if you're going to add an additional business, or an additional business retail area, that you're going to increase the amount of sales tax benefit.

SENATOR SCOTT: Part of the law as we know it, you're going to put down a certain number of jobs. That's what the law says. You're going to say that these jobs will come into the town because of the granting of this sales tax exemption.

MR. SKELLY: Right, of course.

SENATOR SCOTT: So, therefore, did you take into consideration with Pathmark--

MR. SKELLY: We took into consideration that Pathmark moving in was going to create jobs, yes.

SENATOR SCOTT: Then you indicated that was some of the benefits of the 3 percent sales tax, because of that--

MR. SKELLY: Sure, its a potential benefit.

SENATOR SCOTT: --you had all these new jobs. It wasn't because Pathmark was going to be there anyway, whether you had the UEZ or not.

MR. SKELLY: That we don't know. I'm not going to make that--

SENATOR SCOTT: You don't know?

MR. SKELLY: No, my point with Pathmark is, if they are-- It is a benefit. They were one of the people who were applying for application to the Planning Board during that time, and they're coming into the zone was certainly going to affect the job market in the area.

SENATOR SCOTT: They're coming into it, but not because of this being a zone or the sales tax. That's my point. Did you talk to the people yourself?

MR. SKELLY: No, I didn't.

SENATOR SCOTT: So, I guess your consultants must have talked to them.

MR. SKELLY: You might want to refer that to him.

SENATOR SCOTT: The rest of the new expanded zone down on River Road -- there are two major stores down there. Is there a K-Mart down there?

MR. SKELLY: There is a K-Mart, and a ShopRite, Foodtown, Consumers--

SENATOR SCOTT: Is Consumers down there? They're now in the process of taking advantage of the 3 percent sales tax?

MR. SKELLY: Those stores, well-- Consumers, ShopRite, and K-Mart are currently qualified. The Foodtown is not.

SENATOR SCOTT: Why wouldn't Foodtown?

MR. SKELLY: Their application hasn't been complete as of yet.

SENATOR SCOTT: Oh, but they have applied for it?

MR. SKELLY: Yes.

SENATOR SCOTT: Okay. Did you include their potential jobs increase in the report?

MR. SKELLY: I believe it's in their application.

SENATOR SCOTT: My concern is that we have -- and the only thing I can say, you have one fellow here from Furniture Land who is real honest. He is the guy who said, "It's great. We're attracting customers from the suburbs." I guess that's what the 3 percent sales tax was supposed to do--

MR. SKELLY: Yes, that's the point of the program.

SENATOR SCOTT: --attract customers from North Arlington and Belleville and places like that -- all those rich suburbs. That's part of the problem I have with that part of the zone -- I mean, that 3 percent sales tax.

Let me ask you a simple question. Obviously you don't have to answer. Do you think there's a fairness -- I'm not talking about a legality -- do you see a fairness in having that zone on Kearny Avenue, right next to the Ridge Road area, that commercial zone?

MR. SKELLY: I don't see it as being unfair.

SENATOR SCOTT: Okay. I guess that's an answer.

MR. SKELLY: In terms of judging fairness, I mean I reply again, is it fair that North Arlington has many benefits in terms of host community fees whereby they can keep their revenues at a level at which they do not suffer from any of the same economic problems that Kearny does? Fairness is certainly an issue that we can go in either direction on.

SENATOR SCOTT: Well, fairness being in Bergen County versus Hudson County, too. I mean, what's fair? I don't know if that's a part of it? I think North Arlington would rather--

I'm reading a little something -- Urban Enterprise Zone policies. This is the law as we have quoted innumerable today. Each application -- this is for the 50 percent benefit, all right; that's what we're talking about: The number of permanent full time jobs to be created in a municipality, in an existing UEZ, if the exemption were granted.

Now, I'm not an attorney, and this is not a court of law, but reading this they're saying, "If you get this 50 percent sales tax exemption, how many jobs will you create because of that exemption?" Now, if you put down, for example Pathmark, how many jobs did you attribute to them? Did you call and did they say that they would have only been there because of that? Do you see my dilemma? Where did you get all these numbers from? I know they filled out blank forms and they threw in numbers, but are they valid?

MR. SKELLY: The point of their validity is based on the studies that we can make. I'm sure you could make studies that would perhaps prove to you, at least, the opposite. These are judgment calls made by people who we believe are qualified to make them and based on the best information that we can get, we're asked the question; we answer it.

SENATOR SCOTT: Well, I know. I think I've been stonewalled today by experts. Quite frankly, they've used the law and said, "Well, the law said we can." We're not going to get at a fairness issue. We're not going to get at the criteria, because no one is going to examine this criteria, I gather, for one year.

Hopefully when it's examined, I will be there, and then we'll examine it piece by piece and store by store, and maybe take a walk into each store in Kearny and find out how many people they've actually hired. They say here that they're going to do that. I want to find out if, in fact, they're going to hire, because I happen to know one who is a husband and wife in a small store over there. Their application is --

they're going to hire somebody. They're not going to hire anybody. If they got a 25 percent increase in business that would mean they couldn't sit down part of the day and watch T.V. They would have to do some work, and I think they would be very happy. I see a major problem.

Mr. Skelly, I think, having heard all the comments before, I could see that you did not actually do the study. Your consultants are here, and I'm not going to get any more out of them than I did out of you, or some of the other people as to why it was done and the criteria that was used.

MR. SKELLY: Perhaps, Senator, you're not going to get the answer that you want, but you will get an answer.

SENATOR SCOTT: No, I'll get the answer. The answer I'm looking for is the fact that it's going to destroy a commercial zone and there doesn't seem to be any worry about it from an awful lot of people. They did not study, and the law says--

MR SKELLY: Senator, that's the answer you want. That is not necessarily the truth.

SENATOR SCOTT: Just a moment. Just a moment. The study says, you don't have to take the impact -- economic impact on a contiguous zone unless it's a UEZ zone. That's the answer I've gotten from everybody so far. I understand that, and we'll have to go from here. I think -- like I say, there has been things here. We have a study that doesn't exist from the mayor. He can't be here for a very good reason. From what I gather, he's locked up in a jury room somewhere and certainly that's a good reason. I'm only too glad to hear that it was, in fact, that, because I was a little disappointed that he wasn't here and like I say, I'll answer his letter and perhaps we'll go from there.

Thank you. If you have anything additionally you'd like to say, Mr. Skelly you're welcome to it -- a closing comment.

MR. SKELLY: My only other comment would be that one other criteria that Kearny seems to suffer from, in terms of the reason for this hearing, is that Kearny is not in your district.

Thank you.

SENATOR SCOTT: Jersey City is not in my district and neither is Orange or Elizabeth. But no, it's because of the contiguous commercial zone. I understand the problem there.

The information that we've heard today really gives us an opportunity to review the criteria for establishing the creation of Urban Enterprise Zones. And it certainly confirms that it's unfair for any UEZ that is contiguous with another business district to have the one half sales tax benefit. Nine out of ten existing zones are encapsulated by the distressed community where they are located. Kearny has the only zone that directly borders another community's business district. UEZs are for distressed cities characterized by high unemployment, blighted conditions, and a deteriorating tax benefit.

Who's this? I'm sorry, where did you-- Who is this?

FRED MICHAELI: My name is Fred Michaeli, Planners Diversified, consultant to the Town of Kearny.

MR. MAFFEI (Majority Staff): How do you spell your last name, please.

MR. MICHAELI: M-I-C-H-A-E-L-I.

SENATOR SCOTT: Okay, thank you, Mr. Michaeli.

MR. MICHAELI: I thought you had some questions earlier regarding the Kearny application. If you do, I would like to answer them.

SENATOR SCOTT: Well, one of the questions I've asked already -- I've gotten an answer that is not an answer only because-- For example, studies done according to Mayor Lindenfelser: The fact that the law says they "don't have to take an economic impact study on contiguous towns" and so on. I had hoped to get a little more from not necessarily the

people in Kearny, but from the UEZ Authority people, that they would actually, and they have considered other legislation necessitated by the fact that we're hearing this. There is a problem between the two areas.

My only question to you is, we've written to hundreds of towns and companies in all the cities, and we got a lot of replies. I don't know if you have actually written to them all and actually interviewed these people when you did your study or was it just a form that was sent out and mailed back? I don't know the actual procedure. Maybe you can enlighten me on that.

MR. MICHAELI: All right, I think you have to go back and go back in history in this thing. There were really two separate applications. The first application was for the revision in the boundary. That application was submitted to the Enterprise Zone Authority and finally approved by them at their January 9, or so, '92 meeting. Following that boundary revision which brought into the area of the Enterprise Zone, the Kearny Avenue area and the Passaic Avenue area, following that, the four municipalities who did not have the 50 percent sales tax benefit were afforded the opportunity to submit the request for the 50 percent sales tax. That went through the process of being submitted in December, January, April, with action finally taking place at that July meeting.

SENATOR SCOTT: That part we are aware of.

MR. MICHAELI: With regard to preparing the Enterprise Zone 50 percent application, we contacted a number of the businesses, and obviously not all the businesses in Kearny, and determined that a certain percentage would participate in the program. That percentage is fairly typical of the experience in Plainfield, in Newark, and the other municipalities that have that 50 percent sales tax amenity. We then projected the employment based on those numbers. We made a very conservative estimate on employment, being that the average store would hire

one additional person. There were at least four vacant stores of significant size, and that those stores would be occupied, and that they would hire either four or five individuals.

SENATOR SCOTT: How did you determine they were going to be -- they were vacant? Somebody had a lease already in?

MR. MICHAELI: No, they were vacant stores, and because they were vacant, and with the sales tax benefit, somebody would come in and occupy those spaces.

SENATOR SCOTT: That was an assumption?

MR. MICHAELI: That's an assumption

SENATOR SCOTT: Okay.

MR. MICHAELI: Okay. And with regard to the Pathmark facility, we had numbers from them that it was going to be approximately a 60,000 square foot store. Based on that, a very, very conservative number on the construction cost and equipping of that store was the \$4.8 million or whatever we used. In addition, we estimated that there would be either 75 or 80 new jobs created in that Pathmark store. That's how we came to those numbers. We happen to have been consultant to a whole series of Pathmark and ShopRite supermarkets, and we're very familiar with their cost, their capital equipment cost, and their employment.

SENATOR SCOTT: We did a little homework on that. Of course, its very-- A full-time job is a big item. We found that \$4.8 million of the \$5,050,000 claimed on the application is credited to that new Pathmark store.

MR. MICHAELI: That's correct.

SENATOR SCOTT: According to Pathmark's Research Department and the Public Relations Department, the one-half tax benefit had no impact on the decision to expand in Kearny. So, though Pathmark looks forward to benefit -- they're going to locate there. In their words: It was foolish to think that their reason for deciding on the location was based on the UEZ. Pathmark claims that the site was selected about ten

years ago and was based on marketing research that showed the expansion of Kearny would be to their advantage economically. So they really had no intention of worrying about any UEZ plans or didn't even inquire. They were going to put it there. That's \$4 million-- What did we say, that's \$4 million out of the five; \$4.8 million out of \$5 million of investments credited that you had on your report. Yet one of them is going to be there, whether you had it or not. They couldn't care less.

Eighty-five of the jobs, as you claimed, were going to be there, regardless. They think it was foolish. That's their words. It also should be noted that there is a lawsuit currently pending that has been initiated by ShopRite to stop Pathmark going to Kearny, all right.

MR. MICHAELI: Right, we are aware of that.

SENATOR SCOTT: Okay, fine.

MR. MICHAELI: It has been in litigation and zoning hearings for years and years.

SENATOR SCOTT: The 85 new full-time positions credited to Pathmark should be eliminated. They are not going to build it if this lawsuit goes in. But, we threw it in there -- \$4.8 million out of \$5 million investment. We can throw out 85 jobs. Can we assume of the 75 mom-and-pop shops that they're going to take in an extra 85. No way. There are too many flaws in the application. There are too many things. I feel that the whole thing was just glossed over, and that numbers were put in there. This is a big example right here, that Pathmark. If you knew that they had been there for 10 years prior -- if you knew there was a lawsuit going on, how in the world can we put that number in there?

MR. MICHAELI: Because the question is, how many jobs are going to be created in the Urban Enterprise Zone?

SENATOR SCOTT: Regardless of why.

MR. MICHAELI: Yes.

SENATOR SCOTT: I don't think so. Once again, I have to read the regs. I get in trouble when I go off the regs.

"The number of permanent full-time jobs to be created in the municipality and the existing UEZ, if the exemption were granted." I think that-- Not being an attorney, I can even read that one. If it's granted-- As a result of the granting, how many jobs? Obviously these 85 shouldn't be counted, and neither should the \$4.8 million.

MR. MICHAELI: All right.

SENATOR SCOTT: That's what I'm saying.

MR. MICHAELI: If you want to take it out, what difference does it make?

SENATOR SCOTT: Okay, it kind of knocks it down quite a bit, doesn't it? In other words, what do we have, about \$200,000 worth of investments? As far as you're concerned, it doesn't mean a bit of difference. But there is supposed to be something significant in order to award this 50 percent sales tax. There has to be some reason, not because they want it. It's going to do something.

According to this, the biggest thing that it's going to do for Kearny is going to be done anyway, and now may not be because they are going to be sued by a competitor. That's why I have a problems with that. That's one of the problems we have with the whole thing in Kearny, not because Mayor Lindenfelser thought that it's a personal, biased, prejudice, and so on and so forth and political reasons which I don't know. I'm not going to run for mayor of Kearny. I don't think I'd have too good of a shot now.

MR. MICHAELI: I don't think so either.

SENATOR SCOTT: I'd have a problem right now getting elected over there. So that's some of the problems I have with it. When you take a look at this and say: "Wait, that's a big chunk of Kearny's application."

MR. MICHAELI: All right. But as a result of being granted the 50 percent sales tax amenity, we're getting additional businesses coming into Kearny and businesses expanding that probably would not have expanded without the benefit of the 50 percent amenity.

I think there is a much bigger issue, Senator, besides the issue that you're raising where you're targeting Kearny.

I happen to represent Irvington. We represented East Orange. Newark's boundaries of their Enterprise Zone go down Springfield Avenue, down Clinton Avenue, Avon Avenue, South Orange Avenue, Central Avenue, Main. You've got fingers going out. Mayor Cooper of East Orange desperately wants the Enterprise Zone. The Mayor of Irvington wants Enterprise Zone benefits. Hillside wants it. All of the communities, and they are all eligible for Urban Enterprise Zone benefits.

SENATOR SCOTT: I can add to that: Patterson, Perth Amboy, Passaic, Bayonne.

MR. MICHAELI: They are all listed.

SENATOR SCOTT: They are all ready to go. You don't have to convince me that towns want it. Good Lord, I think I have one solution: we'll make the whole State an Urban Enterprise Zone. I have no problem with that. Give them all 3 percent sales tax and give them tax credits.

MR. MICHAELI: Let's do it.

SENATOR SCOTT: I don't know where we're going to raise the funds. I imagine our income tax will go to 98 percent or something like that. That's some of the problems I have. I know how badly towns want it, but what I'm looking at is the impact on other communities.

MR. MICHAELI: Don't you think that same impact is Irvington on Clinton Avenue and Springfield Avenue, where the zone stops at the Newark line.

SENATOR SCOTT: I don't know that but--

MR. MICHAELI: Maybe you ought to look at that.

SENATOR SCOTT: Well, we will take a look at that, too. Perhaps we'll go to rescind all those that have been extended, if that's what you're saying. Maybe they're all unfair. I haven't had a complaint, but I did have a complaint from somebody in North Arlington -- the business community in North Arlington -- and that's why we're looking into that. If they didn't say a word, I probably wouldn't have known about it or been concerned about it. Since they alerted me to it and explained the problem and knowing that area-- I don't know-- I know where the streets are you're talking about, but I'm not familiar with them. I can't speak about the impact there, but I can talk about North Arlington or Kearny. That's part of my area. I have been around here too long not to know that.

MR. MICHAELI: I think you have to address the issue of what municipalities qualify for the Urban Enterprise Zone Program.

SENATOR SCOTT: We already know that. That's already locked.

MR. MICHAELI: Okay. The differences between Kearny and North Arlington are substantial, if you look at the criteria that the State puts out.

SENATOR SCOTT: We went over that earlier. Were you here when I said the per capita and so on?

MR. MICHAELI: Right.

SENATOR SCOTT: There's not that big of a difference. Even the people-- Do you realize you have a West Hudson Chamber of Commerce, that merchants on both sides of the street belong to. That's how close these two towns are. What this has done is drive a wedge. I mean, I am going to a function. I don't know if I'm going to be hung or hung in effigy at the West Hudson Chamber of Commerce. Well, what they've done--

MR. MICHAELI: You might look--

SENATOR SCOTT: I have that--

MR. MICHAELI: You have that and you see that Kearny ranks, of the 565 municipalities, they rank on distress, number 92. North Arlington ranks 261. That is why--

SENATOR SCOTT: Well, the only thing-- I'm not going to get into that right now. I know the problems that have happened and we're talking about specific problems right today with certain towns.

MR. MICHAELI: I think you have to look at one, what qualifies as an Urban Enterprise Zone -- as an urban aid. Take a look at the numbers there, and you'll see substantial differences between a North Arlington and a Kearny.

SENATOR SCOTT: Well, thank you very much. I went through this with Kearny and I see flaws. I see the replies, the response that I got from merchants saying in effect that it doesn't mean a thing to me, and yet, they're on here documented as, "This is one of the beneficiaries." Their letters to me say "It doesn't mean a thing to me."

MR. MICHAELI: Do you have letters from North -- Kearny?

SENATOR SCOTT: We have letters from all four newly appointed zones or the tax exemption zones.

MR. MICHAELI: Maybe it's too early, because it has only been two months for them to see the benefit.

SENATOR SCOTT: They said it had nothing to do with them. They were either going to do that, and they just don't see it, but it's in there. That's part of the analysis that we're looking at. It's not just one item. It's a whole slew of things that has cropped up as we get into it.

I am looking at another thing that isn't covered by the law. The unfairness of it, as I see it over in North Arlington, looking across that street. I don't see a different town. I see the same commercial area.

MR. MICHAELI: I think then you have to look at all of the zones and not target Kearny.

SENATOR SCOTT: Well, I'm looking at one because Kearny is the one that impacted directly on North Arlington on July 8 or November 27 whichever date you want to pick.

MR. MICHAELI: Well, I'm sorry that Senator Lesniak is not here, because he is well aware of Elizabeth's zone and how it impacts on Roselle in Linden.

SENATOR SCOTT: Well, if Senator Lesniak wanted to bring that up with me, I will be glad to discuss it with him. I don't think he will. But if he has that, he will let it be known, I'm sure. He's not bashful. If anything, he's not bashful.

So, thank you very much and I appreciate your being here testifying.

(HEARING CONCLUDED)

APPENDIX

UEZ Comments / Schundler

I am pleased to be here to discuss the benefits and impact of Urban Enterprise Zones on bordering communities. It is my contention that the negative impact on the business communities of neighboring municipalities is negligible. However, the benefits to the business community in my city and others around the state with Urban Enterprise Zones is tremendous. In fact this is the very conclusion of a State Department of Commerce study on this precise issue.

You may ask how these two situations can exist simultaneously. The answer is clear. Any legislation that encourages commerce in one district will inevitably have positive ripple effects for neighboring communities.

The underlying intent of this legislation is to create jobs in urban areas which have been steadily losing employment opportunities. This legislation has been very successful in this regard. Indeed, the Department of Commerce study has demonstrated that. Those cities participating in the benefits of this U.E.Z. legislation have gained approximately 3,000 new jobs per city per year as a result.

In addition, by directly reinvesting in our urban shopping districts through the allocation of a portion of the state sales tax, upgrades and improvements in these districts will be realized.

We must be clear on this point. These are not jobs being lost by other municipalities to Jersey City; these are new opportunities for employment created by the increase in commerce generated by the benefits of a sales tax cut. Retailers understand that they will be qualified participants in the benefits of the U.E.Z. only if new jobs are created by their participation. According to Chairman James Albers, there is no empirical evidence to suggest this sales tax reduction has had an adverse effect on shopping districts that are located near UEZs.

Finally, it is important to look at spending patterns. Opponents of this legislation fail to understand the circumstances of our Jersey City shoppers. Many of our residents have no discretionary income. Money they do not spend on taxes will not be saved, it will be spent on additional necessary items. This will stimulate economic activity within the U.E.Z. as well as in shopping districts outside the U.E.Z.

Studies have shown that the economic stimulus provided by a U.E.Z. tax cut has stimulated economic activity, created job opportunities, and in turn increased tax revenues for our state. Clearly the program is needed and it is working. Please don't hurt Jersey City by taking away these benefits.

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