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before

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

The Role of County Planning Boards

June 12, 1986  
Room 368  
State House Annex  
Trenton, New Jersey

MEMBERS OF COMMITTEE:

Assemblyman John Penn, Chairman  
Assemblyman John T. Hendrickson, Jr., Vice Chairman  
Assemblyman J. Edward Kline  
Assemblyman Frank M. Pelly  
Assemblyman Harry A. McEnroe

ALSO PRESENT:

David Sallach  
Aide, Assembly County Government Committee

\* \* \* \* \*

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New Jersey State Legislature

ASSEMBLY COUNTY GOVERNMENT COMMITTEE

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M E M O R A N D U M

June 6, 1986

TO: MEMBERS OF THE ASSEMBLY COUNTY GOVERNMENT COMMITTEE  
FROM: ASSEMBLYMAN JACK PENN, CHAIRMAN  
SUBJECT: COMMITTEE MEETING - June 12, 1986

(Address comments and questions to David L. Sallach, Committee Aide)

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The Assembly County Government Committee will meet on Thursday, June 12, 1986, at 9:30 a.m. in Room 368 of the State House Annex. Bills to be considered at this meeting will be as follows:

|                             |   |
|-----------------------------|---|
| A-2683<br>Smith, J/Azzolina | Appropriates \$103,000 to various community service programs in Monmouth County.            |
| A-2702<br>Arango/Dario      | Appropriates \$150,000 to Latin American Community Agency of Hudson County.                 |
| S-1195<br>O'Connor          | Increases the effective period under a notice of real estate settlement from 20 to 45 days. |

The Committee will also discuss the following county planning bills at 10:00 a.m.:

|                   |  |
|-------------------|--|
| A-556<br>Penn     | Permits counties to require developers to contribute to off-tract improvements.                                      |
| A-2260<br>McEnroe | Expands the powers of county planning boards; appropriates \$1,050,000.  |
| A-2504<br>Albohn  | Makes various changes in the county planning laws and amends the "Municipal Land Use Law," to reflect those changes. |

Planners and Developers have been invited to appear before the Committee and to participate in the discussion of county planning issues.



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ASSEMBLYMAN JOHN PENN (Chairman): Thank you for coming today. We are starting our third hearing that deals with the role of county planning boards. There are three boards that are part of this overall look and investigation of the role of county planning boards, and how they will fit into the overall structure of planning, land use, and zoning. At the first hearing we had people from the county government, and the second was from the municipal governments, and today we're having people from the development community. The first person to speak today is from the New Jersey Builders Association. If you could state your name and so forth for the-- We have a sign-in for the record. I know you have a place yet to go very soon. A graduation?

W A Y N E J. P E C K: To a nursery school play. Yes, thank you.

ASSEMBLYMAN PENN: And for the record, state your name and who you are representing.

MR. PECK: Thank you, Mr. Chairman. My name is Wayne Peck. I am legislative counsel to the New Jersey Builders Association. I'm also general counsel for a builder-developer.

First, I'd like to thank the Committee for giving the New Jersey Builders Association the opportunity to address itself to two of the bills before the Committee. That's A-556 and A-2260.

I'd like to comment briefly on A-556, legislation sponsored by the Chairman. I feel somewhat specially qualified to discuss the issue of off-tract improvement and impact fees. I personally tried the case of the New Jersey Builders Association vs. the Township of Bernards. In that case, the court determined that section 42 of the Municipal Land Use Law, which is language which this bill attempts to track somewhat -- and the Appellate Division, in fact, affirmed Judge Nunzio's decision-- The court determined that a developer can only be required to contribute to an off-tract improvement if the

connection between the improvement and a specific development is direct and substantial. There are Constitutional limitations imposed upon the ability of the governing authority to exact payment -- more importantly, the types of improvements for which this legislation will allow exactions, or general improvements. The proper way to fund general improvements is by general revenues.

I detect in this legislation the unmistakable hand of the Township of Bernards. The bill before you attempts to define impact by use of the proximity test. This is same erroneous argument made by the Township before the Appellate Court. Impact is measured by cause and effect, not by proximity. At this time, counties have the authority to charge for off-tract improvements if they are required or necessitated by the development. The addition of a proximity test will add nothing, except to make even more confusing one of the most confusing areas of the law of land use development. Very recently, the New Jersey Supreme Court has agreed to hear the New Jersey Builders Association vs. the Township of Bernards case. I would respectfully suggest that no legislative action occur until the court gives us some guidance as to what standards the current law imposes.

I'd like to turn now, if I may, to Assembly Bill A-2260. Excuse me?

ASSEMBLYMAN PENN: We basically agree with what you're saying. And the reason why we're having the hearings is just to have the input that you've given us today. You're right. A lot of this bill was drawn based on the Bernards Township-- It happens to be part of my district. What you're saying is correct in that respect.

However, it's a bill that we've put in, and it's only here for consideration and discussion at this time. We also would want to wait and see what decisions came down. Our attempt is not to put an undue burden on a particular party to

development. I appreciate what you're saying, and I agree with you.

MR. PECK: Thank you, Mr. Chairman.

ASSEMBLYMAN PENN: Continue.

MR. PECK: Thank you. When we turn to A-2260, legislation being offered by Assemblyman McEnroe-- This legislation would require all counties to establish a planning board, would mandate review of all subdivision applications and virtually all site plans as well. As a practitioner who has represented both developer and municipal concerns, I applaud any attempt to encourage regional, or countywide planning. The parochial interests of municipalities often conflict with the legitimate concern of wider range planning. With this bill, one which truly would foster such regional planning, I would be here to champion its cause. I know that the New Jersey Builders Association would be lending vocal support as well.

However, the legislation before this Committee does not serve such a laudable end. Rather, it serves no end at all. A-2260 adds a needless and duplicative layer to the approval process. Each of the items of concern which the county would review under this bill is reviewed at the municipal level.

In addition, in most circumstances, some division of some, if not many, State departments conducts the same review if the goal is regional planning and review, vesting exclusive review in the county, and denying any authority to municipalities. All this bill does is require an applicant to go through the same review again. Another layer of bureaucracy is created. There exists no need to expand the jurisdiction of the county planning board. This bill mandates that notice of every application before a municipal zoning board of adjustment be given to the county planning board. What conceivable purpose could this serve?

The written communication from the county planning board to a municipal zoning board would be improper, and could not become part of the record. Would the county planning board be required to send representatives to all local zoning boards to give them input? The legislation makes no provision for the resolution of conflicts. As do all persons, engineers suffer preferences. Where the municipal engineer has one preference and the county engineer another, what happens? The bill makes no provision for that.

Another layer of approval is added. Now, as an attorney who represents a developer, I guess I should support the idea of another hearing, where I can charge another fee. But all that we're really doing is passing another expense down to the ultimate purchaser.

At the current time I'm handling an application before a municipal planning board in Monmouth County. At the last meeting, due to the need to revise the plans at the recommendation of the municipal engineer, we were forced to request that our matter be carried. This occurred on June 2nd. The next open agenda date was September 8. Of course, the town in which I was appearing was not the only one in the county with an extremely heavy workload. Assume that the county planning board will be required to consider virtually every application in every town in the county.

In addition, consider the required inquiry of our board of adjustment applications. The work burden on the county board would be oppressive. We all know what happens when this occurs. More staff is added. The professionals are given more and more of the responsibility. It's my belief that the major difficulty in dealing with many regulatory bodies, especially those like CAFRA, the Army Corps of Engineers, and many others is the power given to non-reality based professionals. What works in the ivory tower does not work in the real world.

I recently had the experience where a planner employed by a municipality attempted to rework our plan to make it look better. The new plan looked very good on paper. Unfortunately, 12 of the units were located over the edge of a high ridge, and eight were located smack in the center of our detention basin. Of course, he was a planner, not an engineer. He was concerned with layout, and not topography. This is the pitfall that we run into when we have professionals that don't view in the real world, reviewing these applications.

In conclusion, there's just no need for the proposed legislation. The bill serves no useful end. The last thing needed in this State is yet another bureaucratic layer of the review of plans and applications reviewed many times before. There is a need for zoning, planning and development to occur on a regional basis. But this proposal does not fulfill that need. Thank you.

ASSEMBLYMAN PENN: Mr. McEnroe do you wish to address--

ASSEMBLYMAN McENROE: I'd like to respond, if I may, Mr. Chairman. Your comments have been anticipated, if I may. I can visualize your coming forth and advising us that we don't need another needless -- I think were your words -- layer of bureaucracy. That, from your viewpoint, is understandable. Your concern regarding the resolution of conflicts doesn't relate to zoning. It's something that I appreciate, and commit to you that it is an area where we do need to provide some careful work and improvement in the bill, frankly. But I do find in conflict -- if I can say this -- your comments that you foster regional planning, you think it's an appropriate matter for the Legislature and for the State, in general, to consider. But-- And this bill is a reintroduction of fire cars, fire legislation. The planners and developers have been invited and have participated to some degree, in past discussions. Although you support the concept of it, you just

retreat completely from any consideration of this particular measure.

Now we've had workshops in the past. The bill has been carefully drawn by people that have backgrounds in planning and government. It is the beginning of placing in law the regional planning concerns which apparently you and I are both concerned with. But it would seem to me that if you have a commitment to regional planning, and yet you feel that this is a needless layer of bureaucracy, there is some conflict -- really -- within your position. Because I've heard so often that most people consider regional planning as a part of our future agenda. But they, again coincidentally, also consider this a needless layer of bureaucracy. Now there really needs to be some less comment in the abstract and more work in the real world, if you'd like to characterize it.

So, my door has been open for a considerable amount of time -- more than a year now. We've been asking gentlemen from the development area to come in and lay before us some of these concerns. Frankly, we've had nothing but comment -- negative comment that this is not the kind of bill they can support. But somewhere in all this, there must be an opportunity for agreement. Because, again, I submit to you that New Jersey, in the present circumstances of the kind of growth we're experiencing, the kind of number of people that live here, the dense population that we endure around the State, there must be some way of resolving a matter that our own Governor has commented he feels is an appropriate agenda matter for the Legislature to consider.

MR. PECK: If I may, Mr. Chairman.

ASSEMBLYMAN PENN: Yes.

MR. PECK: I don't believe that there is any conflict in the two positions that I have. My position is that regional planning, perhaps countywide though-- In many cases, I believe will require the crossing of county boundaries. This

is the preferable solution to the problems of development in the State. Yet, I still oppose this bill because it doesn't do that. I believe the builders have put this forth. We operate in the real world, so we know the possibility of this coming to be, and that the only way this could happen is to divest from municipalities any power to zone or plan.

The legislation which is before us does not, for instance, resolve conflicts of master planning. It calls for the counties to create a master plan. The Municipal Land Use Law calls for municipalities to create master plans. There's no provision as to what happens if a municipal master plan is contrary to county planning -- master plans.

We have reviewed, or will review plans submitted by developers -- not of zoning ordinances, not of zoning concepts. For example, if a certain area were-- If I may retreat just a moment, I believe one of the definitions in the bill, or one of the responsibilities of the county master plan is to make density determinations for the region, as it relates to housing. If a municipality provides, for instance, that a certain tract of land can be developed at six units to the acre, and the county feels that it should only be developed to four units to the acre-- Even if this bill were in place, what the town wants takes precedence over what the county wants.

I would submit that if I proposed a plan approved by the municipality at six units to the acre, and I brought it before the county planning board under the powers of your legislation, and they were to deny my application because of the fact that I was developing at six units to the acre instead of the four that they want, that could not pass muster in court. Because the way these statutes exist today, it's ultimately the municipality that has that power. There cannot be regional planning in the State of New Jersey until that power is taken from the municipalities. Now, I know the realities of that happening. It's not going to happen.

ASSEMBLYMAN McENROE: I'm certainly going to support--

MR. PECK: So, in the interim, what I face is a situation not unlike what I face with wetlands. I go to CAFRA, and CAFRA has a series of regulations, and I comply with them. Now, I also have to go to the Army Corps of Engineers. They have a series of regulations, which are totally the opposite of the CAFRA. Now, I'm at two competing levels -- two competing jurisdictions -- over the same property. Each one wants something different, and I can't proceed before either one until I resolve both of them.

That's the same situation I'm going to have in the county. I'm going to have a county engineer who says, "I want X," a municipal engineer who says, "I want Y." I can't do both of them. They'll be mutually exclusive, and all that happens is I can't develop the property until they get together and decide what they want to do. All you're doing is adding on. You're not substituting. Until you substitute, you don't have regional planning.

ASSEMBLYMAN PENN: Let me clarify one thing, Mr. Peck. I think the purpose of our hearings was to try and not create another level of bureaucracy. I think that we were faced with the possibility of having regional areas developed. We were looking at the possibility, if county planning boards, structured in the proper manner -- given the right financing -- could not do this role without creating regional authorities.

I think that was one of the things that we looked at and felt that we were looking for input from you four on that basis, and from other people in that community. I don't think it's the intent of Mr. McEnroe -- I know it's not my intent, or other members -- to create another level of bureaucracy. If anything, we'd like to come up with a method of streamlining the permit procedure.

I think that if you did go out and create-- For instance, I talked about the possibility of the Route 1

Corridor. You would have had your local, you would have still had a role of the county, and then you would have had a regional authority looking over your shoulder.

I have to agree with you that there are some counties that have very fine planning boards. There are some counties that don't have any planning boards. So, I think what we're doing is taking an overall look at the thing. I appreciate the input that you're giving us today, and your perspective on the situation. That's about all I wanted to add.

ASSEMBLYMAN McENROE: I have one or two more questions to share, if I may--

ASSEMBLYMAN PENN: Certainly.

ASSEMBLYMAN McENROE: --and a comment along the lines of the Chairman's, that I recently read an article -- a Letter to the Editor by a freeholder in one of our counties, who states very directly that the planning board of his county hadn't met in three years. That's a comment that I think is important for all of the New Jersey people who are involved in this to consider. If we do have counties in major metropolitan areas in North Jersey, in fact, that have planning boards empowered to meet, and have no agenda items to consider over a three-year period, somewhere, there must be room for a regional review of planning.

The question I have for you-- I say this respectfully, but do you know of any circumstances, or do you think it's rampant that developers-- What is the relationship -- let me put it this way -- between municipal planning boards and developers? Do you think it's an even match, or do you think developers pretty much make decisions, and have the municipal planning boards ratify those decisions?

MR. PECK: I believe just the opposite. I believe that when you appear before a municipal board -- either zoning or planning -- that the total upper hand belongs to the municipality. The reason for that is the municipality has

something that the developer wants -- permission. I could recite you a litany of war stories of applications I have handled before municipal bodies, where the municipal bodies make requests of a developer. I lean over to the developer and tell him that they have no authority to do that. It's illegal, and if we went to court, there's absolutely no doubt in my mind that it would be overturned. Now, attorneys aren't supposed to guarantee anything, but there are certain things that you just know. The response that I invariably get from the client is, "It's cheaper and more cost-efficient to pay it than to fight about it."

Respectfully relating back to the previous bill, the situation in Bernards Township with off-tract improvements was exactly that. Some of our developer members of the New Jersey Builders Association were upset with the success that we had in Bernards Township. Because now, when they go in-- Their position was: "Well, at least we knew what we had to pay. Now, when we go in, they ask for the moon and the stars, and we have to give it to them. Otherwise, we'll just end up in court."

I represent developers. I don't represent litigants. They don't want to be plaintiffs in lawsuits; They want to build houses. So, to answer that question, I believe that the cards are stacked very heavily in favor of the municipal planning boards. I believe that part of the problem are the parochial interests that you face there that you don't face before the county.

Now, Assemblyman Pelly was a freeholder in Middlesex County, a county in which I had experience before the planning board. Quite frankly, it's a very good system there, because their engineer reviews it, sends a report to the county planning board which meets and usually has one or two questions of the engineer and then approves or disapproves, based on what the engineer did. I represent a municipality in Middlesex County.

We never had problems with the Middlesex County planning board. But that's not true in every county.

ASSEMBLYMAN McENROE: Again, my only point is-- Your answers are fine from a legal viewpoint, but I'm talking about the real world. You're the one that called it the real world.

MR. PECK: I'm talking about it in the real world.

ASSEMBLYMAN McENROE: You do feel that the average planning board is able to respond to the responsibilities they have in dealing with developers?

MR. PECK: I believe you just changed the question.

ASSEMBLYMAN McENROE: No, no.

MR. PECK: Your question was who had the upper hand -- whether they deal with their responsibilities.

ASSEMBLYMAN McENROE: I didn't mean according to the law. I meant in the real world.

MR. PECK: No, I don't believe they do. I believe that they are usually guided by concerns so far removed from proper planning and engineering concerns, such as a frequency notion about what would look better on that property, which developers in town are friendly, which developers are not, which engineers tend to make the most generous contributions, which ones don't. That's why I personally believe that it should be raised to a higher level, into the county, at the expense of the municipalities. Because, I think it's too serious a matter to be left to the whims, if you will, of the political fortunes that blow in a municipality. In my own home town, that's what's happening. Anti-developers came in and they rezoned 7000 acres, to 3 acres. The farmers came out, and they were upset. It was costing them a lot of money. And of course, the response was, "Well, we didn't carry that part of town anyway." Well, that's not zoning and planning.

ASSEMBLYMAN McENROE: I don't think that it is either. I'd like to have the benefit of any ideas you have. If you give them to the Chairman of our Committee, we'd certainly appreciate it.

MR. PECK: I will give them through Mr. Catullo, sir. Thank you very much.

ASSEMBLYMAN PENN: Frank, do you have a question?

ASSEMBLYMAN PELLY: I have one question, Mr. Peck. If you were, in fact, not representing developers, but a member of the Legislature considering issues of this nature-- We have the issue of local planning board, county planning boards, and the possibility of a regional kind of planning board. Would you experience-- What would you be looking to do? Abolish -- number one -- abolish the local planning board, as I understand you correctly?

MR. PECK: That is correct.

ASSEMBLYMAN PELLY: And secondly, continue the county planning board with its present powers -- added powers?

MR. PECK: No, I would give to the county planning board those powers which municipal boards have under the Municipal Land Use Law.

ASSEMBLYMAN PELLY: And thirdly, would you be looking toward a regional planning board?

MR. PECK: I would look-- If I were to look at a regional planning board, I would then be looking at it at the expense of the county. The former Assembly Speaker's bill, for instance, on the Route 1 Corridor went across, at least to my knowledge, both Middlesex and Mercer Counties. I'm not sure that it touched any others. With legislation like that, I would support removing anything in the Route 1 Corridor from the jurisdiction of either of those county planning boards. There's no need to do the same review more than once.

The question is, who is best suited to review it? With the specific special problems of the Route 1 Corridor, I would say that the concerns of the Middlesex County Planning Board, and the concerns of the Mercer County Planning Board, on many occasions, would probably be diametrically opposed. So that by having a regional authority which did the reviews

exclusively, they would be concerned with the proper impacts as it relates to their region.

ASSEMBLYMAN PELLY: And you feel that the local -- the county planning boards would be able to serve the interests of each and every municipality adequately and appropriately, without the need for that local planning board?

MR. PECK: Yes. However, I believe that one of the problems we have is -- as you've just outlined -- the concerns of the municipality are exclusively municipal concerns, without -- very often -- enough concern -- although they're charged by legislation to have it -- with its impact upon the county or the region. So that while I feel that a county planning board could pay attention to municipal concerns, I'm not convinced that municipalities, as they are structured now, or even under this legislation -- there would be enough concerns about regional need.

ASSEMBLYMAN PELLY: Okay, thank you.

ASSEMBLYMAN PENN: Art, do you have a question?

ASSEMBLYMAN ALBOHN: Yeah, just a couple of questions. When you speak of the differences between county planning boards and municipal planning boards, do you think that-- Let me put it this way. Does the membership really make any difference? In other words, you have citizen Joe Smith, who is appointed to the local planning board. You have problems with them. You appoint him to the planning board. Is the situation going to be any different?

MR. PECK: Well, you get into one of my pet peeves, which are -- with all due respect -- elected politicians serving on the planning board where they have a chance to make political, rather than zoning decisions. However--

ASSEMBLYMAN ALBOHN: Whoever are elected--

MR. PECK: I understand that. However, county planning boards have a different makeup, as a rule. Firstly, county planning boards can meet during the day. So they have

people who are not just local volunteers to the same extent. It's a hard question to answer, because I've been before some planning boards where the members are diligent and extremely qualified. I've been before others where they haven't been. It's not so much the makeup of the board as the powers given the board, and the enforcement of those powers. I just feel that on a county level, there would be more of a tendency to act in accordance with the requirements of good planning, good engineering and the legislation. I don't believe that happens on the municipal level.

ASSEMBLYMAN ALBOHN: Isn't that because the county planning board really has such a very limited authority anyway, at the present time?

MR. PECK: I believe that if you move it over and above the municipal level to a wider level, it will be less subjected to the parochial interests of municipalities. I'm not sure it's the membership of a municipal planning board that creates the problem, so much as the pressures to which they can be subjected by their friends, by their neighbors, by those who appoint them. It's a very parochial type of issue. It comes down to: "Well, we know farmer John Smith who's trying to sell his property because he wants to retire to Florida. Let's give John a break, even though the developer who's buying it gives a lousy plan." I don't think you're going to have as much of that if you get higher up. That's my feeling, and that's why I support that concept.

ASSEMBLYMAN ALBOHN: I tend to agree with you there. One of the things I fought for many years on the planning board is taking into consideration the ownership of the piece of property. If everybody can be owner-blind, I think we might have a lot better planning, but that's impossible. I am not-- As you may know, A-2504 is one of the bills that's under consideration today, but I have not really promoted it because it was not really drafted the way I wanted it to be drafted. I am now trying to rework it extensively.

One of the concerns that has been expressed for me is the simple fact that we're just discussing it. You take five, or six, or seven laymen, and you appoint them to a local planning board. You take the same five, or six, or seven laymen from other municipalities, appoint them to a county planning board, and that's supposed to be a lot better. I really have a great deal of doubt about that. One of the thing that I'm toying with is requiring -- not simply requiring the county to have a planning board just as much as Assemblyman McEnroe does, but requiring that it be composed of professionals in the planning field, or engineers, or something other. This is very nebulous, but my point is I would like to get it out of the lay category at the county level, and then let the municipality have it at the lay level. By the same token, I think we have to agree that you're not going to demolish local planning boards, and turn it over to the counties.

MR. PECK: I understand that.

ASSEMBLYMAN ALBOHN: It's just not going to go.

MR. PECK: I understand that.

ASSEMBLYMAN ALBOHN: So the question then becomes what can we best do. To me, the solution lies perhaps in having the county planning board establish -- let's say -- the least restrictive standards that must be applied to keep a municipality from going wrong in the other direction. And then, if the municipality wants more strict standards -- more restrictive standards -- that would be its option.

It seems to me that this would perhaps give you a little bit of what you're looking for, and frankly, the cases wouldn't really have to go to the county planning board at all. Because, the municipality would be bound by the least restrictive standards of the county planning board. And then, if they choose to have 100-foot setbacks instead of the 20-foot setbacks that the county might establish, that's up to them.

But at least you would know where you were going, and it would expedite some of the things on top of which, hopefully, the professional people at the county level would be more -- less -- emotional about what their decisions are.

I'm just wondering if you have any-- And I'm really sort of groping, because that's the direction I'm thinking of changing my bill, and to making the county planning board -- the county planning officials, you might say -- more of a setting of a fail-safe level. Perhaps, going beyond that, giving them some authority where a municipality is -- overriding authority there perhaps, and the same thing along county roads. I don't know, just-- You know, I don't mean to bring a major point of dissension into the hearing, but I'm wondering if you have any off-the-cuff reaction to that kind of an approach.

MR. PECK: I've appeared before a board in Monmouth County, which is made up-- This is a local planning board which, because of its location, is made up of mostly engineers. Maybe this isn't a good analogy, because I think most of them are electrical engineers -- aeronautical. But each one of them must have had a course in civil engineering in engineering school. It's the worst experience I ever have to go through. As you deal with the layman, they at least receive their advice -- be it good or bad -- from the municipal engineer who sits there. If I'm now going to appear before nine people, each of whom is an engineer who has his own peccadillos and preferences, and then I'm going to have my own consulting engineer there, I'm not sure that anything will ever get done.

But I have one suggestion that might help a little of this. It's not with the powers, but with the recent amendments to the Municipal Land Use Law, which the Assembly passed last session, one of the provisions was that the master plan must be adopted by the municipality, and then a zoning ordinance must

be adopted. And in order for there to be any inconsistency between a provision of the zoning ordinance and a provision of the master plan, an affirmative statement must be made and recorded with the county planning board as to why the governing body is departing from the municipal master plan. That's recently added.

Perhaps some thoughts should be given to requiring any deviation from the county master plan in a municipal ordinance to likewise be justified. That will give you some more aspect of countywide planning. I'm not opposed to appearing before a local planning board to have them review setbacks, and drainage, and those kinds of things, if they operate under the umbrella of county-wide planning. One example is that it seems that every town in Monmouth County puts its multi-family zone -- whether townhouses or apartments -- right on the border with the neighboring municipality. Well, that may be good for the town, but it may not be good for the county.

Maybe we should try and do that on a wider basis. I don't think we can have county zoning ordinances as such, but perhaps a county master plan that has more teeth in it. I'm not sure, but I believe that the bill that Assemblyman Albohn has, has that provision in it, or something that's getting close to that provision. The Builders Association will be upset if I say anything nice about that bill. But perhaps that's something that could be considered. Make it a little more of a planning type of idea.

ASSEMBLYMAN ALBOHN: I am the sponsor of that.

MR. PECK: I'm sorry. The person--

ASSEMBLYMAN ALBOHN: I'm not Hendrickson.

ASSEMBLYMAN PENN: You just look like him.

MR. PECK: Oh, I apologize.

ASSEMBLYMAN ALBOHN: That's all right. I was interested in hearing your--

ASSEMBLYMAN PENN: I appreciate your testimony today. I look forward to further input from you.

MR. PECK: Thank you. I appreciate that.

ASSEMBLYMAN PENN: Mort? You're on.

M O R T O N G O L D F E I N: Thank you, Mr. Chairman. I have to change my registration on this one.

ASSEMBLYMAN PENN: Yeah, go ahead. Change your registration and place of voting for the record.

MR. GOLDFEIN: My name is Morton Goldfein. I'm an officer of Hartz Mountain Industries, a developer in Secaucus, New Jersey. I serve as president of the New Jersey Chapter of the National Association of Industrial and Office Parks -- NAIOP -- a lot of initials that stand for the largest organization of major developers throughout the State.

Mr. Chairman, thank you for the opportunity to be here. I have long been concerned about issues in planning, and I have spent a good deal of time in the last year, particularly -- mostly through the efforts of the Business and Industry Association and the Regional Planning Association at the State -- preparing for and attending the State Planning Conference that was held at Princeton in February, and at subsequent meetings of ad hoc groups to deal with these issues. I have read, over the last couple of months, the bills that have circulated in the area.

But I think the bills are trying to come up with procedures to address problems that go beyond the concern of the Committee in addressing the bills in particular. We've talked about this, you and I, on other occasions. The problems are traffic, the problems are infrastructure, the problems are how to pay for it. A problem is that we have set on a course of restructuring our economy in the State, and that has caused a lot of dislocation. It has caused a lot of infrastructure problems, and we don't have -- with the structure that we've used in the past -- the mechanism to get there. We have hard

at work the Biederman Commission addressing just what taxation will look like in the future of our State. It has a terrific impact, which all of us who have worked in municipal affairs know.

You have people within a municipality striving to create a tax base that can pay for the improvements and the costs of government as our constituents want that government to be -- that schools, roads, or whatever it might be. So there is the lure of ratables and how to attract them. The only tool that has been given to municipalities so far is the ability to zone. Fiscal zoning is one of the buzzwords that has come out of that process.

But it hasn't necessarily dealt with the real impacts of that development. Because, the traffic, the water and housing, and solid waste concerns that are generated by that kind of development are just not within the hands of municipal officials to treat. The idea of regional land use control is one that is very popular to all the professionals in that field, and an anathema to the local government aficionados in the field, who feel that we can't have it in New Jersey -- that politically, it's just not palatable.

I disagree with that. I think we've done it in New Jersey, and I think we've done it with great success. And while we still must take into consideration the needs of local residents, as well as local officials, we could have -- and I think where we have done it, we've done it successfully-- We could have good regional land use controls in our State.

The organization that I represent is not unlike the Home Builders. I don't mean to distinguish us in any way on this point. But we do have a great interest in the future of the State. We not only live here and work here, but we invest significant amounts of our private dollars within the State. And if the problems that are summed up in the word "infrastructure" cannot be solved, then our industry, which

generates a product -- which generates buildings to be occupied by businesses and residents. Our business will suffer.

And where we cannot solve these problems privately, or through some public-private partnership, our industries are legitimately threatened, and our State's future is threatened. And so we support the idea of techniques of government that will provide the mechanism for solving just those kinds of problems. Our members of our organization invest in private dollars annually in excess of \$1 billion in New Jersey.

We're not going to be able to continue to do that, if we can't find a way -- all of us in New Jersey -- to solve those greater problems. I applaud the efforts of the Committee and the sponsors of bills that address the mechanism of how can we do that kind of thing better. We take a lot of what we believe from our customers, as we all do whatever our business might be. Our customers are tenants.

I will quote the largest tenant in New Jersey. Stanley Smith, the head of the part of AT&T that has located so many people in our State. He has said, in public and private occasions on numerous opportunities that he doesn't know that AT&T can continue to make the commitment it has made to New Jersey in the future, unless we begin to solve these problems. It strikes him that there always seems to be a drought in New Jersey. Well, there are climatic conditions that we cannot control. But there are water supply decisions that we've got to make to avoid drought. He sees the traffic on highways that are relatively new, and says, "What are we doing to solve that kind of a problem?" When the tenants are concerned, the landlords -- the developers -- are very concerned. Because therein lies our future.

What we have said on numerous occasions in appearing before local boards or regional boards that regulate land use, is that we have come forward with a solution to the problem

that's generated by our project. At our expense, we're going to build it. Let us get it to work. If it doesn't work, our tenants are not going to stay, and we're going to be stuck with the real problem of our investment.

So, rely on us. We're relying on professionals who've given us these suggested solutions, and we're funding them. I'm suggesting that's what we've got to do as a State. The Legislature should be looking for governmental mechanisms that can lead us to solutions of that problem. Senator Stockman's bill -- which is now law -- creating a State Planning Commission is one of those mechanisms that we applaud.

There is now being put together the membership of the State Planning Commission that will address a lot of these hard questions. I would commend that you charge them with finding what is the best mechanism -- at what level of government should we be making these decisions. I'm a proponent of regional land use. I'm not a proponent of county land use controls, because I don't think counties are rational regions in our State. Not only is county government some kind of anachronism which doesn't fulfill the real needs within our State, but there is no rational boundary at the lines which divide our counties.

I think we should look perhaps to the State Planning Commission. Maybe it's the Legislature itself that defines just what are the rational regions of our State. It's at that level that planning should be undertaken. It's at that level that a mechanism for making individual application decisions -- I believe -- should be vested.

Now, we've done it. I mentioned that at the beginning. We've done it in the Hackensack Meadowlands, where we have taken portions of two counties, and put them together, and given a State agency -- a State authority the jurisdiction to make all of the decisions that affect land use within portions of 14 towns. I don't think all or any one of those 14

towns lies within the jurisdiction of the HMDC, and so those municipalities still have land use control in other places. But what happened there is that the Legislature charged the Commission with developing a land use plan, and then gave it a set of teeth to enforce it.

That's the kind of thing I believe we should be doing in the other regions of the State. We have done it in some of the other regions. We've actually done it in parts of Mercer, Somerset, Middlesex and -- where have we got it -- maybe Hunterdon.

In creating the Delaware and Raritan Canal Commission, the sponsor of the bill in the Legislature-- That was Assemblyman Foran, some years ago. There is a regional land use agency operating very quietly, and it's been in operation for 10 years. It has a principal focus of seeing to it that land use decisions which impact on what used to be the canal, and is now a State park and a major conduit of a lot of water to a populous portion of the State -- that those land use decisions be consistent with the land use plan that protects the park, and protects the conduit of the water.

That's rational, in my mind. That is a charge to a body that has a plan. And just as we've done at the HMDC, and the D & R Commission, to a degree we're doing that in the Pinelands, and to another degree we're doing it within the CAFRA jurisdiction.

So we've had success with it. One could argue that the boundaries that those bodies affect were not rationally done, they were done by the Legislature. You can look at the hole in the doughnut in Cape May, and say, "Why is that not within the CAFRA jurisdiction," and "Why is this part of Bergen County not included in the HMDC section?" Those are legitimate Legislative decisions that ultimately must be made.

But I think they were made with the principal emphasis being on land use consideration, and establishing valid

regions. We've tried giving counties a regional function in the past. Ten years ago -- I think 624 was the number on the bill -- we said, "Solid waste is a regional problem, and we're going to solve it regionally." The next paragraph says, "Every county is a region, and the HMDC is yet another." Well, that's 22 regions, and that didn't work. I don't think there are 22 regions for land use control in New Jersey. It might be 10, it might be 12, it might be six.

That's the kind of thing I'd like to see you wrestle with, and address. Once you define those regions, I think you will have a better mechanism for addressing regional land use control than seeking to give it to the counties. There are some counties that do an excellent job, as you point out, and there are some counties that have no planning board whatsoever. I don't know that beefing up county planning boards is going to be the solution.

But this is part of the puzzle of solving these problems. I understand that there are bills emanating somewhere in the DOT, that will create transportation improvement districts to fund infrastructure problems. The effort to give municipalities a mechanism for doing that is a worthy effort. There's a need for uniformity, and I look to the Legislature to try and create as few taxing jurisdictions as possible, recognizing that the Legislature can create as many as you'd like. But that's -- I think -- rational in a land use sense.

The development community is prepared to pay its fair share. The development community resists causing new projects to pay for old problems. I think if you can create a mechanism -- and I think planners of the DOT assure me they're doing that -- create a mechanism that allows us to divide up the cost so that the proponent of the new project pays his share of the problem, but not compensate for an old problem. That's something that the development community will embrace.

Because, as I've said originally, we cannot market properties that create problems, and we cannot market properties in areas where there are problems. Thank you very much.

ASSEMBLYMAN PENN: Do you have any questions?

ASSEMBLYMAN McENROE: Well, a comment for you, Mr. Chairman. I have no disagreement with Mr. Goldfein's presentation regarding the interests of your organization in the continuing development in New Jersey. But I do want to say, for the record, the concern I have really is the county planning boards be strengthened. I am committed to that.

I think the county government in New Jersey is an appropriate level of government that should be encouraged to be more involved in planning. There are over \$2 billion in public moneys committed to county governments across the State. They are a responsible arm of elected officials. There are freeholders that are campaigning for office among the people. They are supported by the voters, and there is a comment on how they behave in the sense, in public office. And to allow the whole regional review of planning concerns to be a matter of authorities only, and have, in a sense, appointed commissioners making decisions as to land use far removed from the responsibility of answering to the public, to me, is a matter that I would not want to support. I consider your comments sharply appropriate, but in my view, county governments, as you've stated -- some functioning well, and some functioning not as well in the area of planning -- still are, I think from the Legislature's viewpoint, appropriate considerations in this bill.

ASSEMBLYMAN PENN: Okay, thank you.

ASSEMBLYMAN ALBOHN: Just one question, Mr. Goldfein, if I may. Now, I tend to agree with you that these other districts are highly desirable for their own purposes. But unfortunately, if you do that -- if you create districts based on specific problems -- we end up with chaos, really. We end

up with 10 districts for one thing, 20 districts for another, five for something else, all intertwined and whatnot.

Because now we have the Mount Laurel Housing regions, which don't coincide with anything. We have the Fair Housing Council's housing now, which don't coincide with the court's housing regions. We have the solid waste districts, which happen to be the counties. We have the transportation improvement districts, which I have not heard about, but it sounds logical in many ways -- CAFRA -- let's leave it -- the Meadowlands, the Delaware & Raritan Canal, and so one.

And yet I think to do that, and to throw out the county system because it has no particular logic to it on the basis of any of these things-- I think I have to agree with Mr. McEnroe that maybe the county system isn't the best tool we have, but it's the only tool we really have, unless we want to set up some new definition of a county and redefine the counties themselves in accordance with some other plan. To me, that's probably an even worse problem than turning over municipal planning to the counties.

I think you'd find that to set up-- Instead of having 21 counties, we decided that there should be 10 counties so designed as to cover all of these various problems. No one would ever really understand it. So it just seems to me that we're barking up the wrong tree by going about that -- taking that approach. I understand your problem, but I find some difficulty in understanding how it would be handled. I don't know if you have any suggestion on that or not.

MR. GOLDFEIN: I think we have to start with developing a set of rational considerations. And that's what the State Planning Commission is charged with doing now. They didn't have a lot of time left to do it. Most of the members haven't confirmed it, I think, but they're charged with under that Act with defining a reasonable set of land use criteria for the State. If we can get past that with some consensus--

We haven't talked about the process for that. I don't know that the Planning Commission has talked about it, but that's going to be a very difficult task. They're going to have to take themselves all over the State. They're going to have to talk to people everywhere. It won't work unless they can get the maximum amount of input, because those who feel they have been denied an opportunity to participate in it, and to reason in it are going to be opponents of it. They already have a jurisdiction to do that.

So, assuming they can come up with a rational set of criteria for land use in New Jersey, I think we could then move to defining a rational region of land use in New Jersey, which may be groups of counties, and may be individual counties. There are-- I think we could, in an opinion define a couple of areas that are swamps of counties, that share problems. They share pretty much that agenda. They could function as a region to themselves, not by Trenton. But that clump of counties, or counties meeting these criteria could develop a land use plan for those counties which would be better than the crazy-quilt of municipal land use plans within those counties, and maybe not as good as -- in pure scientific terms -- a plan devised by the six best land use planners around.

Harry Pesziki (phonetic spelling) who always testified at these things, mentioned one of his Gaelic forebearers, a professor at Penn, whom I had the pleasure to study with 20-some odd years ago in law school -- Jan Kreznevowski. (phonetic spelling) He's got to be the best land use head in the country. He has just published a book called "Abolish Zoning." Because he looked at what's been going on under the zoning process and said, "You know, the decisions aren't being made in making the zoning plan. The land use decisions are being made in variances from the zoning plan."

That's where all the hard issues are being addressed, when someone wants to change it. So, that's novel, but--

ASSEMBLYMAN PENN: Yes, I appreciate that.

MR. GOLDFEIN: --it's not the solution for New Jersey.

ASSEMBLYMAN PENN: I appreciate that. I think the purpose of the hearings that we're having is just-- I haven't formed any decision; a lot of us haven't formed any decision. Therefore this input we're getting is what we're looking for. I appreciate your coming down and sharing it with us today, Mort. We'll be back to you again.

MR. GOLDFEIN: Good. I look forward to that.

ASSEMBLYMAN PENN: Okay, thank you. We're going to just recess for a few minutes to do a couple of bills we have to do. Then we'll get right back to the hearing. So, that we have three bills that we're going to put on, and then we'll be right back to the hearing.

(RECESS)

(AFTER RECESS)

ASSEMBLYMAN PENN: Is there somebody here from Art Young's office here to testify? (negative response) Anybody from the Authorities Association? (negative response) Keith Wheelox, management growth -- Growth Management? (negative response) Who are you with, sir? Are you here to testify? (negative response) Who is here that's going to testify? Who else is planning to testify today? Sam Hamill is on his way here. He's running late. Let me see, is Fran out there? I know I saw Fran Hogan here from Art Young's office.

ASSEMBLYMAN McENROE: I hope the developers haven't intimidated all the planners. (Laughter)

ASSEMBLYMAN PENN: Is there anybody here that wished to testify in the audience, that hasn't? At this point, I

don't see anybody. We don't have anybody more to testify. Harry, do you have anything you'd like to bring up?

ASSEMBLYMAN McENROE: No, I-

ASSEMBLYMAN PENN: We have a notice that one man said he's running late. He said he'd be here.

ASSEMBLYMAN McENROE: Mr. Hamill has a responsible position as a planner in Somerset.

ASSEMBLYMAN PENN: Well, he's also on the--

ASSEMBLYMAN McENROE: The only thing that I'd like to comment on is that I would ask that the Committee working together, find a way to evaluate and identify what zoning is, as compared with planning. Let's make sure we have working definitions of both zoning and planning.

ASSEMBLYMAN PENN: And land use.

ASSEMBLYMAN McENROE: All right, and land use, which is very much tied to -- again -- to the zoning question. And let's find that compromise that I think has eluded us, because there is some concern on my part, and confusion on my part -- and I think on many people's parts -- with where does zoning end and responsible planning begin? I'd like us to carefully identify those two subjects.

The other commitment I'd like to make, really, to members of the Committee that have shown an interest in the question of resolving the conflicts between municipalities and county level planning. Mr. Peck had commented on that, and I want to affirm my interest and commitment to resolving that matter. I do think it belongs, in a part, within this bill, so that we don't have a constant parade before our judiciary -- between municipalities and counties regarding conflicts in evaluation of each of their own judgments.

I think in those particular areas -- zoning versus planning -- and the work ahead in resolving or finding a mechanism for the resolution of those natural conflicts that arise between municipalities and counties would be very

beneficial to the eventual consideration of the bill. Thank you.

ASSEMBLYMAN PENN: Sam, you're here?

S A M M. H A M I L L, J R.: Yes, I am.

ASSEMBLYMAN PENN: Very good. We were waiting, just sitting here and hoping you'd arrive momentarily.

MR. HAMILL: I'm glad to be here too. I have a statement I'd like to make, and copies for you.

ASSEMBLYMAN PENN: Fine. And for the record, would you state your name and organization.

MR. HAMILL: My name is Sam Hamill. I'm speaking on behalf of the MSM Regional Council. MSM is a civic planning and research organization. Our principal area of interest is in the Central New Jersey region between the Delaware and the Raritan rivers. Our membership consists of about 100 local corporations, as well as a number of civic-minded individuals that are interested in regional growth in this area.

While I'm certainly not speaking for any of them, we also have a close relationship with a growing number of other independent civic organizations throughout the State, that share our interest in managing New Jersey's system of managing growth more effectively. Our agenda includes a clearer definition for the roles of the various levels of government, for the reduction of red tape, and for due consideration of regional concerns.

We commend this Committee, the present Chairman, Assemblyman Penn, and its prior Chairman, Assemblyman McEnroe, for your leadership on regional issues, and your initiative in introducing the bills -- and I understand that there are two bills -- that you have under consideration at this time. Your efforts, we believe, have provided a valuable basis on which we can build.

We have observed recently that State agencies, particularly those responsible for infrastructure provisions --

which is NJDOT and DEP -- have often had difficulty in coordinating programs and plans with the 567 local governments that we have in the State of New Jersey. Also, local governments in our region are sometimes at odds with one another over land use issues.

The time has come, we believe, to decentralize State decision-making by establishing counties as effective partners in the intergovernmental growth management system. New Jersey's counties are, for the most part, economic or geographic regions and can be coordinated for planning purposes to form effective regions. They're well-suited to be a source of environmental, economic and fiscal data for public and private decision-making, and to be instruments for effective coordination among administrators of growth management programs.

In response to legislative initiatives, the role of New Jersey counties in community and regional development has changed dramatically in recent years. And for this reason, it makes sense to clarify and to establish the county's role in discharging these new responsibilities and to coordinate them within the context of comprehensive county-wide growth management plans.

It's worth noting that New Jersey's present county planning enabling statute was adopted in 1968, with only minor subsequent provisions. In the ensuing 18 years, municipal planning has improved immensely through the Municipal Land Use Act. And more recently, we have adopted a State Planning Act, leaving counties as the only level of government that hasn't been modernized, with respect to planning.

One of the bills before you would require counties to have planning boards, and would require planning boards to prepare a plan. These, in themselves, would be important steps. A recent survey found that only five out of New Jersey's 21 counties have master plans that were adopted within the last six years. The remainder are either out-of-date or non-existent.

The two county bills under consideration by this Committee are complementary, we believe. A-556 provides for assessments for off-tract improvements to county roads. Yet transportation services can only be programmed effectively within the context of a comprehensive county plan. The planning bill, A-2260, provides that planning structure. It also provides an appropriation that will be essential to pay for the technical planning services that may be necessary to program improvements effectively, and to make assessments fairly.

These two elements of effective growth management -- that is, capital program and financing, and comprehensive planning -- should be coordinated. Further assessments, we believe, should be allowed for all levels of transportation service -- State, local, and county. Assessments should also be allowed for a wider range of public facilities and services, i.e. sewage, water supply, drainage and parks.

We would like to recapitulate and update a number of comments made earlier by MSM on Assemblyman McEnroe's bill, which is now 2260. The points that we made earlier are as follows:

First, there should be more specific detailed provisions for contents of county plans. This has been accomplished in part in the amended bill. However, there should still be specific ties to other ongoing programs, such as solid waste management, water quality management, and agricultural development -- and I could mention many others. We believe that these other statutory programs should be tied specifically into the county plan, which should be a vehicle for making these plans and provisions specific.

Secondly, there should be administrative procedures for conforming the plans of State, county, regional agencies and local government, so that the county plan is reflective of the best regional thinking in all of them. I want to emphasize

the word procedures here. The bill remains weakest in this area. The plan making process is critical. If adequate provision -- and I should say specific provision -- is not made for plan making participation by local governments and by the public at large, the plan will lack credibility.

Third, county reviews should be focused on developments of regional impact, so that the counties channel their resources to region shaping projects, and stay out of considerations best left in the hands of communities. The current bill wisely allows some flexibility for counties in defining developments of regional impact. But more specific criteria for identification and for a view of these projects can and should be provided.

Fourth, the concepts of a development clearing house and one-stop permitting should be given serious consideration. Everybody agrees that there is altogether too much red tape in the development review process. We believe that there are many opportunities to clarify procedures, and even eliminate many duplicative and redundant review steps. This concern has not yet been addressed in the bill before you.

Fifthly, in order to keep pace with transportation and other infrastructure demands, it is necessary to allow counties to become involved in infrastructure financing. I have addressed this earlier, and so I won't go over it again. We strongly support the provision of A-2260 for grants made to counties. This provision is absolutely critical if these provisions are to be implemented. The grants should be available at the \$50,000 level for each county, for each of three consecutive years.

Finally, we believe that A-2260 has been improved considerably since its introduction, in response to numerous comments from organizations and the public. During that period, we have participated in an active and thoughtful group convened by the Woodrow Wilson School of Princeton University,

to discuss county planning in New Jersey. This group has recently expanded to include broader representation from local government and from developer interests.

We believe that this group has the potential to come to agreement on the kinds of considerations we have discussed here. Before supporting, and before opposing legislation, we want to allow this group to come to agreement on an appropriate role for counties in the growth-management process. We expect that process to take several months, and we also expect it to yield a set of proposals with some broad support.

We hope the foregoing has been helpful and supportive of your efforts. I'd be happy to answer any questions that you might have.

ASSEMBLYMAN PENN: Thank you, Sam. As you know, I have participated in a couple of your hearings, and they are excellent. You have a very good, broad-based constituency that has given this information. I appreciate their effort, and for the opportunity to have attended some of your meetings. Harry, do you have any--

ASSEMBLYMAN McENROE: I want to commend you, Mr. Chairman, for not adjourning the meeting prior to Mr. Hamill's appearance.

ASSEMBLYMAN PENN: Oh, I wouldn't do that.

ASSEMBLYMAN McENROE: He has added, I think, a dimension that I think is needed at this table today. The planning at the county level is a matter that remains alive, and which I'm committed to. Thank you.

MR. HAMILL: Thank you for hearing me, and I apologize for being late.

ASSEMBLYMAN PENN: Frank, do you have any comments? (negative response) Ed?

ASSEMBLYMAN KLINE: When you talk about a one-stop application, are you indicating then that the way it would -- like CAFRA, like other State agencies -- a county can be

handled in one shot? No process? Which indications are you saying? We haven't addressed it yet. What are you looking for us to address, eliminating State agencies?

MR. HAMILL: No. This is obviously an extremely complex issue. We don't have a panacea. I think that our first step could be a county level clearing house, where a developer-applicant could go to find out, first of all, what approvals are required, and second of all, what the status of all those approvals are. That county clearing house, in addition to providing that kind of information could also act as an expediter -- perhaps coordinating permits, and expediting projects that are consistent with the county plan and that deserve expediting. I think that would be a first step. Obviously, you can't delve too deeply into the powers of State agencies without getting into a lot of complexity.

ASSEMBLYMAN KLINE: That's what I'm wondering, if you--

MR. HAMILL: But I think that first step of a clearing house and an expediter is a good one. That's been done in other jurisdictions. Orange County, California, for example has that sort of process.

ASSEMBLYMAN KLINE: You're saying then, that you're looking for a clearing house, not a one-stop permit application, but just one-stop organizer that permits--

MR. HAMILL: Yes. Ultimately, I think that we can get more deeply into that subject, but it's too complex to get into, I think, in the present effort.

ASSEMBLYMAN PENN: There isn't anyplace, right now, that you could go and find out what permits you need to do a project. There isn't anyplace you could go. You could go to your town, you could go to your county; then you end up with the State. If you happen to be under CAFRA, if you happen to be in the Pinelands, if you happen to be under the--

ASSEMBLYMAN KLINE: The Army Corps of Engineers--

ASSEMBLYMAN PENN: -- the Army Corps of Engineers, under the 404 Program-- So there isn't any other way someone knows what they're getting into when they go to get a permit. As a matter of fact, I think it was at the transportation hearing-- No, it was at another meeting I was at where they had the head of Business Advocacy for the State of New Jersey, who spoke. He said even if you came down to him, and he gave you all the necessary forms, and told you what the procedures would be, if by one thing some permit fell through the cracks, that then you go back. The only thing you could do is fast track, but there isn't anyway that you could be eliminated.

There are so many catches in the system now, that a major development of any type-- Just to go through the permitting stage, you're talking, I think, a minimum of 24 months, I think, and then you don't know if you've got them all or not. I think that's what we're taking about -- is to able to go on a county basis, and go in, and know that you go sit down with your paid director of your county planning board, that he'd be able to say, "Here's a checklist on your project." If you get each one of these permits -- and we will help you get them -- then you will then be in a position to get your permit.

From what I understand, from the meetings I've been to, that's what's being addressed. It's the streamlining of the process, not to create another level of bureaucracy, or make it more difficult, but to make the whole system flow in a far more even manner.

ASSEMBLYMAN KLINE: I'm looking to eliminate. In other words, the way I'm looking at it, you have an experienced developer, an experienced planner. He knows what permission is needed. If a developer has been through the mill more than once, he knows he needs A, B, C, E. He doesn't need the clearing house. He knows what he needs.

ASSEMBLYMAN PENN: Well, you know--

ASSEMBLYMAN KLINE: He just needs too much. That's my problem.

ASSEMBLYMAN PENN: I think that in other States -- other jurisdictions that we've spoken of before -- the seal of an architect and the seal of an engineer has far more weight than it has in this State. They won't accept plans in certain jurisdictions from a sealed set of plans. God forbid those plans aren't right. His license is suspended until they are made right. In this State, even though they're sealed, we have people going over them and disapproving them on the basis of -- or changing them, and so forth. I think some people will even build in changes that we will find. I think that's what we're trying to eliminate, and look where there is some value to a seal on a license. I think that will--

Sam, if I may, one other thing. How do you feel-- The present tax structure we have in our State has a definite impact on development. Because in order to maintain our tax base in most counties, we have a ratable race going on. With this ratable race, one town, or one community, or one jurisdiction is pitted against another to bring it in so their taxes are stabilized.

Do you think perhaps that the method of the use of property taxes, and the way they are being used might be seriously addressed? In other words, let's say that 80% of our tax dollars today go for education. You look at your tax bill -- 80% of it. Therefore, your property taxes are quite high on the back of all the property owners in the State. Therefore, for a town or jurisdiction to maintain, and not have to continue to raise taxes, they bring in ratables. They might bring some ratables in, or they might not want to bring them in, but they feel they have to do it to maintain this level without going back to the public continually. Do you think that's some sort of major consideration that we should have of looking at our planning?

MR. HAMILL: Yes. I think that at the end or at the beginning of every statement we make on land use in New Jersey, we should issue a strong injunction for reform of the property tax, so that it is broad-based, or at least, we have some sort of a broad-based tax which would have a very beneficial effect. Because then the local governments would not be locked into a ratable race, which, in many cases, they themselves deplore. We've been advocating that kind of reform, as have many groups, for decades.

Perhaps the time now has come, because people are beginning to realize what the costs -- the true public costs of this ratable race really are. There are those who have said, "Well, we can't reform the land use control system until we reform the property tax." I can't agree with that. I think you have a chicken and an egg situation, and have to go at it any way you can. But we certainly support efforts like that, and we certainly hope that the Commission that is currently sitting on this issue will address it foursquare.

ASSEMBLYMAN PENN: Okay, thank you.

ASSEMBLYMAN McENROE: One other comment-- I'd certainly recommend that the Committee avail itself of the opportunity of having the Woodrow Wilson School provide information and further review and their judgment to the Committee for its considerations.

ASSEMBLYMAN PENN: You're about to release a report, aren't you? You're fairly close to having a report ready, aren't you? Some sort of report in draft form or something at this time--

MR. HAMILL: We have some recommendations of our own. That is, the MSM Regional Council. But I can see this group sitting for another couple of months to come up with its own version of that. Even though you can imagine that this is a lengthy process, and you would hope, perhaps, that it might go more rapidly. I think there is the opportunity for agreement

among the various groups that are involved. I think we have to give it time to evolve.

ASSEMBLYMAN PENN: All right, thank you. Does anybody else have any other comments? (Negative response) I certainly appreciate you joining with us today. And, if you have a couple of extra copies of your statement, I'd like to have them for a couple of members who are not here right now. We look forward to working with you, and continue to look for your input.

MR. HAMILL: Thank you very much.

ASSEMBLYMAN PENN: Thank you.

(HEARING CONCLUDED)

**APPENDIX**





June 12, 1986

S T A T E M E N T

To: Assembly County Government Committee  
Re: Revisions to County Planning Statutes  
By: Samuel M. Hamill, Jr., Executive Director, MSM

MSM is a civic planning and research organization. Our principal area of interest is the central New Jersey region between the Raritan and Delaware rivers. We are supported by well over one hundred corporations as well as many civic-minded individuals who are concerned about our region's future.

While we do not presume to speak for any of them, we also have a close relationship with a growing number of other independent civic organizations in the state that share our interest in improving New Jersey's system of managing growth. The agenda is: clearer definition of roles for the various levels of government; reduction of "red tape"; and due consideration for regional concerns.

We commend this Committee, its present Chairman, Assemblyman Penn, and its prior Chairman, Assemblyman McEnroe, for your leadership on regional issues and your initiative in introducing the bills that you have under consideration at this time. Your efforts have provided a valuable basis on which we can build.

It is important not to underestimate the level of public interest in regional management of growth. A (Trenton) Times/Gallup poll taken a year ago in May, 1985, found that 44 per cent of the central New Jersey respondents favored a stronger role for a regional body while 41 per cent

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avored the present town-by-town approach. In the same month, participants in a well-attended citizens planning conference in Morris County indicated overwhelmingly that the county should have a stronger role in many aspects of regional development.

We have observed that state agencies - particularly those responsible for infrastructure provision such as NJDOT and NJDEP - often have difficulty in coordinating programs and plans with 567 local governments effectively. Also, local governments in our region are sometimes at odds with each other over land use issues. The time has come to decentralize state decision-making by establishing counties as effective partners in the intergovernmental growth management system.

New Jersey's counties are for the most part economic or geographic regions in fact or can be coordinated for planning purposes to form effective regions. They are well suited to be a source of environmental, economic, and fiscal data for public and private decision-making, and to be instruments for effective coordination among and administration of growth management programs.

In response to legislative initiatives, the role of New Jersey counties in community and regional development has changed dramatically in recent years. For this reason, it makes sense to clarify and establish the county's role in discharging these new responsibilities effectively, and to coordinate them within the context of comprehensive county-wide growth management plans. It is worth noting that New Jersey's present county planning enabling statute was adopted in 1968 with minor subsequent

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procedural amendments. In the ensuing 18 years, municipal planning has been improved immensely through the Municipal Land Use Act, and more recently we have adopted a State Planning Act.

One of the bills before you (A-2260) would require counties to have planning boards, and it would require the planning boards to prepare a plan. These, in themselves, could be important steps. A recent survey found that only five out of New Jersey's 21 counties have master plans that were adopted in the past six years. The remainder are either out of date or non-existent.

The two county bills under consideration by this Committee are complementary. A-556 provides for assessments for off-tract improvements to county roads. Yet transportation services can only be programmed effectively within the context of a comprehensive county plan. The planning bill (A-2260) provides that planning structure. It also provides an appropriation necessary to pay for the technical planning services that will be necessary to program improvements effectively and make assessments fairly. These two elements of effective growth management - capital programming and financing, and comprehensive planning - should be coordinated. Further, assessments should be allowed for all levels of transportation service - state, local, and county, and not just county. Assessments should also be allowed for a wider range of public facilities and services; i.e. sewerage, water supply, drainage, and parks..

We would like to recapitulate and update a number of comments made earlier by MSM on A-2260:

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- (1) There should be more specific detailed provisions for the contents of county plans. Counties, in the 1980's, have literally dozens of new statutory responsibilities. The county plan should be a comprehensive statement of regional policy that pulls these all together.

This has been accomplished in part. However, there should be specific ties to other on-going county programs such as solid waste management, water quality management planning, and agriculture development. Also, there should be stronger ties between comprehensive land use planning and capital programming, as noted above.

- (2) There should be administrative procedures for conforming the plans of state, county, regionals, and local agencies so that the county plan is reflective of the best regional thinking in all of them. The procedures for accomplishing this process should be stated clearly so that the interests of local communities and the public at large are protected. Ties to the proposed State Planning Act (S-1464) should be specified as well.

The bill remains weakest in this area. The plan-making process is critical. If adequate provision is not made for plan making participation by local government and the public-at-large, it will lack credibility.

- (3) County review should be focussed on developments of regional impact, so that the counties channel their resources to region-shaping projects and stay out of considerations best left in the hands of communities.

The bill wisely allows some flexibility for counties in defining developments of regional impact, but more specific criteria for identification and for review of these projects could be provided.

- (4) The concepts of a "development clearinghouse" and "one-stop permitting" should be given serious consideration. Everyone agrees that there is altogether too much "red tape" in the development review process. We believe that there are many opportunities to clarify procedures and even eliminate many duplicative and redundant review steps.

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This concern has not, as yet, been addressed.

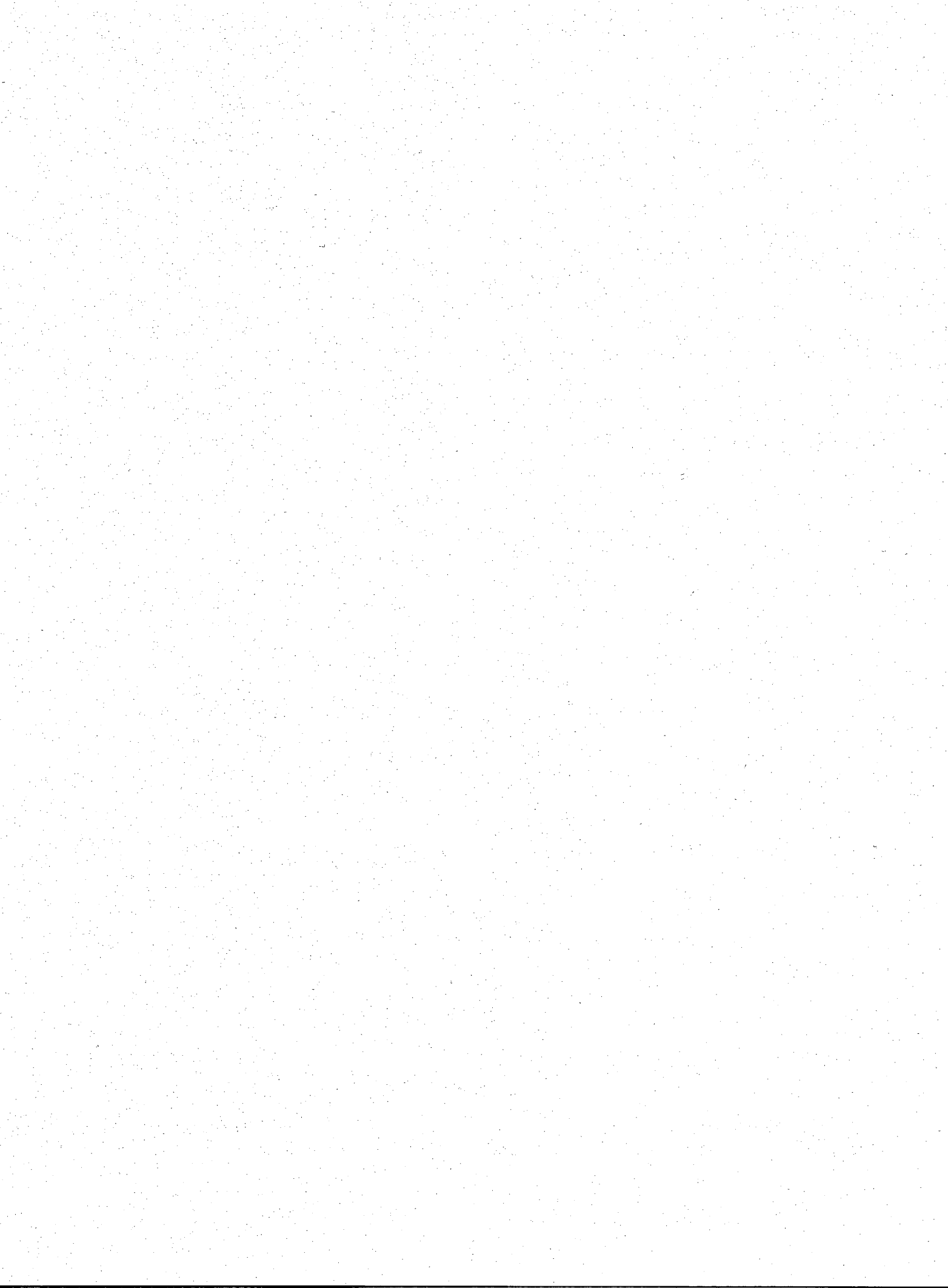
- (5) In order to keep pace with transportation and other infrastructure demands in growth areas and to meet costs that will not be financed by existing public sources, it is necessary to allow counties to become involved in infrastructure financing through new financing mechanisms which acknowledge, but also allow, counties to apportion additional costs among new developments on the basis of their impact on regional transportation service and other infrastructure.

This concern has been addressed above.

We strongly support the provision of A-2260 for grants-in-aid to counties. This provision is essential if its provisions are to be implemented. The grants should be available at the \$50,000 level for each of three consecutive years.

Finally, A-2260 has been improved considerably since its introduction last session, in response to numerous comments. During that period, we have participated in an active and thoughtful group convened by the Woodrow Wilson School, Princeton University, to discuss county planning in New Jersey. This group has recently expanded to include broader representation from local government and developer interests. We believe that this group has the potential to come to agreement on the kinds of considerations we have discussed here. Before supporting or opposing legislation, we want to allow this group to come to agreement on an appropriate role for counties in the growth management process. We expect that process to take several months, and to yield a set of proposals with some broad support.

We hope the foregoing has been helpful and supportive to your efforts and thank you for your interest in this important and challenging public issue.





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