
Public Hearing

before

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES COMMITTEE

ASSEMBLY BILL No. 2373

*(Prescribes method for appraising farmland in pinelands
area for farmland preservation purposes)*

LOCATION: Townsend Residential Life Center
Richard Stockton College of New Jersey

DATE: October 1, 1998
11:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John C. Gibson, Chairman
Assemblywoman Connie Myers, Vice-Chair
Assemblyman Larry Chatzidakis
Assemblyman E. Scott Garrett
Assemblywoman Barbara Buono
Assemblyman Herbert C. Conaway Jr.
Assemblyman Nicholas Asselta



ALSO PRESENT:

Jeffrey T. Climpson
Carrie Calvo-Hahn
*Office of Legislative Services
Committee Aides*

Thea M. Sheridan
*Assembly Majority
Committee Aide*

Dana Burley
*Assembly Democratic
Committee Aide*

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ASSEMBLYMAN JOHN C. GIBSON (Chairman): As promised, it's 11:15 and we will start. We do have a quorum in the building. Some of them have made long trips, and they are going to take advantage of the restrooms. But I'd ask everybody to rise for a Pledge of Allegiance to the flag.

Do we have a flag?

UNIDENTIFIED SPEAKER FROM AUDIENCE: No.

ASSEMBLYMAN GIBSON: All right, well, just relax, face whatever direction you are.

Pledge of Allegiance (participants recite the Pledge of Allegiance)

Thank you.

Good morning, everybody. Thank you for being here. This is an official meeting of the Assembly Committee on Agriculture and Natural Resources. We do have a quorum, and I'd ask for a roll call.

MS. CALVO-HAHN (Committee Aide): Assemblyman Conaway.

ASSEMBLYMAN CONAWAY: Here.

MS. CALVO-HAHN: Assemblywoman Buono is here.

ASSEMBLYMAN GIBSON: She's here.

MS. CALVO-HAHN: Assemblyman Asselta.

ASSEMBLYMAN ASSELTA: Here.

MS. CALVO-HAHN: Assemblyman Chatzidakis.

ASSEMBLYMAN CHATZIDAKIS: Here.

MS. CALVO-HAHN: Assemblywoman Myers.

ASSEMBLYMAN GIBSON: Is in the parking lot. You can count her as being here.

MS. CALVO-HAHN: And Assemblyman Gibson.

ASSEMBLYMAN GIBSON: Here.

We do have a quorum.

Let me take a minute just to introduce the members of the Committee. On my far right is Assemblyman Asselta who shares representation of the 1st Legislative District. Next is Assemblyman Chatzidakis from the Burlington County area. I'm Assemblyman Jack Gibson from the 1st Legislative District. We have Assemblywoman Buono from--

ASSEMBLYWOMAN BUONO: Eighteenth District.

ASSEMBLYMAN GIBSON: Eighteenth District. I'm bad with numbers. And Assemblyman Dr. Conaway from what district?

ASSEMBLYMAN CONAWAY: Seven.

ASSEMBLYMAN GIBSON: The seventh.

ASSEMBLYWOMAN BUONO: We're the Democrats, you can tell. (laughter)

ASSEMBLYMAN GIBSON: This is the fair side of the room.

Assemblywoman Myers is here, and she is from Hunterdon and Warren County, another very great farming area -- has a great interest in this Committee. She is Vice-Chair, and she will join us in a minute.

I have a few introductory remarks, also some housekeeping. For those of you that are standing, if you would like to sit, there are additional chairs over there. Someone will help you get some chairs, so take advantage of that if you want. We will have probably a hearing that will go into perhaps two hours. There are restrooms through this exit (indicating) and then to the

right. So again thank you for being here and participating in what we consider a very important issue.

One of the focuses of this year's ballot is the question of dedicating \$98 million per year from the sales tax for acquisition of open space. This money would be used toward programs such as Green Acres, Farmland Preservation, Blue Acres, and Historic Preservation. If the question passes, the Legislature will then decide how to disburse those dollars.

The legislation to implement what we hope to be a successful ballot question will be sponsored by the Speaker of our House, Assemblyman Collins, who also represents a farming area, Salem, and part of Gloucester and some of Cumberland. So his aide will be here shortly. We understand she is in the area. She will be taking notes. Things are on a stenographic recording. They will get copies of everything that is said here.

The way that bill will be crafted, how the money will be distributed -- how the \$98 million will be distributed -- how much will go to farmland preservation will be the decision, at least on the initial stage because he will be sponsoring the bill, of Assemblyman Collins. So he has a great interest in what is taking place here today.

Today the Committee will look into one aspect of the open space preservation issue. One of the most popular and successful preservation programs is the Farmland Preservation Program, covering over 53,000 acres all across this state in its 15-year history. However, where preservation needs and property rights are most acute, right here in our Pinelands, there has been little participation in the Farmland Preservation Program. I have introduced with Assemblyman Bodine and many cosponsors -- and many more are invited to

sign on to that today -- a bill, A-2373, which attempts to encourage greater participation by Pineland farmers in the Farmland Preservation Program by changing the appraisal method.

Let me introduce Assemblywoman Myers, Hunterdon and Warren County.

Good morning, Assemblywoman.

ASSEMBLYWOMAN MYERS: Good morning.

ASSEMBLYMAN GIBSON: The bill-- I want to emphasize that the bill is a work in progress, a starting point for discussion to find a solution that balances preservation needs and property rights. And today you are free to talk on the bill, but we are going to have a very wide latitude on this hearing today. Any new ideas you have are welcomed -- concerns to, in fact, address the problem of why there is not participation in this Program to date. You have the widest latitude to talk about those issues.

And we would also like to discuss how to encourage other property owners to offer their property -- private property owners, not just necessarily farmers -- for preservation purposes.

With that, I would like to call up our first speaker, unless any Committee members have any introductory remarks they want to make? (no response)

All right, we are hear to listen today. So I would like to call our first speaker which will be Secretary of Agriculture, Art Brown.

Good morning Secretary Brown, thank you very much for being here.

ARTHUR R. BROWN JR.: Good morning, Chairman Gibson and members of the Assembly Agriculture and Natural Resource Committee, and welcome to Atlantic County, which is my home county. I live about four miles up the road from you, so it's very convenient today.

But again I appreciate this opportunity to speak to you today concerning the status of the Farmland Preservation Program and its efforts in the Pinelands. I am here not only as the Secretary of Agriculture, but also as Chairman of the State Agriculture Development Committee, which administers the Farmland Preservation Program.

As I'm sure you all know, New Jersey's Farmland Preservation Program stands as a model for other states who want to preserve precious farmland. The Farmland Preservation Program has steadily increased its momentum since it began in 1985, setting new standards for saving farmland in the last couple of years.

In FY '98 we broke all previous preservation records permanently protecting over 10,000 acres on 55 farms, including two donations of development rights valued at nearly \$1 million. The stable funding source that would be provided if voters approve Governor Whitman's Open Space Initiative next month is critical to maintaining this momentum.

Stable funding is essential to achieving the Governor's goal to preserving a total of 500,000 acres of farmland in the next decade. We want to encourage greater participation among farmers in the Pinelands, where approximately 100,000 acres are actively farmed. Statewide we have preserved more than 49,000 acres on 320 farms with a wide variance among the 16 participating counties in the amount of acreage preserved.

Burlington County, for example, has preserved over 9300 acres, while Monmouth County, with the next highest amount of acres, has preserved just over 5000 acres. Cumberland, Hunterdon, Salem counties are rapidly approaching the 5000-acre mark. In the Pinelands, however, only five farms totaling 690 acres have been permanently preserved. From its inception, the Farmland Preservation Program was meant to apply to farms throughout the state including those in the Pinelands. However, the Farmland Preservation Program has been undersubscribed in the Pinelands.

Under the Farmland Preservation Program, the average per acre cost of development rights is about \$4400 per acre. However, the average per acre cost of those rights by county ranges from a high of almost \$10,500 in Morris County and well over \$8000 in Somerset and Middlesex counties to more than \$1650 per acre in Cumberland and Salem counties, and \$1100 per acre in Atlantic County. Because most farmland owners in the Pinelands do not believe the easement prices today accurately reflect the value of their land, they are reluctant to sell their development easements.

Assemblyman Gibson, your bill is one way to provide an incentive to Pineland farmers to join the farmland preservation effort. We support measures to increase permanent deed restrictions on Pineland farms and hope to work with you to address this important issue.

I want to thank you for the opportunity to come before you today. I also have Greg Romano, who is the Executive Director of the State Agricultural Development Committee, here to ask any specific questions regarding the Farmland Preservation Program.

Thank you.

ASSEMBLYMAN GIBSON: Thank you very much, Mr. Secretary. I know you can stay with us for a while but not for the whole meeting, and Greg Romano will be on tap to answer the Committee's questions when they arise. So thank you very much.

ASSEMBLYMAN BUONO: Can I just ask one quick question?

ASSEMBLYMAN GIBSON: Assemblywoman.

ASSEMBLYWOMAN BUONO: Is this on? (referring to PA microphone)

Well, I'm sure you can hear me, Mr. Secretary.

MR. BROWN: I can hear you fine.

ASSEMBLYWOMAN BUONO: It's good to see you, as always.

MR. BROWN: It's good seeing you.

ASSEMBLYWOMAN BUONO: I was just wondering whether or not you have an opinion specifically on the appraisal method that this bill encompasses and, if do have an opinion, whether or not you sought an advisory opinion. Isn't there an appraisal institute in the State of New Jersey that--

MR. BROWN: Well, under our current Farmland Preservation Program, we have certified appraisals that are available to utilize throughout the state, and that's the appraisal process we have right now. We are still looking at the formula, and no one is saying that that is the formula that has to be strictly abided by, but we want to work with the Committee and the Assemblyman on this to make sure that we get equitable treatment in the Pinelands.

ASSEMBLYWOMAN BUONO: Thank you.

ASSEMBLYMAN GIBSON: Thank you, Mr. Secretary.

MR. BROWN: Thank you.

ASSEMBLYMAN GIBSON: I invite up John Rigolizzo. John is President of the New Jersey Farm Bureau.

We appreciate your remarks, John. Good morning.

JOHN I. RIGOLIZZO JR.: Good morning, sir, how are you?

ASSEMBLYMAN GIBSON: Fine, thank you.

MR. RIGOLIZZO: Yes, I am John Rigolizzo. Good morning, everybody. It's nice to see you all again. I've been waiting for this opportunity for a long, long time. I guess if it wouldn't be for the Pinelands, I probably wouldn't even be even where I am today.

Just a short history. When I got out of college in 1975, I thought I was going to be staying on the farm and just married and start making babies and live like a real farmer did. And all of a sudden somebody got the bright idea to create what we now know as the Pinelands, a Comprehensive Management Plan. And in itself, it is not a bad idea. I will say that the Pinelands plan has accomplished many things. But from the very beginning, we were always lacking in what I call the human aspects. The people were kind of forgotten. We did a great job and we continue to do a great job of preserving land. But we have a lot of people out there who suffer quite a bit, mostly financially. We have many-- The agriculture community, especially in the Pinelands, tends to be an older age-group. Many of those people were in their 70s when we started with the Pinelands, and many of them are still around in their 90s now. That's always been a weak spot for me.

One thing that always got my gander up was the fact that somebody across the street from me could do any number of things with their property, but because I was on the other side of the line, those opportunities were no longer available to me. So we all called it a takings in the beginning, but it was more than that. For me it's always been a case of discrimination almost.

So I have a long history with the Pinelands issue, and I've had a long time to sort of temper my anger and rage. And I know, as a President of Farm Bureau, I have to stay neutral and take it all in. I've learned a lot. The Pinelands has taught us all a lot. There is a lot -- like I said before, there is a lot of good things.

But I look at the Pinelands now -- the Management Plan -- almost as an experiment. And like any good experiment, there is good parts and bad. I think we have an opportunity now-- The Open Space Bond Issue presents a real opportunity if it passes in November, and I think it will. And with the -- what we are having here today, having our Legislature hear some of the problems and some of the things that have been going on and the problems that need to be addressed, I think that the opportunity allows us to make some things right.

Farmers in the Pinelands, as Art said, haven't been taking advantage of the Farmland Preservation Program simply because our land values are really or artificially or whatever but -- because they are on the Pinelands, our land values are just too low. It doesn't make sense to go through the whole process of the Farmland Preservation Program if you are going to have -- excuse me (sneezes)-- land values-- When an appraiser comes

in and says, "Well, your land is worth \$1100," by the time you take off the easement value and ag value separated out, there is not a whole lot of money left.

If we could do something to find a way to marry these events together and put more value into the lands and the farmland -- or the landowners in the Pinelands and make it economically feasible that they can get into the Farmland Preservation Program, we will have-- You know, some kind of compensation -- some real compensation -- for these folks, and we will have deed-restricted land that will stay open space. And I think that serves the general citizens well, much better so than what we have now.

I think that we have a long way to go, but I really think that this is the best opportunity we've had in almost 20 years to help out in this situation. I can go on and on and give you cases after case after this. I'll tell you that as Farm Bureau we are willing to help along -- all along the way -- whatever it takes -- to see something possible happen in this issue.

I will tell you, too, that as a farmer in the Pines -- and I've lived in farms in Camden County and Berlin, but I was born in Hammonton, and most of the people in this room are related somehow or another. So I feel for them, and I feel their real pain. And I will always, always carry with me the scars of people that were hurt because of where they live and no other reason. I mean I farm land that -- just to help people keep their farmland assessment: 94-year-old Morpolean Morellio (phonetic spelling) who was 14 when she got married and her husband died after being married for 67 years and has no way of keeping that property unless I farm it. And I pay the taxes, too. I mean the poor lady would have nothing if she had to give up her home and her land.

Other people are the same way. You try to help everybody out, but you can't go -- you know, the tractor is only going to go so far from my farm. But we have the real opportunity to do something good, and I'd like to see that happen. I mean the possibilities right today are limitless. We got to make sure we get that bond issue passed in November and then go on from there.

I won't take any more of your time. I'm just looking for good things to happen.

ASSEMBLYMAN GIBSON: Thank you, John.

Assemblywoman.

ASSEMBLYWOMAN BUONO: Yes, I just had one question. What percentage in acreage of the Pinelands is affected by this inequity as you described?

MR. RIGOLIZZO: As far as I know, there is 1.1 million acres of land in the Pinelands.

ASSEMBLYMAN GIBSON: And basically all of it is affected.

MR. RIGOLIZZO: And basically, that's right, all of it is. I don't know exactly how many acres of farmland, but if you're a landowner-- I mean, I've been to many hearings and many of the people here have where, you know, people have had to give up their land or give it back to the town because they can't afford to keep it. That's not the right thing to be happening.

ASSEMBLYWOMAN BUONO: Have some of the landowners entered into the Farmland Preservation Program?

MR. RIGOLIZZO: I only know of one myself. I think Art said there was five. That's not a big number-- We have a good, effective Farmland

Preservation Program going, and the only thing that's been holding it back has been lack of funds, so now we have an opportunity to put some money in it. Now, let's get some of this money back to the folks in the Pinelands. It really is not fair that this one-sixth of the state can't participate. Maybe they can by law, but reality says it's not going to happen because the numbers just don't match. So if we could create that or make that happen, we're going to be serving everybody.

ASSEMBLYMAN GIBSON: John, Assemblyman Asselta has a question.

ASSEMBLYMAN ASSELTA: John, real quick. Thank you for coming today. Could you just-- You talked about -- earlier about opportunities missed 20 years ago. Just give me a little bit of a sense or an elaboration on some of those opportunities that were missed 20 years ago by people like you and people in this room.

MR. RIGOLIZZO: When the Pinelands started, we all were hollering, well, this is a taking, we need compensation. So they put in a methodology of compensation called Pinelands Development Credits. They are still out there, and unfortunately, it's been basically an ineffective program. It has worked in certain-- Burlington County used them. They had money available. They matched it or applied it together, and there has been a fair amount of preservation through Burlington County through their own dollars expended. But the PDC Bank was created to help alleviate the problem. There was \$5 million tossed into that -- in that pot. That didn't go too far.

There was plans to help people for hardships -- real, declared hardships -- that couldn't sell the land or couldn't do something and trying to

get out of it or whatever the reason, and there were some initial successes, but that hasn't gone too far either. So, you know, we poured a lot of money into this Pinelands Plan. There has been a lot of Federal dollars, as well as State dollars. And while we have acquired some lands and tried to keep some open tracks together, the PDCs and programs like that have not really worked. I don't know if they ever could, there are so many. How many dollars would that Bank have to have to make it work so that people could actually go there and say, "Here I am. I'm Mr. Farmer, and I've got 49 acres of land, and I'd like to get my two PDCs, or 39 acres of land," and it's just not happening.

That's probably been the biggest failure as an attempt toward compensation. As I said, I look at the Pinelands as an experiment, and, you know, we are learning all the time. We've got a long way to go.

ASSEMBLYMAN ASSELTA: Thank you.

ASSEMBLYMAN GIBSON: Assemblyman Conaway.

ASSEMBLYMAN CONAWAY: By how much do you believe the land is undervalued? I mean what's being lost? I think I heard a figure of \$1600 on average for the easement credits in Atlantic County. Does that mean that for those farms that are located in Atlantic County but also in the Pinelands zone that the value is \$1000? Is there some estimate of what the loss is by virtue of being in the Pinelands?

MR. RIGOLIZZO: Every piece of property would be different. But there are plenty of people in and around this room today that probably would say that before the Pinelands, their land was worth -- I'm just going to throw around numbers -- say \$10,000 an acre for whatever reason. And if they had to sell it today as farmland only or even if there was some development

possibilities-- If it was just going for farmland or as it's valued today, I hear numbers like \$1100 and \$1500 and things like that. So there is not a strong market for it. You don't see farmers rushing to buy land in the Pinelands. And it's hard to get-- Although there has been a certain amount of development everywhere in the Pinelands, you don't see developers rushing to Camden, Atlantic, Cumberland, Cape May, and Salem counties to buy land to do projects, only in certain places where the growth zones and things like that.

It's amazing. I said I live in Berlin, and the line cuts across our farm, and I always call it the Berlin wall because what is happening on the other side of the line is amazing. You can just see the development coming at us, and yet it ends there.

And I got to tell you, and it's only fair, managed growth is good. I don't think anybody would argue with that. But, you know, there's got to be some equality to it all. There has got to be something that allows us to do what some of the others can do as well. Nobody, like I said-- But large-lot zoning is not the answer to managed growth either. Ten-acre lots, thirty-acre lots does nothing but extend urban sprawl. With my experiences in a lot of places, when you start to getting large-lot zoning, you get villages of mansions, you get high-priced housing where only the rich can afford to buy, and then the land in between, while it stays open, really is not actively farmed for the most part, in many cases.

I said this is a time of opportunity. When the legislation comes about, if it ever comes, if we do this right, we can make some good things happen out of this and accomplish a lot of goals, save a lot of environmental things that we want to save, and still be able to put some money back in some

of these people. Even if they don't want the money right away that value is there that they can rely on later on. So, I mean, I don't anticipate a land rush to the bank.

But knowing that it's out there would put a lot of ease on people's minds. I mean I didn't have high blood pressure before 1979, but I sure got it now. (laughter) You know, we can fix this, and if all of you are more than willing to work on this, we can do this. Let's get the thing done in November, and then let's get back to this and do it right.

ASSEMBLYMAN GIBSON: Thank you, John. And your last comment is a good segue to who I would like to bring up next, and that is Richard Bizub. Richard is in the Pinelands Preservation Alliance.

Richard, good morning.

RICHARD BIZUB: Good morning. My name is Richard Bizub. I'm Project Manager with the Pinelands Preservation Alliance. I'm here this morning on behalf of our Board of Trustees and members to give our support to Assembly Bill No. 2373, sponsored by Assemblymen Gibson and Bodine. We believe that this bill will have a positive impact on agriculture and farmland preservation in the Pinelands.

In 1973, when Congress designated that New Jersey Pinelands the country's first national reserve, the Pinelands provided 24 percent of New Jersey's agricultural income. That same year the Pinelands supported approximately 2.5 million head of livestock and poultry valued at greater than \$5.7 million. Today the residents of the Pinelands can boast about being one of the top three states as far as cranberry and blueberry production. There is

no doubt that the Pinelands have played a major role in New Jersey staking the claim of the Garden State.

Agriculture is not only of valuable industry in the Pinelands. It contributes significantly to the unique character of the region. This important fact was clearly articulated 18 years ago when the Comprehensive Management Plan was prepared and two management areas, one Agricultural Production Area and another Special Agricultural Production Area, were established. These two designations sent a strong message that farming is a fundamental component of the Pinelands Plan and must be included if the Plan is to succeed in preserving the unique character and culture of the Pinelands. Yet today only five farms in the Pinelands participate -- excuse me -- five farms out of 320 participate in the Farmland Preservation Program.

We believe that the Pinelands as we know it today will be severely diminished if we do not take steps now to encourage farmland preservation. It is for this reason that the Pinelands Preservation Alliance supports this bill and encourages this Committee to move this bill forward.

Thank you.

ASSEMBLYMAN GIBSON: Thank you very much. Thank you for your positive testimony.

From the Atlantic County Board of Agriculture, Russell Francesehini.

RUSSELL FRANCSEHINI: Good morning. I'd like to also thank Assemblyman Gibson for the opportunity to set this meeting up, so we can have you hear our problems that we have in the Pinelands.

First, I would like to emphasize, as far as the landowners, we do support the preservation of farmland and open space. We aggressively use new technology and other methods to preserve water supply, land, and environment. For these reasons, we would like to support Governor Whitman's referendum to permanently fund land preservation that will be on the November ballot.

But because of the present zoning of the PDCs in the Pinelands, we are unable to receive our fair share, as the rest of the farmers in the State of New Jersey, to apply to the New Jersey Farmland Preservation Program. The reasons for this inequity is the down zoning in the Pinelands to most farms on one house in 39 acres. Prior to the Pinelands, a large portion of this land was zoned one house on 1 to 2 or 3 acres.

To compensate for the loss of development rights, the Pinelands Commission has established a Pinelands Development Credit Program, and that was put in place. The problem with this method is the Pinelands Development Credits do not adequately value for farmers to put their land in the New Jersey Farmland Preservation Program. Some of the reasons that the PDC Program, or Pinelands Development Program, does not work are the Pinelands Development Credits are transferred to designated receiving areas. And these receiving areas -- they then can increase their building densities.

The problem with that is that most of the municipalities that receive these credits do not want to increase their densities and -- because of the pressure it puts under schools or infrastructure, traffic, and their cultural environment. This makes it impossible for the PDC value to increase. Also,

the other problem is this PDC credit program is completely voluntary, so there is no way that anyone can force anyone to use these credits.

In Atlantic County only two-- Maybe you can answer some of the questions that were asked. In Atlantic County, only two farms are presently preserved in the Farmland Preservation Program, with almost all of our lands, that's farmlands, being in the Pinelands. Of the two farms that are in the Program, the farm in the Pinelands received \$1224 an acre. The other farm that is preserved is outside the Pinelands in Atlantic County -- received \$3550. And I am Chairman of the County Ag Development Board, and I sat through both of these appraisal processes, and I understand exactly how they work.

Both of these farms are very similar in their value and in their potential of farming. But, yet, the farm that was inside the Pinelands received three times less the amount of money as the farm outside the Pinelands. We have worked with the Pinelands staff and Commissioners for over 15 years to try to resolve this situation.

I would like also to state that I am not here to criticize the fact that someone tried to give us compensation that did not work. Sir, what we are proposing is we'd like to see a different approach. In the Pineland studies, they have found that 3.2 acres can support a single-family dwelling. All farmland should be rezoned to one house on 3.2 acres. That would put back the equity in our land, put the Pineland farmers on an equal playing field with the rest of the farmers. It would increase our borrowing power and help us to be in a compatible position with the landowners to participate in the New Jersey Farmland Preservation Program.

The New Jersey Farmland Preservation Program, as you realize, is a deed-restricted way to preserve land and open space. But in the Pinelands Plan, they are still allowing one house on 39 acres or less to build a home. So by building homes on such large lots, you lose valuable farmland and open space. With this proposal, it would be using less land for the same amount of homes. We realize that you have to maintain the Pineland density, and we do not want that increased. So we propose that landowners that are going to be rezoned back to 3.2 acres, before they could sell or develop the land, would submit it to the State, counties, municipalities, or even the Pinelands to have the right to first refusal to purchase this property. In cases of hardship cases or people that have farms that have to sell, at least if it is sold, it wouldn't be developed. It would be better to be put into the Program.

In return, the State and the other municipalities or whoever the agency purchases this property could then enter the land under the State's Fee Simple Program or the New Jersey Farmland Preservation Program. Then removing the development rights, these agencies could sell the land for farmland or open space. With Governor Whitman's permanent funding for open space, this makes this proposal feasible.

I also would like to emphasize that because the zoning is turned back to 3.2 acres, most farmers or almost all of the farmers are not going to rush to sell their property. Because we in agriculture -- that is our livelihood, and this is how we feed our families, and we need the land to do so. So we are not inclined to sell our property. And, personally, we would like to see all the farmland in Atlantic County preserved forever, not with piecemeal-- It's leaving piecemeal opportunities for this one house on 39 acres. You could do

a lot of destruction to a lot of farms and get very few homes on it, and we thought that would be not the proper way to be using our land.

I want to thank you again.

ASSEMBLYMAN GIBSON: Russell, just a minute.

MR. FRANCESEHINI: Oh, I'm sorry.

ASSEMBLYMAN GIBSON: Dr. Conaway has a question.

ASSEMBLYMAN CONAWAY: You mentioned about the appraisal, and I don't understand that process. Can you give me a little capsule on what the appraisal process is about?

MR. FRANCESEHINI: You mean for the Farmland Preservation Program?

ASSEMBLYMAN CONAWAY: Yes, how it works--

ASSEMBLYMAN GIBSON: The difference between the 1100 and the 3300 -- somehow to describe why the appraiser came up with that difference.

MR. FRANCESEHINI: Okay, in most farms, they are zoned and the rest of the communities are zoned on an average maybe two houses -- oh, I'm sorry -- two acres, three acres, five acres. In the Pinelands, there is only one house in thirty-nine acres. So this just about eliminates your development right. So what you have is one house on thirty-nine acres up against the one house on two or three acres. And that is exactly what I explained here -- the exact reason why the farmer received \$124 an acre in the Pinelands. Because he was zoned one house in thirty-nine acres. And when the appraisers come in and appraised it, what they actually said was we cannot appraise this land for the development rights portion for any more than the PDC is worth, and

that's the problem. The PDC does not have the proper value to compensate us for the down zoning that has come about through the Pinelands.

ASSEMBLYMAN CONAWAY: And the other issue is the zoning in the Pinelands -- isn't that designed to sort of prevent development? I mean, you mention that the zoning ought to be changed. But if it's changed, you will have development pressure, it seems to me, and wouldn't the Farmland Preservation, as that stands up and we do a better job at having the Program work in this area -- isn't it appropriate that the zoning remain at the one to thirty-nine so that people can get into the Program and be properly compensated, and then you get the conservation that you're talking about that everyone wants?

MR. FRANCESEHINI: You're absolutely right. We do not want to increase the density of homes in the Pinelands. But what you're saying is, how do we get our value -- easement value -- at one house in 39 acres when the rest of the State is a lot less? So-- Because we reduce the zoning to 3.2-- The only reason we are doing that is to get the equity back in our land. If we have the equity back in our land, we can now take this land, instead of leave it open for one house in 39 acres, which is only a legislative act anyway, we would put the land in a Farmland Preservation, which is now a deed restriction that you know forever will not be, you can't manipulate that.

To get the value back in the land, you have to bring the zoning back, or you tell me another way that we can get it back other than bringing the zoning back to that level, so when an appraiser comes in, he is going to appraise it with the potential of putting these houses. That don't mean that the farmers are all going to run out and sell this land. There is going to be no

mad rush to sell this land because we have it at 3.2 acres. Before the Pinelands, we had it at 2 acres and who preserved farmland better, especially in our county. We did not lose that much to housing, and we still won't lose it to housing because you can't lose it to housing as long as the farmer has the opportunity to get his equal share of money to preserve the land. The farmers don't want to give up their land. That's their livelihood, that's their life.

I don't know if I answered your question.

ASSEMBLYMAN CONAWAY: I think you did, thank you.

ASSEMBLYMAN GIBSON: You did. Let me just add a brief comment. This is Mr. Francesehini's proposal in lieu of the language in the bill to accomplish the same result, some way not to have houses every 3.2 acres, but some way to build the equity back into the property. It's his proposal, and it's something we can consider.

Assemblywoman Buono.

ASSEMBLYWOMAN BUONO: One more question. Obviously we are interested in your proposal. So what you are proposing is really creating a legal fiction because, in order to enhance the appraisal value, because the land -- it would not be your intention for the land to be developed at a higher density.

MR. FRANCESEHINI: Well, I don't want to use the word illegal.

ASSEMBLYMAN GIBSON: No, she is an attorney.

MR. FRANCESEHINI: Oh, a legal-- I'm sorry. I misunderstood her.

ASSEMBLYMAN GIBSON: And it is a term that she understands, a legal fiction.

He perhaps would not understand.

ASSEMBLYWOMAN BUONO: Oh, okay.

ASSEMBLYMAN GIBSON: She understands it because she likes your idea.

ASSEMBLYWOMAN BUONO: No, I do. It's an interesting idea. I will refrain from using that term. Your intention, if I understand it, is just to increase the appraisal value of the land by changing the zoning to what it was before it would theoretically permit higher density of homes. But that's not your intention. Your intention is to just increase-- I guess what the concern would be is how do you ensure that there wouldn't be a number of farmers that would sell their land then and increase development and all the infrastructure -- all the other costs that go along with that.

MR. FRANCESEHINI: I think I said the details have to be worked out. But the first thing that you would have to do, in my opinion, and our county board's opinion, when you rezone it back to 3.2 acres, you have to put specifications in that the farmer cannot sell this land unless it is first refusal by State, county, Pinelands -- whoever has funding that can purchase this property. Then they can -- if it's a hardship and they have to sell it, it goes back into the same Farmland Preservation Program.

But you're absolutely right. We are trying to get the value of the land back to what it should be in comparison to the rest of the state. Then that will give us the opportunity to put all of this land -- that many farmers would put this land in a Farmland Preservation like in the rest of the state.

We only have one in our county. That's our county, it's agriculture.

ASSEMBLYWOMAN BUONO: I'm sympathetic. I'm just-- I'm somewhat of a novice. This is my first year on this Committee. So let me ask you this question and forgive it if the answer is obvious to you. Is there another way of increasing the appraisal value of the land without changing the zoning? What I'm thinking and maybe this is impossible-- The current criteria used in farmland preservation, could that be changed in order to increase the appraisal value? Could that be tinkered with in some way?

MR. FRANCESEHINI: Well, we try to for years to come up with a solution to try to make the PDCs more valuable. And we have been waiting like -- it's almost 20 years, and the value has not increased. In fact-- Is there another way? Possibly. Assemblyman Gibson's bill has a very good idea. The concept could be worked in that direction. Just so we get our equity back in our lands and we can participate fairly in the Program we will be happy.

Thank you.

ASSEMBLYMAN GIBSON: Thank you.

MR. FRANCESEHINI: That's it?

ASSEMBLYMAN GIBSON: David Rizzotte.

Share your thoughts with us, Dave. Glossy Fruit Farm from Hammonton, New Jersey.

DAVID M. RIZZOTTE: Thank you, Assemblyman. I'll stand for a minute because I think everybody can hear me.

Just for a little background on who I am, then I have some papers I'd like to hand out to the Committee. I farm with my two brothers in Hammonton. Our farm was established in 1887, Glossy Fruit Farms -- my

great-grandfather, my grandfather, my father, who are all deceased, and now it's the two brothers and myself.

If you want to handle that just keep them in order when you give them out. (referring to handouts)

We go way back, myself and Atlantic County, with the Pinelands Plan. Assemblyman Asselta referred to a lost opportunity way back when. I think that the lost opportunity was the fact that when the concerned property owners got together in 1979, namely the Coalition to Save Agriculture in the Pinelands, nobody wanted to listed to us, namely the Commission, the Legislature, and the administration that be it at that time. This is the plan that was produced by a private group. This plan (indicating) -- and I couldn't reproduce it for everybody because it got a little costly. This plan dove into second section on the economic impact of the Pinelands Plan. Everything that our experts and our attorneys told us was going to happen has happened. All they had to do was look through this all for some compromise and we wouldn't have a lost opportunity and be sitting here today 20 years later with Pinelands Development Credits that aren't worth a hill of beans.

I gave you some papers. The first one, which is marked PDC No. 1, and I refer to these as PDC papers and then farmland preservation papers-- PDC No. 1 explains to you in one brief couple of sentences there what the Pinelands Development Credit Program is. Then it gives you, at the bottom of that page, PDC No. 1, the activity at a glance. I made some notations on this. It covers a 16-year span, and you don't want to be confused, as the Commission has done over the years-- Don't look at the high numbers like 472 and 2160 because they're rights. You have to realize that four of those

equal a development credit. So everywhere you see rights you just divide by four, and that will give you the number of Pinelands Development Credits. So that one page gives you an overall view.

In 16 years, I believe there was like 6400 -- somewhere in that vicinity -- there is people that might correct me in the audience if I am wrong -- that could have been allocated at the inception of the Plan. Up until 1997, 540 of those were proposed for use. The resale only encounters 118. These numbers come right from our Pinelands Commission.

PDC No. 2 is a report that was done in 1993. You'll see that I have it noted: 885 is the number of PDCs that was utilized up until 1993. So let's skip forward now and go to 1997. We had a number of 885 PDCs in 1993. If you look at Table 1 on PDC 3, you'll see what I consider probably a necessary step to deceive, if I could put it that way. Maybe the counselor there could put it differently. But 4673, okay, as I stated before, is the number of rights. You divide that by four, and I did it on the side for you. It's 1168 Pinelands Development Credits as of 1997. So we went from '93 to '97, and I think if you use your subtraction there, it is about 300 credits that might have been utilized.

So there is still no activity with Pinelands Development Credits. PDC No. 4 gives you the municipalities in 1993. Again take the number of rights, 1964, and you'll work it out to about 491 PDCs in 1993. The next page, No. 5 PDC, brings us up to 1997 again with the municipalities that can utilize Pinelands Development Credits.

Okay, the list is a little bit longer, okay, but the result is the same. We went from 1964 rights to be used to 2160. So that's even a little bit less

than what was on the previous pages. So that shows you that this system is a failed system. This book here (indicating) 20 years ago told the Commission, told the Legislature that that system was going to be a failed system. Nobody wanted to listen. That was the lost opportunity.

We as farmers were insulted. This leaves a bad taste in my mouth because, even back then, farmers didn't want to listen to that group that we had. They said the Plan was going to go away. It didn't go away. It's still here.

So now fast-forward till we get Farmland Preservation. So now add insult to injury to the Pinelands farmers. Let's go out and compensate people in the central northern part of the state and give them money under Farmland Preservation. I was on the State Board of Agriculture at the time this was going through, and I was there. I was the President for one year. I sat by with Secretary Brown at every meeting and their former members in here also. We would deal with the Pinelands issue. We are still dealing with the Pinelands issue, and I'm ashamed to say that nothing could get done at the time that I was there, and it's still not done now that I am not there.

If you look at Farmland Preservation '93, this was a report right from the State Ag Development Committee, and you'll notice it's broken down by county. We have -- Atlantic -- with our one sale of 1089 was our easement purchase. Then you move on to Burlington, 4571. Okay, then the numbers really start to shoot up. Cape May, of course, is down here, \$850 an acre. Cumberland, 2294 an acre. Gloucester, 2532. They are all my notations on that report. Then all of a sudden, we go to Hunterdon, and it jumps up to \$5800 an acre. Mercer County, \$9800 an acre. Middlesex County, \$11,000

an acre. Monmouth County, \$6800 an acre. Morris County is a meager \$12,000 an acre compared to Atlantic's \$1100 an acre. Okay, and so on. Somerset comes in at 10,500. Sussex was \$6100.

I think, Assemblyman, you had a question on what the State easement was. In 1993 it was -- \$5679 was your average. It's on the last page of that. That was your average across the state, \$5679. Atlantic County got \$1100.

Let's fast-forward again to 1997. You could have all of your values on Farmland Preservation '97 -- this one sheet here (indicating). I underlined them in black for you. Okay, the same trend occurs. The only thing you'll notice is the average per easement value over the whole state went down. This is really one of the points I wanted to make here today. And it's not really a blatant indictment of our Department of Agriculture, which I was a part of for many years. And I am very friendly with Secretary Brown, members of the SADC. But they created a sliding scale because they knew they were spending too damn much money in central and northern Jersey to protect our farmland.

So this sliding scale created what I considered a step down to lower the values, so the Program wasn't indicted as wasting money, to put it very frankly. And it's my point here, if we could do that, to scale the money down, your bill could scale the money up for the people in the Pinelands. As Johnny Boy said, as the Secretary said, now is the perfect opportunity-- I stood before the -- our county board on numerous legislative dinners and said there is only one way we are going to get this done, and that's by a constitutional amendment. I still feel that way. I think that's the only way we will get it

done because there was never the opportunity to get the money and have it dedicated to the people in the Pinelands.

But this opportunity now with the bond issue gives the money. The only thing that needs to be worked out is the mechanics, and your bill was one step in the right direction. Now, of course, we have to overcome some legal opinions, I believe, but I'm certainly sure, in the infinite wisdom of our legislators, there will be ways to overcome the legal obstacles that we may have to take to get the \$1100 an acre in Atlantic County up closer to the state average over here in 1997 of 4398.

To clarify something that Russell said earlier. The one sale that we had in Atlantic County in the Pinelands was \$1100 an acre, and that was done with comparables, and the farmers saw fit to sell that ground. The other grower in Atlantic County that took advantage of the Program -- in Atlantic County itself -- about \$3500 for the acre, which I believe has either gone to settlement or was just recently settled. And we approved that at the County Ag Development Board level.

The difference is one is in the Pinelands and one is outside the Pinelands. Same county, \$1100 in the Pinelands and \$3500 outside the Pinelands. There is no way that you are going to rectify 20 years of deed restrictions on property values unless we do something drastic. And it's up to you gentlemen with the Senate to help us.

Thank you.

ASSEMBLYMAN GIBSON: Thank you, David.

Let me invite up Mary Scott.

Mary, are you an individual?

MARY SCOTT: Yes, we're just farmers.

ASSEMBLYMAN GIBSON: Okay, thank you, Mary.

MS. SCOTT: After that I don't even need to be here. (laughter)

ASSEMBLYMAN GIBSON: He said it all for you?

MS. SCOTT: He said it all. I'm here to make my husband happy.

ASSEMBLYMAN GIBSON: Well, you can say it in a nicer tone of voice. He got our attention, and we are very interested in anything you could add.

MS. SCOTT: Well, before I even knew that this meeting was going to take place, on September 9th I sent a letter to our Governor and copied to Senator Saxon, Senator Adler, Assemblyman Gibson, Assemblyman (*sic*) William Gormley, Burlington County Freeholders, and the New Jersey Farm Bureau. We have been concerned -- very concerned -- for 20 years about our farm. The farm has been in our family since 1915. Under this Pinelands Act we can't even-- In this preservation with the PDCs and the severity of the Pinelands Act, we can't give our children an acre of ground or even three acres to build a house. We can't even do that ourself. But yet our building rights have been taken away without compensation, and if this is so, why have we been so restricted? Why can't we do it? Nobody payed us not to do it.

As the farm has come down through the family, we have paid our share of inheritance taxes from my husband's great-uncle to his father to my husband. When we paid inheritance taxes, we do not have the exemption you have today. We had -- in the Federal and the State government, we had a total of \$60,000 exemption. But we can't do anything as far as being able to do anything-- We don't want to do anything but farm, but we still want to be

compensated for what has been taken away, as the other gentleman ahead of us had said.

Now, in my block where we live, we are the first -- we are the line that starts the Pinelands preservation and coming south. We are in Burlington County in Southampton Township. We are not against preserving farms; we think it should be done. We have six grandchildren, ages 21 down to 14, and as they travel around our local county and see Mount Laurel, Medford, Morristown, they see all the good farms that are being developed, and they are outside the Pinelands, and those farmers were amply compensated-- We don't like seeing that. We think, you know, there should have been something done earlier to help in farmland preservation.

Now, when we talk about PDCs, in 20 years, we have not in any way been approached by anyone to buy them. Twenty years ago we went to the same meetings that a lot of these other gentlemen went to before this became enacted. And I thought I was told that for builders to be able to build in the Pinelands, they were going to have to acquire PDCs to trade off. Now, maybe I don't understand that. I don't understand it completely, but they are not doing it. But now we have our regional high school -- we have three. We are going to build a fourth one.

Our school, our Lenape district, is being asked-- They want to buy 143 acres of land that is zoned Agriculture Production. They are being asked to provide 612 acres or thereabouts to replace the 143 they would like to take out. Now, I can't imagine in rezoning of the areas that might take place to accomplish that that the people involved, the property owners, are going to allow that to happen without compensation.

Now, I may be wrong again, but it seems to me it's going to take all the money that we have appropriated to build our school to first get the land that the Pinelands is going to require if that stays as is right now at the last meeting. Why should this be? I don't-- It's hard for me to comprehend some of this.

I don't have anything else to say except that our PDCs would be available at the right price, not at the price they are today. We wouldn't even consider it at today's prices. If the Legislature can come up with a good bill, as the other gentlemen have talked about, that would give us equal-- In my block, some years ago, 800 acres was preserved. I think the man who bought the 800 acres, the land right within my block, I think he was given 249 or 79,000 for the building rights of 800 acres. Eight hundred acres today you're getting a lot more. That wasn't even something to consider in my thinking.

I thank you.

ASSEMBLYMAN GIBSON: Thank you, Mrs. Scott.

MS. SCOTT: You're welcome.

ASSEMBLYMAN GIBSON: Let me invite up Sub Germanio. He is a farmer in the Belleplain area. Also has a lot of ground that has been zoned 39 acres plus.

S U B L I Z I O J. G E R M A N I O: My name is Sublizio J. Germanio from Belleplain, near Woodbine, New Jersey.

My father sold our development rights to the Farmland Preservation. This meeting is a lot more than just equity. Equity is No. 1. Our constitutional rights is No. 2. Our Constitution was not changed to allow

such a law to be passed. That means the law is treasoned against the property owners in the Pinelands area.

3. The law is fraud. The law has changed the value of our private property. For instance, farmland development rights sold in the Pinelands area are about \$400 to \$1200 an acre -- this is in Cape May County -- while farmland development rights outside the Pinelands law are about \$4000 an acre. Right outside the Pinelands area, Jack Wheeler's farm in Goshen, New Jersey -- their development rights were sold for almost \$4000 an acre while my father's farm was sold for \$1200 an acre.

4. The law is discrimination. I believe, because of the casinos in Atlantic City, the law was designed to force development close to Atlantic City in Hamilton Township and Galloway Township, for example.

5. New Jersey has a new law, the New Jersey Master Plan. In this law there is an equity clause. This clause states that every citizen in the State of New Jersey has equity for his property, except the people in the Pinelands area. If you look at a map of the new law, we don't even exist on there. And I based all of this on a conversation with Congressman Bill Hughes in 1987. I asked him personally why this law was passed. He couldn't give me an answer. He couldn't give me an answer. He said they were not supposed to make the laws -- the regulations as stringent as they did.

I think it was 1993 when we had the meeting about the enforcement bill in Atlantic Community College, when he gave his announcement that he was going to retire. He said that it was he and Florio who wrote the law. Before 1987, he says they weren't supposed to make the

regulations. Well, who is they? Him. So I think we have definitely been lied to by our congressmen.

And he also told me, "Hang in there." He had plenty of money appropriated to help the people in the Pinelands. So I never heard anything more about it till I spoke to this man John Merdes (phonetic spelling) or his aide. And we are speaking about the enforcement bill. I called several times, and one day I mentioned to him about the problem, or what I had spoken to Mr. Hughes about. And he said, "We got the money." I asked him, "What happened to it?" He said, "We just spent it in CAFR, \$16 million." They just spent it in CAFR.

ASSEMBLYMAN GIBSON: Thank you, Sub.

Assemblyman.

ASSEMBLYMAN CONAWAY: How many inquiries do you get from people who want to purchase the PDCs? I mean do you get one a month or a couple times a year? How does that--

MR. GERMANIO: We never had any inquiries about PDCs at all.

ASSEMBLYMAN CONAWAY: Are these things advertised? I mean how do you--

ASSEMBLYMAN GIBSON: We are going to probably have some technical answers to that. Save that till somebody from the Pinelands staff answers that, Assemblyman.

Thank you very much, Sub.

Assemblywoman Myers.

Let me-- Before I ask Assemblywoman Myers to contribute something, let me introduce Assemblyman Garrett, who is a member of the

Committee, who I didn't introduce earlier. He is from Sussex County. This Committee is composed from members of the New Jersey Assembly from various parts of the state, many of which have very important farming districts. Others not necessarily, but they have an interest based on their participation in the Committee.

Assemblywoman Myers.

ASSEMBLYWOMAN MYERS: Thank you very much. I certainly support the effort to compensate the farmers in the Pinelands. I supported this bill when it was heard in our Committee last session. But I would like to comment on the last testimony with a reference to the State Master Plan, sometimes called the State Plan, State Development and Redevelopment Plan.

There was an equity statement adopted at the request of the agriculture community in 1992 when the State Plan was adopted. And I represent an agricultural district in northwestern New Jersey, and we've been wondering what equity it was going to mean under the State Plan. It hadn't really become an issue until the Governor announced, I guess at her inauguration in January, that she would make implementation of the State Plan a priority for her second four years.

The State Plan is now being implemented. At the same time in northwestern New Jersey we have had rapid residential growth, which has caused a lot of burden on property taxes and schools are crowded, and so municipalities are desperately looking to rein in residential growth.

What I have seen in the last few months is-- I represent 45 towns. Municipality after municipality now is down zoning as we speak. It's happening on literally on a daily basis because the local officials have caught

on to the idea that if they down zone, they can rein in residential growth. At the same time the State Plan advocates are out there working with the municipalities telling them to form centers and environs. And you in the Pinelands can relate very well to this because the State Plan as envisioned is the same plan as you have in the Pinelands. Growth will be directed in some areas and not in others.

In one of my towns in the last few months, a company decided to buy some farmland and put a major commercial venture there. So that farmer made out. But then, because the State Plan is being implemented through the executive branch of government, when the municipality went in for State aid to facilitate the development on this piece, the administration said, "Well, fine, you can do this development, but then we are going to say the rest of the township should not be developed, and we will use transfer of development rights in the future. If any more development is to be permitted, you are going to have to transfer the development credits from these outlying farms into this already developed area."

So this bill presents an opportunity for my district, I think, as well as for yours. I think we need to look -- be proactive and look statewide at how we are going to handle farmland preservation, not only in the Pinelands, but with implementation of the State Plan.

I thought a little bit about it driving down in the car, and I know in conversations that I've had with the State Ag Development Committee staff and the CADBs in my district-- I have some farm proposals pending in this Committee, and I said, "Well, what about these appraisals? In order to estimate how much money we would need to set aside a given number of acres,

if we get this stable source of funding that we are all waiting for, could we reasonably estimate how much money we are going to need, or do we have to go through the appraisal process to do that?" And I was told that it is very easy to estimate how much money you are going to need.

We've had a Farmland Preservation Program now for 15 years. And so, as you have heard the figures thrown out today, we already know by county how much development credits are worth. And I would like to suggest that the SADC look at possibly setting those values by county so that not only in the Pinelands, but in my areas, where farmers are being down zoned and one guy is making out like a bandit and the next guy is losing out totally, we stop basing our decisions on zoning.

It's not our fault that historically everything has been -- all the values have been based on zoning. Now, in addition to down zoning as a way to rein in growth, we are also seeing capacity-based zoning. Capacity-based zoning is what I believe Mr. Franceschini, from the Atlantic County Board, was talking about with the 3.2 acres. Well, the problem with doing it that way is that some farmers are going to get caught because, under the newly and highly technical environmental laws and analyses, some farmers are going to get down zoned based on capacity-based zoning a lot more than others. And is that fair?

So we really need to look at a fairness issue, I think, across the state. I'm throwing out one idea. Maybe in the coming weeks, I hope, we can move rapidly on this issue because we all want to be prepared to take advantage of this funding that I hope will be available. We can extend the Assemblyman's bill and make it really meaningful to farmers throughout this state.

Thank you for the opportunity.

ASSEMBLYMAN GIBSON: Thank you, Assemblywoman.

C. Edman Budd, would you like to share some-- Come on up and present your--

Good afternoon.

C. E D M A N B U D D: Good afternoon. I'm from Southampton Township, and I've been in the cranberry business, or the family has, for over 125 years. And I'd like to bring to the Committee's attention, if it weren't for the farmers in the Pinelands, there wouldn't be any Pinelands today. I'm in the woods all the time, and there is development going on in the Pinelands. We just had one come in, in our township, and the developer had plenty of money and a good legal staff, and he got his rights in the Pinelands and everybody else.

But another concern is the guy that has ground in his family for many years in the Pinelands and he wants to build a house for his family to get started in. His cost is phenomenal. We have a fellow who works for us. It cost him over \$18,000 just to get the permits in the Pinelands to build a house. Now, to me that is just robbery, no other thing about it.

When the Pinelands Commission first was being put together, they had meetings down in Mount Holly and all over the area, and it was just rammed down our throats. We had nothing to say about it really. It was all cut and dry before the meetings were even taking place. And I think the Pinelands Commission should get some people on it that's got some thoughts for other people who are in the Pinelands.

They meet in our township in Southampton, and I've been to some of their meetings. And the attitude of some of those people is disgraceful to be in a position they are. And that's all I have to say.

Thank you.

ASSEMBLYMAN GIBSON: Thank you for your comments.

I need my glasses. What did I do with them?

James Grovatt from Tabernacle Township.

Good afternoon, James.

JAMES GROVATT: Thank you very much.

My name is James Grovatt. I live in Tabernacle Township. I'm on Township Committee in Tabernacle, and I was born and raised in Tabernacle. I love Tabernacle like the rest of the residents do.

The values-- One of my major concerns is the values of our property. The values of our property are -- they are not assessed properly. How these are brought about I'm not sure, except I do know that we need a different formula in the Pinelands. We have a farm that's in the core of the Pinelands, not the preservation, not the edge. We are in the core of the Pinelands. The statement that Assemblywoman Myers made -- I think she is on the right track. There has to be a difference in the way the areas are zoned. There has to be a different formula. I'm not sure how it's going to be set up, but a lot of thought has to go into it.

One side of the road, you know, is 39 acres for a house, and the other side of the road is 3.2. I mean how can you say one side of the road the value is \$500 an acre and the other side of the road it's \$1100 an acre? And that's -- I mean that's bogus no matter how you look at it.

On my tax bill for a building lot -- a one-acre building lot -- is \$30,000. We have building lots in Tabernacle Township that sold for over \$100,000, and this happens all the time. A building lot can be anywhere from one acre to thirty-nine acres, but still there are one-acre lots that are being sold for \$100,000. These lots were approved before the Pinelands. Now how can you say that our values are \$500 an acre?

Now you want to talk about preservation of farmland. Like I've heard here, the farmers have preserved the farmland in our township for hundreds of years. The farmers have done it. We haven't needed anyone else to preserve it. But at the same token, a farmer farms his farm, he loves his farm, but his farm now is worthless. It's absolutely worthless. Go to the bank and try to borrow money to work on. They'll say, "Where are you located?" "We're in the Pinelands." "Well, maybe the guy down the street can help you."

We don't want to build our farms; we want to farm them, we want to keep them farms. And it's just a shame that our county pays as much for these bonds for farmland preservation as every other county. But you know what? Only one-third of our county can even be accepted in this Farmland Preservation because two-thirds of our county is Pinelands. And it's a shame. We have to pay our fair share, but we are not eligible for anything.

The credits -- your building credits -- they are a joke. When they start to talk about them, I don't even want to hear it. We have people come to us in the township, and they want to build a house -- 3.2 acres. They are in a preservation. Well, they have a little bit of wetlands on their property, so now they need a credit or a half of a credit. They go to Pinelands to buy a

credit, and a credit costs them \$14,000 to buy a credit, but yet they can still build on the same property as long as they pay \$14,000. Now, does that change their septic at all? Does that change any more water or any less water going in that 3.2 acres? No. But they have to pay \$14,000, so it's okay to be done.

As a township, we had some big parcels of property that we thought, well, maybe the property is pretty worthless property, it's wooded property. So we figured, well, let's go about and see if we can sell our credits, so this way the township can recoup a little bit of their expense. When our attorneys looked into it, we'd pay more in attorney fees than we'd get out of it for the Pineland credits. So what a joke. I mean it's just a big, big joke.

I won't keep you too long, except a different formula has to be-- You know, we deserve fair compensation for our land. I also know there is a law that any property taken for public use -- excuse me -- any farmland taken for public use must be purchased for fair value. Where is the fair value? There is no fair value. Our property was taken, it was not purchased, and it is for public use. Pinelands is for public use.

There are several farmers in our area who have started to get wise to the fact that they've got a little money. They've got a hold of the right attorneys. They are finding the loopholes. There are different procedures right now that we have been approached as a township that they can do. And you're going to start to see some of these farms dwindle here and there, and it's a shame because these farms should be preserved. But the people can't take this kind of money -- this value at \$500 or \$1100 an acre. It's pathetic.

Preservation. I would like to ask each and every one of you, is this preservation? Is this preservation? You look out, you see walls. Is this preservation? No, this isn't preservation. I'll show you preservation. You should have contacted me, and I would have set our town hall aside, and we could have fit everybody in it. I would have showed you preservation -- farmland preservation. I would have showed you some of the most beautiful farms in the state, but yet they're valueless. I don't know how you can say they are valueless. Somebody is really off the wall.

I feel that it's -- one day that this Pinelands will be broke, and it's going to be broke. Nothing is too good that it can't be broke, and it's going to be broke by some attorneys -- some smart attorneys -- some big money. When it does, well then, the farmlands are going to go, and I don't think they should go. I think they should be preserved. All the farmers in our town would like to see them be preserved, but at the same token, they don't want their value taken away.

ASSEMBLYMAN GIBSON: The point that your testimony just is-- The zoning -- as long as the zoning is in place but acquisition and farmland preservation is forever.

MR. GROVATT: Exactly, exactly. Farming is in place. We can't downgrade our zoning like some other towns can. We can't downgrade. Everything has to go through the Pinelands. We can't even build a high school in our town.

ASSEMBLYMAN GARRETT: Mr. Chairman, can I just ask one clarification?

ASSEMBLYMAN GIBSON: Certainly. Assemblyman Garrett.

ASSEMBLYMAN GARRETT: In the situation where you said the individual who has brought their credits for \$14,000--

MR. GROVATT: Yes.

ASSEMBLYMAN GARRETT: --is what he did was he bought the credits through the system from a farmer--

MR. GROVATT: Through the system, through the Pinelands.

ASSEMBLYMAN GARRETT: --that previously had sold--

MR. GROVATT: Now, the Pinelands will take -- they will take areas in the Pines -- wooded area -- and they will designate that. They will deed restrict that, and then they sell the credit.

ASSEMBLYMAN GARRETT: And who owns that property?

MR. GROVATT: A lot of it's Pinelands. Pineland owned or State owned.

ASSEMBLYMAN GARRETT: State owned. So they are basically assigning that value to their own State-owned property.

MR. GROVATT: Yes, yes.

ASSEMBLYMAN GARRETT: And so the \$14,000 in that hypothetical is not going back to another farmer that--

MR. GROVATT: Exactly, exactly. Nobody will sell it because it costs them too much and they get nothing out of it.

ASSEMBLYMAN GARRETT: And so who actually pockets that \$14,000?

MR. GROVATT: It goes to the Pinelands. The Pinelands can designate-- They designate, yes, you have to pay this -- you have to pay it to the Pinelands to get your credit.

ASSEMBLYMAN GARRETT: But then where exactly-- Forgive me.

MR. GROVATT: Where the money goes? I have the faintest idea where the money goes.

ASSEMBLYMAN GIBSON: There is a Pinelands Development Credit Bank, and we'll have somebody from the Pinelands towards the end that can answer your technical question, I think, Assemblyman.

Thank you.

MR. GROVATT: Thank you.

ASSEMBLYMAN GIBSON: Roger Kumpel.

ROGER KUMPEL: I'm Roger Kumpel from 136 Pemberton Road, Southampton, Burlington County.

I'm operating -- my wife and I are operating and our family -- we are operating a third-generation farm, which was her grandfathers, then her fathers, and now it's down to our level. My son is in place -- he farms with us as well, and I have grandchildren coming along. We have several problems.

First of all, we are not against the Pinelands as it's so to be. It's a good idea, but we need to be compensated for what they removed from us. We were basically put into farmland preservation to give us the restrictions, but they forgot to send the check is what it amounts to. (laughter)

Anyhow, I just in the past year have attempted to set a lot aside for my daughter. She was on a farm with us, and she got married and moved away, 35 to 40 miles. We need her because we have a roadside farm stand that my wife and I and my family -- we operate. We need more help. We have expanded, so we are trying to get her back. Well, a year ago we started the

process with the Pinelands, and part of it is some of our fault, but we've been through lawyers, we've been through surveying. We're a year later, and we still don't have all of the okays. And this thing could go on, and we are going to have somewhere in the excess of \$10,000 or \$15,000 as it stands right now just to get the approval. And that's not counting septic. But we may have to do something crazy because the wetlands is a little different in the Pinelands from outside the Pinelands, and my farm, I want to say, is less than a mile from two borders. We are on the northern corner of the Pinelands, 206 and South Pemberton Road area.

So basically we are just concerned that the appraisals of this-- And I would like to say I thank you for this bill in the making. I think it's a real step forward. It's something that we've needed for a long time, but we've almost-- A lot of us older fellows and even older than myself -- we've almost given up. We thought we were in Russia but didn't know it. So now we have come to realize that some good things can happen, and maybe we will see it happen.

There, again, I would like to say that I hope that the appraisals, when they are done, if this thing becomes reality, will be done with the thought if you move that line -- that imaginary line -- that you drew with a stroke of a pen -- put us back in the open market again, and you'll see what the value of our farm is, and then we'll work off of true values, not leave that line in place and say that we're already restricted. We don't have to worry about these people because they are going to take what we give them because they are already there. That's my concern, and I ask you to consider us in that way.

I would just like to say thank you to all again. I appreciate the chance to be here.

ASSEMBLYMAN GIBSON: Abbott Lee, New Jersey State Board of Agriculture.

Good afternoon, Mr. Lee.

ABBOTT W. LEE: Good afternoon, Chairman Gibson and members of the Committee. I am again Abbott Lee, a member of the New Jersey State Board of Agriculture representing the fruit industry. On behalf of the Board, I want to thank you for the opportunity to participate in the discussion of the status of the Farmland Preservation Program in the Pinelands and ways to increase participation in that Program.

In order to give the State Board of Agriculture's perspective on this important issue, I must refer to the adoption in 1979 of the Pinelands Protection Act. The Act mandates adoption of the Comprehensive Management Plan, or the CMP, which was accomplished in January of 1981. The Comprehensive Management Plan restricted most development to the regional growth areas of the Pinelands. In particular, it placed restrictions on the development of agricultural lands, thereby stripping farmers of significant portions of the equity in their land.

These limitations on development and the use of agriculture and the use of undeveloped lands in the Pinelands devalue those lands, which also enhance the current value of lands in the regional growth areas in the Pinelands.

The Pinelands Development Credit Program was adopted as an integral part of the Comprehensive Management Plan. The goal of the PDC

Program was to add back some value to the land in the preservation area, Agricultural Production and Special Agricultural Areas, where development potential and land use has been restricted by the Comprehensive Management Plan.

The allocation of PDCs was essentially one PDC per 39 acres for uplands in the preservation area, and two PDCs for 39 acres for uplands and active agricultural lands in the Agricultural Production and Special Agricultural Production Areas. The problem in this is that the initial market value established for the PDCs was so low that it did not reflect the development value lost by those landowners.

Recognizing that the PDC Program was not working effectively, the Legislature passed the Pinelands Development Credit Act in 1985. That authorized the Bank Board to purchase PDCs to partially offset hardships. The purchase price in this case was to be not less than \$10,000 per credit. Even with the Bank's purchase of PDCs, the development value was roughly worth only \$500 per acre for active farmland, a nominal amount for the loss of development rights which occurred on such lands.

The value of PDCs has fluctuated over the years but has never reached a level which reflects the rightful development value of the agricultural lands. In addition, the underutilization and lack of market ability of PDCs has kept the value from keeping pace with the increase in the land value in the growth areas. Even at today's market value of approximately \$14,000, the PDC has equated to only \$700 per acre for the limited sale that has taken place.

In the Pinelands, the appraised value of development rights usually approximates the value of the PDCs allocated to the land. Therefore, the

underlying value of the PDCs is critically important to the potential participation in the Farmland Preservation Program.

Ideally, the value of the PDC should equal the difference between the development value and the regional growth area minus the land's agricultural value. In reality, the underutilization of the PDCs and the residential development project has kept the PDC value low. That low PDC value effectively prevents agricultural landowners in the Pinelands from participating in the Farmland Preservation Program because of the value of the development rights is considerably below the value of the development rights just outside the Pinelands area.

If we are to encourage and increase participation in the Farmland Preservation Program among Pinelands farmers, the PDC Program must be reshaped to address the undervalued PDCs to improve their market ability and to allocate PDCs more fairly.

Since its adoption 18 years ago, the agricultural community has continually expressed its concern over the impact of Pinelands Comprehensive Management Plan has had and continues to have on agricultural land values.

The concern is reflected in the Statewide Policy Statement No. 1 in the State Development and Redevelopment Plan, which stresses the need to protect and maintain the equity of all citizens. Consideration of landowners' equity has never occurred in the Pinelands, but it must occur if the farms in the Pinelands are to participate in the Farmland Preservation Program. Assembly Bill No. 2373 provides one approach to expand farmland preservation participation in Pinelands. Other efforts though are needed, however, to obtain an appropriate level of compensation for

development rights on agricultural lands in the Pinelands. The inequity has existed for nearly 20 years. It cannot be corrected without help from the Legislature. The open space bond initiatives currently being pursued may provide a means to enable some compensation for past failure of the PDC value to keep pace with the development values in nonrestricted areas.

And I would also just deviate from my written comments here but to say that it's my personal belief that the State and I applaud you for being here today because obviously that's why we are here. But the State should, first of all, acknowledge old debts before acquiring new debts when it comes to preserving open space. And that after acknowledging those debts, those new debts should be the first to be paid. When you talk about acknowledging debts in the Pinelands, you have to consider acknowledging the debts on open space that has been zoned and not just farmland. Yes, that farmland is very important, probably more important, but we also have to think about the open space.

But in funding this fix, those funds should definitely not come at the expense of the Farmland Preservation Project for open space in the Pinelands. Also, the Pinelands Commission should be required to correct or enhance the PDC Program so that it will operate in a correct or enhance the PDC -- excuse me. Also, the Pinelands Commission should be required to correct or enhance the PDC Program so that it will operate in an equitable manner in the future. The allocation of PDCs be addressed and the market for PDCs must be improved.

Once again, on behalf of the New Jersey State Board of Agriculture, the New Jersey Pinelands farmers, I thank you for the opportunity to address your concerns on this important issue.

Are there any questions?

ASSEMBLYMAN GIBSON: Assemblyman Conaway.

ASSEMBLYMAN CONAWAY: The-- You mention that the determinate market ability -- that you should use the value in the regional gross zones. But you also commented prior to that that the values have been enhanced in that area. So wouldn't you get an overvaluation if you used the value of the land in the regional growth areas?

MR. LEE: The previous statement indicates that the value in the regional growth areas within the Pinelands was enhanced at the cost of the area that has been preserved.

ASSEMBLYMAN CONAWAY: That's right.

MR. LEE: Okay.

ASSEMBLYMAN CONAWAY: But if you use that to peg the values for the land in the -- for the new land outside the growth areas, if that's artificially inflated, aren't you going to get an artificially inflated price?

MR. LEE: No, because that value is worth what it is in those growth areas because of what? Because of the Pinelands. Because the esthetic value of the Pinelands. So if something has a value, it should be compensated for. It is what it is. I mean it's a precious area, and I think as farmers and those of us that have lived in those areas for generations -- I think we recognize that, and we are grateful that it is being preserved.

ASSEMBLYMAN GIBSON: Thank you very much for your valuable testimony.

MR. LEE: Thank you very much.

Charles Bylone, farmer from Buena Township.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Would you speak into the mike, please.

ASSEMBLYMAN GIBSON: Charles Bylone. He is a farmer from Buena Township. He is also on the Board of Trustees at the Vineland Produce Auction -- President of that or something like that.

CHARLES BYLONE: Thank you.

ASSEMBLYMAN GIBSON: Charlie, good afternoon.

MR. BYLONE: I wish to thank you for the opportunity. I didn't really come here this morning with the idea that I was going to make a statement or speech. I've been involved in the Pinelands ever since it started, and that's going back 20-some years. I was on the legislative committee, and we informed the 52 municipalities to be involved to review this Pinelands Act and to see if we could voice our opinions or our suggestions on how to improve it or to make it better.

But that certainly, and as you heard Mr. Rizzotte refer to it-- We couldn't get a quorum, I think, out of the 52 municipalities that sit on that board to review that and have a quorum to come in and get any suggestions to the Legislature on how each municipality felt about the Pinelands. And certainly that gave a sort of a shot to the Pinelands that says, well, they aren't interested, so we must be doing the right thing, and they took it on from there.

I live in Buena Vista Township. The township I live in is about 8 percent developed and about 90 percent vacant and farmland. So you see that most of the things that you heard here today are problems that we have in Buena Vista Township. And I think tonight there is going to be a meeting there with the same questions being asked as you hear today.

One of the things that I would want to say that I was on the Agriculture Development Board, and one of my pet peeves was that it was to raise the equity in South Jersey to get our farmlands assessments so that we could really take advantage and put our farms into the farmland assessment program.

As you know, or may not know, if you look at statistics, \$178 million is produced in vegetables in the State of New Jersey. In the six southern counties that we represent at the Vineland Produce Auction, which I am President of the Auction, we produce about almost \$70 million, or not quite one-half of that, in the six southern counties. So you can see the importance of our southern New Jersey being involved and having its farming community really established and kept ongoing in the marketing end of it.

I would say this: that we would like to, in South Jersey, get our equities up to where they are as you heard before incomparable with some of the North Jersey assessments. (*sic*) I'm in favor of Mr. Gibson's bill. I think that he is on the right track.

You heard Mr. Francesehini talk about down zoning, and we heard some of the problems that that may create. But I think we have to go in some method to get the equity up in our farmers. And I know this and I will say this

to you, that if you preserve the farmer in South Jersey-- You are not preserving land, but you are also preserving the farmer.

Thank you.

ASSEMBLYMAN GIBSON: Thank you, Charles.

I purposely saved John Stokes' testimony until last because there is a lot of technical questions that perhaps he can address when he comes up. And Assembly members of the Committee may have specific questions for John.

So, John-- I hope you are still here.

JOHN STOKES: I'm still here.

ASSEMBLYMAN GIBSON: Okay. He is with the New Jersey Pinelands Commission, and he specializes in the land issues.

We also have Greg Romano, that remained from the Department of Agriculture, that's available to answer some questions but not necessarily for any formal testimony.

Good afternoon, John.

MR. STOKES: Good afternoon, Assemblyman. I am going to keep my remarks hopefully very brief, and then I will try to respond to any questions that Committee members may have.

Let me start by mentioning that the Pinelands Commission has a very real interest in what this Committee is doing. There are several members of the Commission here learning, as I am today, and I'd like just to take a minute to introduce them. Steve Lee, Joe Kuwolski, Jay Munay (phonetic spelling), and I might add that we have a nominee to the Commission here with us today. Hopefully she will be joining us shortly, Lynn Atkinhoff.

I'd like to mention three primary things. One, we look forward to the legislation that you are considering. As Assemblyman Gibson knows, we have been working with him and the Department of Agriculture and the State Agricultural Development Committee on some program for the last several years. We think it's important to try to make the Farmland Preservation Program more attractive to farmland owners in the Pinelands.

And the purpose, though, is not just to increase the dollar returns to those farmers; although, that is an important consideration. But we also, as I think several people have mentioned today, end up with more permanently preserved land. I think Assemblyman Gibson mentioned that zoning is a temporary measure, not a permanent measure. And the Farmland Preservation Program offers us that permanent solution. So we welcome any legislative action towards those ends.

Secondly, we've heard stories about the Pinelands Development Credit Program today. Our Commission is very serious in working to try to and find ways to improve the Program. About 16,000 acres have been preserved permanently through the Pinelands Development Credit Program, about 6000 of that in our agricultural areas. But the Program isn't perfect by any stretch of the imagination, and we'd like to see it improved in two primary ways: one, I think all of us would like to see more PDCs, more development rights, used each year; and, two, we'd like to see the values increased. And our Commission is serious about trying to move ahead on those initiatives.

And, thirdly, there are two other permanent acquisition -- permanent protection programs that work in the Pinelands. We have what I would refer to as our regular Pinelands Acquisition Program, which has served

to protect more than 100,000 acres of land to date. We have plans on the drawing board for 20,000 more acres of land. And, of course, as these lands would be purchased, they would be purchased from property owners at their fair market value.

The stumbling block at this point is lack of money, and we receive not only Federal funding, but also Green Acres money has to be used to match those Federal funds. So we are very hopeful that through this Committee's action and hopefully through the referendum this coming November that we might be able to receive some additional support to carry on that Program.

We also have a program that's designed to purchase property from small property owners whose development options on that property have been limited. We have recommended to the Department of Environmental Protection so far to purchase 250 of those properties. That is an ongoing program, and again that's also a program that would benefit from support in the future.

I'd just like to wrap up by saying that we look forward very much to working with this Committee to try to find ways to further all of those programs and all of the objectives, which I think we all share, and it's just a matter of finding the best way to accomplish them.

Assemblyman, I will be happy to answer any questions.

ASSEMBLYMAN GIBSON: Thank you, John.

Any questions remain from members from the Committee?

Assemblywoman.

ASSEMBLYWOMAN MYERS: As I understand it, the PDCs have not been required for use in the growth areas.

MR. STOKES: That is correct.

ASSEMBLYWOMAN MYERS: Well, why have them if they aren't required to be used?

MR. STOKES: It's an optional program, Assemblywoman. There is what we call a based density. There is an amount of development that can occur without the use of these development rights. If a property owner wants to develop their land more intensively, then they purchase the rights for that -- for that right.

If, for example, I own a piece of property in a zone in most of our regional growth areas, let's say, there would be a base -- what we call base zoning -- of one home per acre. You might be able to increase that density to two or three homes per acre if you purchase development rights. But if you develop the property at that one unit per acre, then you would not require a--

ASSEMBLYWOMAN MYERS: And this base zoning happened when? Most of it dates to--

MR. STOKES: Well, the base zoning is established by the individual municipalities according to a general formula that is outlined in the Pinelands Plan. Most of the zoning was established by towns probably in the early to mid-1980s. Towns do adjust it periodically.

ASSEMBLYWOMAN MYERS: So after the Pinelands Act was passed.

MR. STOKES: Yes, that's correct.

ASSEMBLYWOMAN MYERS: But since there haven't been hardly any development -- not that many development credits used, and I guess there is no demand to increase the densities beyond the base zoning.

MR. STOKES: We do have developers that wish to develop at higher densities. The question is obviously, if the base densities were lower, then there would be more purchase of PDCs, of course, on that exact cost from the development community, and many in the development community have not been in favor of that.

ASSEMBLYWOMAN MYERS: Well--

MR. STOKES: I'm not trying to take, you know, that position.

ASSEMBLYWOMAN MYERS: But we have just heard for the last hour the cost to the agriculture community, and I think maybe the tide is turning, and everyone realizes it's time for the development community to be absorbing this cost.

MR. STOKES: And that's one of the things that our Commission is looking at right now, ways to improve and enhance PDC use. One of those ways would be to insist on a greater level of use for residential development, but there may be other ways that it can be increased as well.

ASSEMBLYWOMAN MYERS: Thank you.

Assemblywoman Buono, first.

ASSEMBLYWOMAN BUONO: I just had a few questions. You had mentioned that there are two other Pineland Acquisition Programs.

MR. STOKES: That's correct.

ASSEMBLYWOMAN BUONO: Could you elaborate a little on how would-- Since I know one of them had already said-- I assume both of them must have to rest upon appraisals, so would Chairman Gibson's bill impact on those as well? I would assume so.

MR. STOKES: Well, I think Assemblyman Gibson mentioned that there are really a couple of different aspects here. We have Farmland, which is obviously a critical component of the Farmland Preservation Program and also our Pinelands Credit Program. But we also have forested open space. The regular Pinelands Acquisition Program generally has been targeted to conservation area, critical ecological areas. While there have been some farms purchased under that, they've been fairly limited. So most of that is directed at open space.

I don't know if that answers your question.

ASSEMBLYWOMAN BUONO: So I would assume they would still be impacted by the Chairman's bill, or no?

MR. STOKES: Well, the Chairman's bill, as I understand the bill right now, is drafted solely to apply to the Farmland Preservation Program. But I think, as he indicated, it -- I think this is a starting point, and I think as Assemblywoman mentioned, there might be a need to expand it beyond that.

ASSEMBLYWOMAN BUONO: Because I certainly take great pleasure in hiking in the Pinelands, so I think that that is also an area that's a great importance in preserving.

We're talking about the other Pinelands Acquisition Programs that he had referred to. I was asking how your bill would impact on that, and he said it wouldn't right now.

ASSEMBLYMAN GIBSON: And he answered correctly. It's a beginning point, and we want to expand it in several directions.

Were your questions answered?

ASSEMBLYWOMAN BUONO: Yes, thanks.

ASSEMBLYMAN GIBSON: Assemblyman Garrett.

ASSEMBLYMAN GARRETT: I'm the other attorney here, but I'm from Sussex County.

ASSEMBLYWOMAN BUONO: You admitted it.

ASSEMBLYMAN GARRETT: Excuse me.

Well, I'm just a poor country lawyer from Sussex County, so I'm not sophisticated.

ASSEMBLYWOMAN BUONO: Well, I don't practice that, so there. (laughter)

ASSEMBLYMAN GARRETT: I remember when the Program was first introduced in the time that I was in school. At the time when I attended our county board of ag meetings up in Sussex, we had great-- There was great talk of the Program, and I was one that was initially sold on the idea that this was going to be a great thing for South Jersey and someday maybe we can even see this up in Sussex County to preserve the farms up in Sussex and it would be great for us. Thank God that never happened in my county. (laughter)

That's a concern. I mean I was a little bit taken back by the one comment. Maybe I misunderstood as far as not all the towns coming out at the time -- initially that all 52 towns -- in their support. Maybe I misunderstood that. I know we're-- Sussex County has twice now in the State Master Plan has cut them up for cross acceptance. I think our county was a county that has been most vocal opposed to it and had every single county -- every single municipality and the county freeholders and chamber being opposed to the State Master Plan because it is a-- What I see this Program is --

and I may be wrong, counselor, but I see this as an unconstitutional take in property rights, which I--

ASSEMBLYWOMAN BUONO: Yes, I wasn't in the Legislature-- If I may, through the Chair. I'm trying to figure how it was ever passed -- how it ever passed legally, to tell you the truth.

ASSEMBLYMAN GARRETT: And that's something that--

ASSEMBLYMAN GIBSON: You won them over it sounds like.

ASSEMBLYMAN GARRETT: And that's something that maybe, you know, as we-- I'm not sure how we are going to do this as a Committee. I guess, I know we take on a number of issues in this Committee, but that is something that might be an interesting hearing on -- is to reexplore this entire issue and reexplore the State's involvement in this and the constitutionality of it. I think it's something that-- I wasn't around back then when it happened. I was just a kid in school. But I think it needs to be reexplored.

In the meantime, until we do that-- I don't know, how long have you been on with the board?

MR. STOKES: I've been there almost since the beginning, not quite. But for quite a few years.

ASSEMBLYMAN GARRETT: I was hoping you would say you only came on in the last six months because then my next question is what I'm hearing from the people today is what I've heard for the last 10 years all the way up in Sussex County, which is, by the way, four hours away by hook or crook or as the crow flies. And if we've heard it up there for like the last 10 years, I'm wondering why is it at this point that the board is now saying, "Well, we are going to look to see what we can do now to reexplore this issue."

With all due respect to the people who testified, a number of them are a little bit older than I am, and I know the age of farmers in the state is quite high, and I know the number of the people who testified here are getting near retirement age. And I must wonder how many farmers have we lost physically, emotionally, and otherwise because of this Program and why the board hasn't been looking at this, not just now, but for the last 20 years, to try to do something-- (telephone rings) Maybe that's somebody from the board back then that can answer that question.

One example that was raised was the issue about the \$14,000. Maybe you just answered that technical question, first of all, and then go back to these other questions.

Where did that \$14,000 go to?

MR. STOKES: It goes to a property owner. The Pinelands Commission receives no funding. The development rights are bought and sold almost exclusively on the private market. I don't know the particulars of that case, but we have instances every year where development rights for a developer -- a developer pays a property owner for the development rights, and that's a purely private transaction.

ASSEMBLYMAN GARRETT: So without knowing particulars in that case, we can assume that was \$14,000 that went to a farmer.

MR. STOKES: I can't even assume the \$14,000, but I think it is fair to assume at this point, yes, that the transaction occurred between two private parties and a property owner benefited from the purchase.

ASSEMBLYMAN GARRETT: Now, another figure we heard, and maybe I'm hearing this wrong, was a figure of about \$18,000 is someone had

to pay in order to go through the process of acquiring the permits and what have you. Now, you heard that testimony?

MR. STOKES: I do recall.

ASSEMBLYMAN GARRETT: Now, that's not talking about \$18,000 going to some other property owner. That's \$18,000 to go through the--

MR. STOKES: Well, I don't know. I think you might want to ask the person who offered that. But I understood the testimony to be that because they had to hire experts, engineers, architects, planners--

ASSEMBLYMAN GIBSON: Yes, there is not permit fees. That would probably be for professional help.

MR. STOKES: Then it costs them \$18,000 to get their approvals.

ASSEMBLYMAN GARRETT: Okay, in order to get my approval, as I said, before I even hire my engineer to put the septic in the ground, I have to pay a bunch of other lawyers and experts and what have you in order to do it.

MR. STOKES: Well, actually, probably about 80 percent of all of the people who receive permits in the Pinelands do so without any representation by an engineer or planner or attorney. By far the majority of people who pass through our office are individual property owners that own a lot and want to build one home, and most of them can do that without engaging an engineer for our purposes. Now, if for example, ultimately they are going to install a septic system, they have to have an engineer draw up those plans.

Having said that, there are people who do run into problems with us. And in some cases, it may have to do with the characteristics of their property. I'm not going to sit here today and suggest, you know, that we are absolutely perfect, that our folks don't make mistakes themselves and people get hung on.

ASSEMBLYMAN GARRETT: Well, I'm confused then. Why do we hear of a couple of farmers who say they want to have their son and their daughter come and build a house on their property-- Why are they having-- Why are they telling us stories of such a hard time to be able--

MR. STOKES: I'm not familiar with the individual cases. I know that there are many--

ASSEMBLYMAN GARRETT: So that's not ordinary then?

MR. STOKES: Well, there are many people who absolutely do wish to build homes for their children, and there is a specific provision in the Pinelands regulations that allows that to happen for people who have owned property in the Pinelands for a long period of time.

Beyond that, Assemblyman, I can't comment on the specific cases here because I am just not familiar with them. I wish I were.

ASSEMBLYMAN GARRETT: One last question then. Are you satisfied with the makeup and the appointment process of the board?

MR. STOKES: Well, since I work-- They are my employers. (laughter) I think it's probably not my place to comment on that.

ASSEMBLYMAN GARRETT: Well, I'll leave it at that, Mr. Chairman. I commend you for having the hearing down here and opening my eyes to what the rumors we hear up at the other end of the state and suggest

that this be explored as far as the -- a look back to see exactly how we ever got to this point in the first place.

ASSEMBLYMAN GIBSON: Thank you for your trip, too.

Assemblywoman Myers.

ASSEMBLYWOMAN MYERS: Yes, I just have a quick comment on the takings issue, and I want to preface it by saying I am not an attorney. But this is an issue that has come up in many other states. New Jersey is not unique in trying State Master Plans, down zoning, capacity-based zoning -- all of those kinds of things. Oregon, Maryland, and Pennsylvania -- I've looked at programs across the country, and there have been numerous court decisions that pretty much say-- And I'm happy to be corrected by any attorney who knows more than I do, and I'm sure there are a couple in the room. But if you are left with some use of your land, then it is not a taking.

I want to bring this up just because I want to encourage you not to emphasize that road. There are many roads that we can go down in this debate but I think the fact that farmers historically have depended on the equity in their land for -- what's the word? -- to leverage your mortgage, your operating loans, your equipment loans. In many cases it's your only pension. The fact that New Jersey historically has been the Garden State, especially with our position between New York and Pennsylvania. And we have a chance to remain the Garden State if we preserve our farms.

Those kinds of issue are public policy issues that we as a Committee, whether we are lawyers or not, can deal with and I think advocate for on your behalf.

ASSEMBLYMAN GIBSON: I think that completes the hearing today. Let me certainly thank everyone that has come forward to testify. It was done very clearly, very orderly, and the Committee was very impressed. I also want to thank the members of the Pinelands Commission who took their time to hear this firsthand. I think we have a far more sensitive Commission today than we may have had some years past, and I thank you gentlemen for being here.

I also want to thank Chief of Staff, Becky Facemyer from Speaker Collins's staff. He will be preparing the implementing legislation should the voters, as I hope they will, support the open space issue this November. So that will include much of the influence by much of what was heard here today.

And certainly, last but not least, members of this Committee, I thank you very much for your attentiveness today, the long trips that many of you made, and what I hear is a very sympathetic set of ears.

Thank you, everybody. The hearing is closed.

(HEARING CONCLUDED)

