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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
DEMOCRATIC COMMITTEE

THE GENERAL ASSEMBLY OF PENNSYLVANIA  
LOCAL GOVERNMENT COMMITTEE

HOUSE BILL NO. 2662  
Session of 1994

ORIGINAL

City Council Chambers  
100 South Queen Street  
Lancaster, Pennsylvania

September 14, 1994  
10:20 a.m.

PRESENT:

- REPRESENTATIVE FRANK J. PISTELLA, Chairman
- REPRESENTATIVE LAUGHLIN
- REPRESENTATIVE ADOLPH
- REPRESENTATIVE GERLACH
- REPRESENTATIVE FICHTER
- REPRESENTATIVE SNYDER
- REPRESENTATIVE STEIL
- REPRESENTATIVE STURLA
- REPRESENTATIVE RUBLEY

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1           THE CHAIRMAN: The 10:00 session of this  
2 meeting of the House Bill 2662 of the Local Government is  
3 reconvened. I'd like to begin by introducing the members  
4 that are present today.

5           Starting on my extreme right-hand side, Representative  
6 Pat Vance. To her left is Representative William Adolph.  
7 To his left is Representative John Fichter. On my extreme  
8 left is Representative Thomas Armstrong from Lancaster  
9 County and to his right is Representative Leo Trich and I  
10 believe sitting to his right is going to be Representative  
11 Michael Sturla, our host member today from the City of  
12 Lancaster, and I believe to his right will be  
13 Representative Jim Gerlach, the gentleman standing with the  
14 blue Oxford shirt on.

15           Our first witness to present testimony this morning is  
16 Joanne Denworth, the President of the Pennsylvania  
17 Environmental Council.

18           MS. DENWORTH: Good morning, Mr. Chairman,  
19 members of the committee. Again, with the time restraints,  
20 I will read the first half of my testimony and summarize  
21 the recommendations.

22           I am Joanne Denworth, President of the Pennsylvania  
23 Environmental Council. The council is a statewide  
24 nonprofit membership organization devoted to education,  
25 advocacy and action for the conservation, I think I can use

1 that word, and improvement of Pennsylvania's environment.

2 We define the environment broadly to include the  
3 quality of life in communities that work for people, and  
4 therefore, to include issues such as the integration of  
5 jobs, transportation and housing in livable communities, as  
6 well as the protection of Pennsylvania's magnificent  
7 natural and heritage resources.

8 Recognizing that land use is where many economic and  
9 environmental issues intersect, the Council has been  
10 concerned with land use and development issues for many  
11 years.

12 In 1989, we convened a growth strategies task force,  
13 representative of the diverse interests across the state,  
14 to consider better ways of coordinating and integrating  
15 land use decisions in Pennsylvania.

16 The task force developed and, in 1991, adopted a  
17 statement of principles that was endorsed by at least 35  
18 organizations representing over 250,000 people.

19 The council has also worked to assist local  
20 governments in planning and regulating by providing  
21 technical assistance using its award winning handbook,  
22 Guiding Growth, Building Better Communities and Protecting  
23 Our Countryside, published in 1992 and updated in 1993. I  
24 see it says I brought some for the committee but I failed  
25 to do that but I will make those available.

1           We have certainly welcomed both reports of the House  
2 Select Committees on land use and growth management and  
3 have endorsed their recommendations.

4           I am here today to testify in support of House Bill  
5 2662 with recommendations for amendments that we believe  
6 are needed to strengthen that legislation.

7           When the Municipalities Planning Code was adopted,  
8 Pennsylvania's legislature delegated its power and  
9 authority over the state's lands to its numerous local  
10 municipalities, many of them incorporated in the 18th  
11 century.

12           Despite the complexities of modern life that reach  
13 beyond municipal boundaries and require some decisions to  
14 be made on a larger scale, Pennsylvania continues to leave  
15 most land use decisions to local government.

16           It is hard to get a well-planned development because  
17 of Pennsylvania's fragmented governmental structure in  
18 which land use decisions are made or not made by 2573 local  
19 governments and permitting on-site decisions on facilities  
20 are made by many more governmental bodies including state  
21 agencies, counties, special districts, water and sewer  
22 authorities.

23           This difficulty is reinforced by court decisions  
24 requiring every municipality to provide for every use, if  
25 they choose to zone, and upholding many development

1 challenges to local zoning through the curative amendment  
2 process, the process that is unique in Pennsylvania.

3         Additionally, reliance on the property taxes, the  
4 funding source of schools and all local government  
5 services, has made the tax ratable chase through so many  
6 municipalities, particularly fractious, and results for  
7 communities and upon the landscape often irrational.

8         In Pennsylvania, regional and county planning are  
9 advisory only and often are not well-integrated with state  
10 and local planning decisions.

11         What are the consequences? There are many unfortunate  
12 consequences of this fragmentation and lack of planning and  
13 coordinating implementation. To name some of those we  
14 think are most important:

15         One, the development goes anywhere and everywhere and  
16 infrastructure that is public investment is forced to  
17 follow.

18         Two, the economic vitality of our cities and boroughs  
19 is undermined while our prime farmland and exceptional  
20 resource lands are consumed, particularly in the  
21 metropolitan regions of the state.

22         Three, instead of encouraging and streamlining the  
23 development process in areas where it is desired, it is  
24 fought in most places with many bureaucratic requirements.

25         Four, affordable housing is not built; rather, the

1 reverse. Housing for middle and upper income people is  
2 built where township taxes are low and taxpayers do not  
3 have to share the burden of public services for less  
4 well-off Pennsylvanians.

5 Five, the building of industrial parks and shopping  
6 malls in every municipality dooms many of them to economic  
7 failure, adversely impacts the environment, unfairly  
8 burdens adjacent communities that do not share in the tax  
9 revenues, and detracts from the character and quality of  
10 life in Pennsylvania's traditional communities.

11 There is a compelling need in Pennsylvania for  
12 comprehensive framework planning and consistent  
13 implementing actions by state, county and local government.  
14 The fragmentation that afflicts Pennsylvania's governmental  
15 structure can only be addressed legislatively.

16 In view of Pennsylvania's political structure and  
17 diversity, it makes sense to locate comprehensive framework  
18 planning at the county level. Counties have planning  
19 commissions or departments of professional staffs and are  
20 already mandated to do planning.

21 A county plan should delineate where growth will be  
22 encouraged and where it will be discouraged, where  
23 infrastructure will be provided and development facilitated  
24 and where resource lands will be conserved.

25 Such plans should reflect state goals and coordinated

1 state agency planning and develop with the input and  
2 agreement of local municipalities.

3 Local municipalities should retain the ability to plan  
4 and zone consistently with framework plans and state  
5 planning goals. State policy plan would establish  
6 principles for coordinating state agency actions and goals  
7 for consistent county and local planning and regulation.

8 House Bill 2662 goes a very long way toward  
9 accomplishing these goals. We strongly support the  
10 consistency and concurrency concepts in the Bill as well as  
11 the provisions for revenue sharing and incentives for  
12 municipalities to act jointly.

13 We also support the provisions on developments of  
14 regional impact, although we believe these provisions would  
15 not be necessary if the consistency requirements in HB 2662  
16 were strengthened.

17 We are concerned that the consistency requirements are  
18 not strong enough to answer the court decisions that  
19 require every municipality to plan for every use and that  
20 make zoning above two acres for any purpose other than  
21 prime agricultural districts presumptively invalid.

22 We note that there is a relationship between this  
23 legislation and HB 2972 and obviously we would need that to  
24 carry out this entire scheme.

25 We have made very specific recommendations. These I



1 will not read but just summarize. They come in four areas.  
2 One, plan updating and how plans are developed.

3 We believe there should be a process that is very  
4 participatory between the county and its municipalities and  
5 essentially, if possible, the county plan should be in  
6 agreement between the municipalities and the county as to  
7 how growth and development both occur there.

8 We think Lancaster County provides a good model and  
9 that the Municipalities Planning, Recycling and Waste  
10 Reduction Act also provide a model that the legislature  
11 might look at for how to proceed to get agreement or  
12 approval of municipalities.

13 Second, consistency. We feel that there are, as I  
14 said, that the consistency requirements would need to be  
15 strengthened. The simple requirement of consistency is the  
16 element that is missing in Pennsylvania and that must be  
17 required if we are really going to have a coordinating  
18 system of planning implementation at all levels.

19 We believe that Section 303(c) of the Municipalities  
20 Planning Code should be deleted, which says that nothing  
21 shall be invalid or inconsistent with the comprehensive  
22 plan which makes the plan a meaningless exercise, which is  
23 what we ought to address here.

24 We also believe that the proposed section in 2662  
25 should be -- shall be rather than developed in a fashion

1 consistent with and substituting shall be consistent.

2 Court review. We believe that Section 602.1(c) really  
3 needs to be reworded. What we should be driving at is,  
4 one, the county plan being a place where municipalities,  
5 courts and states can look to see a sensible scheme for  
6 development that does indeed provide for infrastructure,  
7 affordable housing, the kinds of things that the courts are  
8 calling for and does answer the kinds of objections,  
9 exclusionary zoning cases, the two acre zoning cases that  
10 have been made to local zoning ordinances and then if a  
11 local municipality has consistent plans or ordinances, they  
12 may be able to have greater need for zoning and not be  
13 subject to the requirements of having every use in that  
14 municipality. We believe that that provision really needs  
15 to be looked at.

16 Lastly, a very specific provision. We think that air  
17 quality needs to be among the enumerated resources that  
18 municipalities can plan and zone for, particularly  
19 metropolitan areas that have to conform with the Clean Air  
20 Act. Municipal action actually determines many development  
21 -- well, developments may determine the course of  
22 development and therefore the transportation needs of any  
23 area so municipal action is extremely important on this  
24 subject.

25 I thank you very much for the opportunity to testify

1 this morning. If you have any questions, I would be glad  
2 to answer them.

3 THE CHAIRMAN: Is there any questions on the  
4 part of the members? There being none, ma'am, I want to  
5 thank you very much for your presentation today.

6 Next on our agenda will be a Mr. Jerry Walls,  
7 Executive Director of the Lycoming County Planning  
8 Commission.

9 MR. WALLS: Good morning, Mr. Chairman, members  
10 of the Local Government Committee. Thank you very much for  
11 the opportunity to share our comments and perspectives. I  
12 should indicate that our perspective comes from not only  
13 our role as a county planning commission in working with  
14 townships, boroughs and city, but also I have a development  
15 personal perspective from having consulting largely four  
16 townships in the counties of Columbia, Montour, Clinton,  
17 McKean and Dauphin to name a few.

18 You have under consideration the most comprehensive  
19 and realistic package of proposals to correct what's wrong  
20 with our planning community development system which I have  
21 seen in my 24 years of planning in Pennsylvania.

22 Not all parts of this legislative package are perfect  
23 as now drafted, but it clearly has our support. We would  
24 like to share some experiences as examples and reasons why  
25 this legislation must be enacted. We also have some

1 suggestions for improvements, some of which may make the  
2 legislation more acceptable to those parties now opposing  
3 it.

4 In the way of our experiences, we have developed a  
5 county zoning partnership in which we have a county zoning  
6 ordinance enacted by the corp of commissioners but it is a  
7 partnership which builds a voice by the municipalities  
8 which do not otherwise have zoning and which comes under  
9 the jurisdiction of the county ordinance. That is working  
10 very well.

11 In addition to that, we are in the process of building  
12 a brand new regional sewage system using excess revenues  
13 from our solid waste system to provide sewage where it was  
14 not possible to do so in individual municipal basis. It  
15 was simply not feasible and in this kind of partnership  
16 concept needs to be factored into this package of overall  
17 corrections and fine-tuning for our planning.

18 We also have the experience of having done a  
19 multi-county, six county, solid waste system which we own  
20 and operate, and countywide emergency services system which  
21 is not only the emergency 911 dispatch but also the full  
22 range of emergency medical training and civil defense  
23 emergencies and all the related coordination emergency  
24 services.

25 And we also operate an airport which was a municipal

1 airport. We have worked out a solution to that because it  
2 individually is a municipality not being supported and now  
3 the county operates that.

4 THE CHAIRMAN: Mr. Walls, you have done  
5 extensive research. I note from your submission, you have  
6 seven pages worth of language that should, in your opinion,  
7 be corrected or should be addressed?

8 MR. WALLS: Yes.

9 THE CHAIRMAN: Would it be permissible of you,  
10 sir, instead of reading through all seven pages --

11 MR. WALLS: I'm not going to.

12 THE CHAIRMAN: -- to hit like two or three of  
13 the biggies?

14 MR. WALLS: I'm going to focus on the main  
15 ones.

16 THE CHAIRMAN: Please. And what we'll do is  
17 I've instructed -- I noticed we may be a little short of  
18 staff today. There are other meetings and I'm sure they're  
19 coming down here but what we're going to do is see to it  
20 that those that have submitted a detail set of  
21 recommendations, such as yours, they would be given to the  
22 staff for potential markup sessions.

23 MR. WALLS: I'd be happy to do follow-up on  
24 that sort of thing.

25 THE CHAIRMAN: That would be great.

1           MR. WALLS: I think that you got a very  
2 difficult problem in this package. I'm very familiar with  
3 the Township Supervisor Association. I've read their  
4 testimony. I know how the wide range of opinion lies and  
5 in this next category on page 2, I do suggest that there  
6 are some things that you could do that would make it  
7 politically more acceptable to those opposing counties.

8           One is that there is an implication that all  
9 municipalities are required to enact zoning subdivision and  
10 capital improvements in that Section 303.4(d).

11           I don't think that's really what was intended and some  
12 rural municipalities just don't want to do that. They  
13 don't want to get involved in that complex legal aid  
14 control system and they should attempt to undertake such  
15 legal land use controls. We suggest language to be added  
16 to allow that choice as the current law now allows.

17           In addition to that, we feel very strongly that  
18 303.4(c) of the existing planning code must be deleted  
19 because it would undermine the entire thrust of this whole  
20 package.

21           Regarding the requirement to advise comprehensive plan  
22 before rezoning, there are professional planners who will  
23 strongly support that. I would have to suggest to you that  
24 while it undoubtedly tightens the relationship of  
25 comprehensive plans and land use controls, it would be very

1 difficult to provide timely response to economic  
2 development opportunities and even the most skilled  
3 planners cannot presume to be able to foresee all needed  
4 rezonings. When such proposals arise, they should be  
5 evaluated on merits of the framework of the updated  
6 comprehensive plan.

7 We recommend that this language be revised to set such  
8 a requirement only upon the proposal that would undermine  
9 the intent and effect of the comprehensive plan or after  
10 such cumulative effect from incremental rezonings and you  
11 can have either one of those circumstances identified.

12 On the county veto, we believe that the county veto or  
13 the exclusive control of regional impact facilities may be  
14 a logical method of reconciling the approval process with  
15 comprehensive plans, but that's one of the most criticized  
16 provisions of all the criticism that I hear across the  
17 Commonwealth about this legislation.

18 So our point of view is, if it's necessary in order to  
19 salvage sufficient legislative support to enact the overall  
20 package, then revise this county veto provision. There's  
21 many other good important consistency in other provisions  
22 of this package.

23 On consistency, I believe it's important that the, and  
24 I'm now skipping over to page 4. Those land uses of  
25 regional impact of significance should also include solid

1 waste, hazardous waste and radioactive waste facilities.  
2 Later on, I point out, too, that they should include power  
3 plants. Those are certainly hydroactive generator  
4 facilities.

5 I do have a problem though in that land use -- I'm now  
6 at the top of page 5. Land uses of regional impact and  
7 significance are not always proposed by the public sector  
8 so it's difficult to envision that all such uses can be  
9 identified in a comprehensive plan.

10 Obviously, that would then trigger when they are  
11 proposed by a private sector, a process that could be used  
12 to update a plan if they do not come to a consistency  
13 determination but we feel that that is better than  
14 requiring that all such of those uses be identified in the  
15 comprehensive plan. I don't think that's workable.

16 The teeth, and I'm now mid-page 5, the teeth of  
17 funding can be meaningful but the wording as now drafted is  
18 quite moderate and could be strengthened to mandate denial  
19 funding when there has been blatant inconsistency in zoning  
20 ordinances with the comprehensive plans. The priority is  
21 very strong and positive, too.

22 On the mediation session, we suggest that the language  
23 allow for county planning commissions to either do the  
24 mediation or arrange for a professional mediator.

25 That's important because in some cases, the county



1 planning commission is not perceived as neutral on a given  
2 matter and particularly it's not perceived as neutral by  
3 the private sector in the development community. They  
4 generally would perceive the county planning commissions as  
5 being in the same viewpoint as municipalities.

6 The addition of express legal standing for neighboring  
7 municipalities and planning commission is a very valuable  
8 tool and the appeal operation is a very valuable tool.

9 On concurrency, I'll limit my comments to the fact  
10 that we've been very much involved in trying to deliver  
11 various water and sewer facilities to respond to major  
12 industrial and other developments. It's not working now.

13 Not addressed in 2662 but it's partly over all a  
14 select committee report in our references to the need to  
15 greatly revise the Sewage Facilities Act. I'm observing on  
16 behalf of the planning association as part of the team of  
17 work people working to make those provisions and that too  
18 is needed.

19 On the county review and municipal certification, I  
20 think that that is good as far as it goes but it should be  
21 revised to require certification to both municipal and the  
22 county comprehensive plans where both exists. As you have  
23 it worded now, it's one or the other but if both exists,  
24 why not come to a certification for both?

25 And my last major thrust is on the joint municipal

1 zoning. We recommend that protection from the exclusionary  
2 challenge also be applicable where municipalities come  
3 under the county zoning ordinance so long as all three  
4 criteria are met for that county zoning ordinance and  
5 county zoning map.

6 Protection of the court ordered rezoning to expand an  
7 area allowing a specified use once an area's already been  
8 utilized should be good but it is questionable as to how  
9 that's going to work out. I guess I misspoke.

10 I'd like to add one other point. That is on the  
11 transfer of development rights. Why not also allow such  
12 development right transfers to be used for permanent  
13 protection of open space? It's now worded just to focus on  
14 agricultural land preservation and why not allow TDR to be  
15 used on a countywide level for or at least in those  
16 municipalities under the jurisdiction of the county zoning  
17 ordinance?

18 I think you will get a much better dissertation out of  
19 it and have a much better overall effect, and I understand  
20 from talking to Representative Sturla that yesterday there  
21 was a suggestion to use trip generation data instead of  
22 square footage.

23 I'd like to offer an opinion on that. I disagree. I  
24 think that you should stay with square footage on the way  
25 to delineate regional scale shopping centers and commercial

1 developments.

2 We have very extensive transportation planning  
3 experience and that convinces me that you get into an  
4 endless engineering debate with the engineers with opposing  
5 points of view as to the assumptions involved in what uses  
6 occupy given a commercial development and then it becomes  
7 who you believe and square footage is a much more easy to  
8 manage criteria.

9 I would be very happy to answer questions or refer to  
10 something that I did not read.

11 THE CHAIRMAN: Any questions on the part of the  
12 members? Representative Gerlach.

13 REPRESENTATIVE GERLACH: Just one. Thanks,  
14 Mr. Chairman. Thank you for your testimony. It was very  
15 good.

16 I want to refer you to page 5 of your testimony, right  
17 about the middle. You referred to pages 7 and 8, lines 21  
18 through -- actually, page 7, lines 21 and 22 of the  
19 legislation.

20 You say the teeth of the funding can be meaningful but  
21 the wording as now drafted is quite moderate and could be  
22 drafted to mandate denial. Certainly, funding should be a  
23 strong positive tool.

24 The language in the Bill is priority of state grants  
25 to develop comprehensive plans and developed comprehensive

1 plans should be given to those municipalities which agree  
2 to develop comprehensive plans consistent with county  
3 plans.

4 What is it that you would like to see stronger in that  
5 provision with regard to the funding aspect that this  
6 legislation provides for? How can we strengthen that to  
7 make it a more positive and assertive provision that will  
8 encourage exactly what we're after in terms of consistency?

9 MR. WALLS: In the last two lines of that page,  
10 7, it simply refers to failure to comply with the  
11 agreements shall be taken into consideration. It probably  
12 could be possible to mandate that funding must be denied  
13 where there has been a blatant inconsistency and the  
14 criteria that would come to mind in that might be that  
15 there has been, in fact, a documented departure, a contrary  
16 or contradictory departing in a case where there has been  
17 adverse impact on adjacent townships or municipalities.

18 You could require, for example, the county planning  
19 commissions to give the Department of Community Affairs or  
20 whatever state agency is involved in assessment of the  
21 adverse impacts that have been caused by this kind of  
22 failure to be compatible in the zoning.

23 REPRESENTATIVE GERLACH: I think we had had  
24 some discussions on that very issue in our meetings as a  
25 task force on this and then we got into the sticky issue of

1 the bureaucrats in Harrisburg making a determination, a  
2 discretionary determination as to when compliance existed  
3 or didn't exist and as a result, maybe being too over  
4 burdensome on the local municipality in a discretionary  
5 situation as to whether there was or was not noncompliance,  
6 so I think that's how we ended up with that wording but I  
7 wanted to see if there was some other twist or flavor that  
8 you could give to the provision to keep it strong, be it  
9 not give so much authority to DCA and others.

10 MR. WALLS: I don't think it needs to be judged  
11 at the state level as to the degree of adverse impact. I  
12 think that can be done at a county or lower level.

13 But if you have a municipality that has come forward  
14 and identified adverse impacts because of the inconsistent  
15 nature of the zoning ordinance and if the county planning  
16 commission has got any guts, it will acknowledge that and I  
17 will be the first to say that not all departures from what  
18 would be consistent provisions amount to anything at all  
19 means. They may not be that significant but those that  
20 are, ought to be fairly obvious.

21 REPRESENTATIVE GERLACH: Thank you.

22 THE CHAIRMAN: Any further questions? There  
23 being none, sir, on behalf of the committee, Mr. Walls, I  
24 would like to thank you very much for your testimony today.

25 Before we hear from our next presenter, I would like

1 to introduce Representative Carol Rubley.

2 Next we have Mike Kaiser, Joint Planning Commission,  
3 Lehigh-Northampton Counties.

4 MR. KAISER: Good morning. I'm planning  
5 director of Lehigh and Northampton Counties. Identifying  
6 on the record, I have been there a long time, since 1968.

7 Our planning commission has had a comprehensive plan  
8 in the county since the early 1960's. Most recently, we  
9 readopted the plan to be in accord with the current  
10 requirements of the Municipality Planning Code and we  
11 undertake all the various review matters and so forth that  
12 are authorized under the act.

13 I'm here to comment on the recommendations and House  
14 Bill 2662 on behalf of our planning commission. I'd like  
15 to relate to you some of the experiences that we've had  
16 over the years and generally support the provisions of  
17 House Bill 2662.

18 We think that most of the provisions that are in there  
19 are necessary and set in action a dramatic change in how  
20 planning should be done in Pennsylvania, which we think is  
21 in order at this time and probably 20 years overdue.

22 As you know, the planning code authorizes counties  
23 planning and, in fact, mandates that they can plan. The  
24 problem is that the code doesn't give the counties too much  
25 authority to make the plans work and the main focus of this

1 legislation, as we see it, is the process of implementation  
2 and not just the process of creating a plan but assuring  
3 that once the plans are in existence that something happens  
4 with them and that's the aspect of planning that we'd like  
5 to focus on.

6 Our agency writes dozens of review letters to the 62  
7 municipalities in the area every year and we comment on the  
8 plans of the zoning ordinances, how traffic will impact  
9 major roads.

10 Many municipalities feel they make the connection  
11 between land use and development and road needs. By the  
12 time we get down to the road need, that becomes the problem  
13 of PennDOT, not the local jurisdiction.

14 The relationship between land use controls and sewer  
15 and water needs. Relatively few municipalities connect  
16 their land use plans with the Act 537 plans, the sewer  
17 plans that they have to enact, and there are great  
18 disparity between the few.

19 First, infrastructure land use. One determines the  
20 other, and these provisions ought to be compatible. We  
21 frequently comment on that.

22 Housing standards. We get into problems with housing  
23 standards where communities have already got public sewer  
24 and water and yet there's a tendency to want to zone areas  
25 as if they didn't. We believe that higher densities are in

1 order. We have already got infrastructure. The lower  
2 densities are in order to try to save farmland and open  
3 space and that's where we run into another problem.

4 Many communities seem to think that by sticking an A  
5 on a piece of field on a map, that's a state farmland. Of  
6 course, we all know that it's not. Farmland preservative  
7 measures are difficult planning and political measures to  
8 go through. With most local municipalities, it takes a lot  
9 of work and a lot of courage to get them adopted. We  
10 comment on all these things.

11 We also comment on the land use and development  
12 proposals in neighboring jurisdiction. I must tell you  
13 that a mandate is not why most of these reviews are in  
14 work.

15 I don't know how these are in the rest of the state  
16 but unless you got a real strong citizen constituency with  
17 an important point of view at the county level, it's really  
18 tough to get some kind of approach between the local and  
19 the county levels.

20 We're frequently in the position of saying we told you  
21 so, particularly with respect to failing sewage systems,  
22 on-lot systems and the like that will eventually require  
23 replacement or expensive treatment plants and the like and  
24 particularly we get congestion.

25 When we do public surveys in our area to find out what



1 the main problem is, it always comes out traffic congestion  
2 and people seem to be astonished that with all of the  
3 development that is happening, that all the sudden they end  
4 up with traffic problems. Now, of course, it's the problem  
5 with how we manage development in land use and growth in  
6 Pennsylvania.

7 The planning code is fairly written. It simply fails  
8 to recognize that growth issues transient to municipal  
9 boundaries. Local municipalities and local municipal  
10 officials have no consistencies beyond their own boundaries  
11 and few incentives.

12 This makes intermunicipal planning difficult under the  
13 best circumstances and it also explains why the good  
14 communities opt for regional planning and zoning as  
15 permitted under the code. That's simply a matter that is  
16 not practiced to any great extent in our area and my  
17 understanding from talking to other planners in other parts  
18 of the state that it's not very well practiced there  
19 either.

20 To us, the solution to this is to empower the  
21 governmental entity that has broader view evidence,  
22 political consistency, the ability to resolve the problems  
23 and that spells county.

24 The precedent for this has already been established in  
25 Act 167, Storm Water Management Act that was passed a few

1 years back and Wasting Facilities.

2 I can speak to the Act 167 in particularly because we  
3 are actively involved in that in our two county area. We  
4 got most of the watersheds already planned and under that  
5 act, the local municipal, the county and local  
6 municipalities do the implementation or subdivision  
7 regulations and like it.

8 It's a process that involves a lot of sharing on the  
9 part of the county and local jurisdictions and it works.  
10 It's a mandatory process. We do reviews. We've had  
11 numerous discussions with local municipalities and they're  
12 happy that we're involved in the review process and, in  
13 fact, do a lot of the storm water and use it for the local  
14 jurisdictions.

15 I think that's a pretty good precedent and a pretty  
16 good model for some of the things that we're talking about  
17 in act -- in House Bill 2662.

18 We believe that the mediation provisions in 2662 are  
19 good provisions. We think that the county involvement in  
20 certain types of land uses that have multi-municipal  
21 impacts is important and that consistency between local and  
22 county planning efforts is of supreme importance.

23 We believe all of these are necessary efforts if we  
24 can seriously deal with growth management issues. The one  
25 thing that the code has never dealt with is this issue of

1 just how should a local and a county plan relate to one  
2 another?

3 It's simply a void, a black hole in the code as it  
4 stands right now. It's obviously got to relate. The  
5 question is how, and this House Bill addresses that issue.

6 The second issue I want to address is the concurrency  
7 issue. Our commission supports the concept of the  
8 concurrency but there are a number of details that need to  
9 be considered in the draft legislation.

10 The draft legislation ought to be more specific as to  
11 what services and infrastructure should be concurrently  
12 provided. Is it the intent to limit the service of  
13 infrastructure to transportation, sewer and water, or does  
14 the legislation cover more? It's not clear. In our  
15 opinion, transportation, sewer and water are the most  
16 important issues that need to be covered from a growth  
17 management perspective.

18 Section 503.2(c) seems to assume that municipalities  
19 have transportation improvement plans. Act 537 plans a  
20 capital improvement plan for water supply. Most do not  
21 have transportation, capital improvement plans. Few have  
22 capital improvement plans for water supply and most of Act  
23 537 plans are out of date.

24 Are these plans prerequisite to the practice of  
25 concurrency? If they are, it seems that we need to do some

1 work to make sure that local communities adopt these types  
2 of measures or make prerequisite the practice of the  
3 concurrency procedure at the local municipal level and I  
4 think the code, the proposals of 2662, need to be more  
5 precise in outlining what methods are necessary to ensure  
6 proper application of concurrency.

7 Our commission also supports the measures in the House  
8 Bill of county plan consistency with a state growth  
9 management policy. We believe that the linkage between  
10 state, county and locals are important linkages and too  
11 often they're fuzzy, poorly understood or nonexistent.

12 In a time when PennDOT has insufficient funds to build  
13 all the roads people think they need, DER is under attack  
14 for their administration of the Commonwealth's environment  
15 laws and the Pennsylvania Department of Commerce is giving  
16 high priority to economic development initiatives while the  
17 Department of Agriculture is trying to save farmlands.

18 The need for consistent policy is clearly conveyed to  
19 all locals of government as was never greater. Of course,  
20 Pennsylvania must first create a growth management policy  
21 before anybody can follow it and to date, that hasn't been  
22 done. I know there's another piece of legislation that's  
23 been proposed that may address that.

24 We believe municipal zoning ordinances ought to be  
25 compatible with municipal plans. This is kind of a basic

1 tentative of planning 101, I believe, and in this day and  
2 age when the Supreme Court is addressing the takings issue,  
3 I don't think it could be anymore obvious and anymore  
4 important that there be strong drafting in a comprehensive  
5 plan for the kinds of things that you regulate in a zoning  
6 ordinance.

7 To me, those two linkages are extremely important, not  
8 only from a theoretical planning perspective, but from the  
9 practical perspective if you get in trouble with a legal  
10 issue.

11 We believe that the municipalities that adopt joint  
12 municipal zoning ordinances and carefully address the wide  
13 variety of land uses and housing types should be granted  
14 relief from exclusionary findings by the court.

15 The notion that every municipality must provide for  
16 every land use does not make any sense from a planning  
17 perspective.

18 Although one can see how courts can lead to that  
19 rationale given the sovereign claims of 2600 local units  
20 and government in Pennsylvania. Regional groups of  
21 municipalities ought to be able to do a pretty good job in  
22 determining how they can meet all the needs both from a  
23 preservation standpoint and a developmental standpoint.  
24 The problem is we got to get them to do that in some way in  
25 a practical manner.

1           In conclusion, after 30 years of efforts under the  
2           current planning code and its predecessor regulations, we  
3           believe it's time for a new approach to planning in  
4           Pennsylvania, one that provides for a greater sharing of  
5           power between the various levels of government and one that  
6           does not create infrastructure problems to be paid for by  
7           future generations. The current system isn't solving the  
8           problems it intends to address. It's time to fix it by  
9           passing 2662 or something closely resembling it. Thank  
10          you.

11                   THE CHAIRMAN: Any questions on the part of the  
12          members? Representative Sturla.

13                   REPRESENTATIVE STURLA: Thanks. Hi, Mike.

14                   MR. KAISER: Hi.

15                   REPRESENTATIVE STURLA: One question. You  
16          touched on this issue of the fact that the different state  
17          agencies are going in different directions and not always  
18          in conjunction with county or local agencies and things  
19          like that. This was touched on in testimony yesterday.

20                   There is some criticism of House Bill 2662 and that  
21          some people believe that it is big brother coming into  
22          impose something on local governments, and at least from my  
23          perspective, I view it as sorting out some of the  
24          inconsistencies in state government, especially the way it  
25          relates to local and county government. Do you see that

1 same type of relationship here in this Bill or not?

2 MR. KAISER: I sure don't see big brother  
3 hanging over the shoulders. I don't think -- I don't see  
4 the state agencies together to better coordinate what  
5 they're doing as a manifestation of big brother Bill.

6 The fact of the matter is that state agencies are  
7 already involved in our lives in transportation projects  
8 and all the other things they do.

9 The problem is that they need to do a better job of  
10 getting their act together to make sure they're not  
11 tripping over themselves and tripping over the locals in  
12 the process and to my way of thinking, that calls out the  
13 cry for some kind of more concerted statewide policy that  
14 relates to those issues, not only internally but also at  
15 the counties and the local units.

16 REPRESENTATIVE STURLA: To follow up on that, I  
17 guess, you talked about the Act 167 being a mandate and it  
18 works well. One of the other criticisms is that if, in  
19 fact, we do go so far as to mandate instead of just  
20 strongly suggest that some of these things happen that  
21 there we go again, government's making mandate and it's  
22 going to cost everybody lots of money.

23 It's at least my perspective that in some cases, in  
24 this particular case anyway, we were mandating that  
25 cooperation and consistency is the key word here, then we

1 can, in fact, save more money in the long run than we end  
2 up spending and so while mandate is always associated with  
3 more cost, ultimately, the savings will far outweigh any  
4 costs that are involved up front. Would you agree with  
5 that or not?

6 A. We're paying for it now. The thing is we just  
7 don't account for it now. We pay for the mistakes and  
8 transgressions and growth management every day when we try  
9 to fix up highways that you can't fix up because they've  
10 been encroached on by some other kind of development or  
11 land use.

12 We pay for it now when we go to fix up sewage  
13 treatment plants or when we go to provide sewage treatment  
14 plants without the help of federal grants.

15 The feds used to pay for all that. They don't now and  
16 it's a rude awakening to the local municipality when they  
17 suddenly find that they got to build a sewage treatment  
18 plant and it's going to cost their residents their service  
19 600 or a thousand dollars a year plus the \$400,000 hookup  
20 fee.

21 So my way of thinking, the planning game is not only  
22 about fix up, it's about prevention and it's trying to  
23 avoid the kinds of problems that we see around in the  
24 future.

25 I think we got a lot of information and the background



1 that they got here to tell us what they are. All we need  
2 to do is figure out some kind of mechanism that enables us  
3 to get on with them.

4 REPRESENTATIVE STURLA: Thank you.

5 THE CHAIRMAN: Thank you, Representative  
6 Sturla. Any other question on the part of the members?  
7 There being none, we want to thank you very much for your  
8 testimony today.

9 My understanding that our next set of witnesses,  
10 Mr. William Augustine and Mr. Whitlock, Mr. Augustine is  
11 not with us today, is that correct?

12 MR. WHITLOCK: That's correct.

13 THE CHAIRMAN: We're going to combine now  
14 Mr. Jack Hines who will give the lead-off testimony and  
15 Mr. Hines is the manager of West Bradford Township.

16 With him will be Mr. W. Richard Whitlock, who is the  
17 Chester County Association of Township Officials.

18 MR. WHITLOCK: I'm the president, sir.

19 THE CHAIRMAN: You're the president. Are you  
20 Mr. Whitlock?

21 MR. WHITLOCK: Yes.

22 THE CHAIRMAN: Why don't you come up with  
23 Mr. Hines? Mr. Hines, you're going to present the  
24 testimony. I understand both of you will be available to  
25 answer questions, is that correct?

1 MR. HINES: That's correct.

2 THE CHAIRMAN: Why don't you have a seat,  
3 Mr. Whitlock and, Mr. Hines, why don't you begin?

4 MR. HINES: Before I start, the last question  
5 that the representative asked Mr. Kaiser about a state plan  
6 and a state direction, that is very important and I, just  
7 to give you an example of that, we talked about traffic  
8 concerns of PennDOT and roads.

9 One of the things we do in our municipality and in  
10 general with planning is to require dedication of  
11 additional right-of-ways so that the roads can be brought  
12 up to standard if need be.

13 PennDOT does not accept that additional right-of-way.  
14 Indeed, we have a major road, major for us, through our  
15 municipality that had in the late 50's a developer who on  
16 his own volition without any municipal regulations offered  
17 additional right-of-way and excluded that from the lots  
18 along both sides of that road.

19 It would have provided a 60 foot right-of-way on a 33  
20 foot road or a 33 foot right-of-way road. PennDOT will not  
21 recognize that additional right-of-way and after 21 years,  
22 there is a reversion to this adjacent property owners of  
23 that additional right-of-way so in order to preserve that  
24 right-of-way, we went out as a municipality and took the  
25 deed so we now have a 32 foot right-of-way and then a

1 deeded area to make that 60 feet to the property line.

2 That's why we need a state direction plan to make sure  
3 that we're all going in the same direction and trying to  
4 accomplish the same purposes. If you'll pardon me for  
5 that.

6 Representative Pistella and members of the House of  
7 Representatives of the Local Government Committee, my name  
8 is Jack Hines. I'm President of the Township of West  
9 Bradford and Chester County Association of Township  
10 Officials. Our county association represents 55 townships  
11 of the second class in Chester County.

12 I wish to commend this committee for spending the time  
13 to consider amendments to the Municipalities Planning Code  
14 to try to improve the way the municipalities deal with land  
15 use, development and growth management.

16 The purpose of the Select Committee on land use and  
17 growth management was to determine what additional  
18 statutory authority, if any, municipalities need to further  
19 regulate and control growth beyond that currently in the  
20 Municipalities Planning Code.

21 That purpose must be clearly in mind as you consider  
22 House Bill 2662. The Bill does provide a number of  
23 excellent provisions, particularly those that allow  
24 municipalities to join together for regional purposes.

25 However, there seems to be an underlying theme that

1 certain decisions are best when overseen by the county.  
2 That will result in erosion of local government authority  
3 and remove land use decisions to local government that is  
4 further removed from the citizens.

5 When discussing planning and growth management,  
6 everyone laughs at the N.I.M.B.Y. However, we are a  
7 government by the people and for the people. Our best  
8 decisions come from through our planning process together  
9 with participation of local citizens, be that participation  
10 negative or positive.

11 Our country has prospered from over 200 years because  
12 of people saying, not in my backyard. This Bill appears to  
13 remove land use decisions further from public  
14 participation. There must be a conscious effort to  
15 preserve local government in Pennsylvania and the  
16 interaction of local citizens have of their officials.

17 With regard to House Bill 2662, there are some  
18 specific concerns that we feel should be addressed. The  
19 requirement of municipal comprehensive plan be consistent  
20 with the county comprehensive plan is probably dangerous.

21 When someone believes it is not consistent, there will  
22 be legal challenges to end land use decisions to zoning.  
23 If the comprehensive plan is a true planning tool, then you  
24 can require that the county review the plan and then the  
25 municipality consider those inconsistencies before adopting

1 this plan. That is already done in House Bill 2662 when  
2 the county plan is subject to review and comments from the  
3 state planning board.

4 The legislation does go too far to require the county  
5 plan be consistent with state policy plan. Again, the  
6 review with consideration of the inconsistencies will help  
7 to dovetail the two plans.

8 The point must be made that the comprehensive plan  
9 must be a living document. It is the foundation from which  
10 we make land use decisions. Because of unique conditions;  
11 market, economic or otherwise, the decisions may not be in  
12 lockstep with the comprehensive plan.

13 Even though the decision may not exactly follow the  
14 comprehensive plan, that plan provides information and  
15 guidance to make that decision. A comprehensive plan must  
16 be a tool, not a legal document but it also is required to  
17 comply with decisions of others.

18 House Bill 2662 requires that all zoning, subdivision  
19 and land development regulations and capital improvement  
20 programs be consistent with the comprehensive plan. Again,  
21 the comprehensive plan is a valuable tool. To require  
22 ordinance consistency would make it a part of various  
23 regulations that will be followed by attorneys who  
24 represent clients who are dissatisfied with the land use  
25 decision.

1           The intent to have public facilities and services  
2 concurrent with development that it will support is a good  
3 approach. A rethinking of Impact Fee Legislation by the  
4 General Assembly will help in this regard.

5           The requirement of guidelines for the method of  
6 evaluation of infrastructure and public services shall be  
7 provided by the county will be counterproductive. This is  
8 so open that various county agencies may dictate to  
9 municipalities what they want in the municipality.

10          I envision the county emergency services department  
11 setting levels of staffing and equipment for volunteer fire  
12 companies, county District Attorney's setting service of  
13 levels for staffing for police departments and on and on.  
14 The act specifies that we must have a transportation plan,  
15 the Act 537, and a capital improvement plan.

16          Why does the county need to be in the act? Section  
17 602.1 will require that local zoning ordinances be  
18 certified to the county. That certification will require  
19 the municipal ordinance be compatible with the  
20 comprehensive plan. Why is this being done? Will it  
21 guarantee say better land development and growth  
22 development process? I don't know that it will, but it  
23 will certainly provide reasons for challenge to any land  
24 use decision.

25          The entire process that is House Bill 2662 for

1 projects of regional impact needs to be removed and a  
2 different process developed. There does need to be a  
3 process for regional process. That can be as simple as  
4 trigger mechanisms that will allow others to participate.

5 Article VI-A proves that the decision-making process  
6 will reach the projects to a level of government that does  
7 not provide basic services to support those uses.

8 That article also removes land use decisions further  
9 from the elected officials and adds another layer to the  
10 development regulations. That will require additional  
11 enforcement, time and cost.

12 Indeed, all major projects will be sized just below  
13 the threshold spelled out in the act so as to avoid dealing  
14 with the process.

15 As you are aware, the Tax Reform Legislation now being  
16 considered by the Senate will not become a reality without  
17 a provision for public referendum. Yet this legislation  
18 follows a different course that leans away from citizens'  
19 participation.

20 In summary, legislation should give local government  
21 additional tools and permissions to deal with land use  
22 issues. It shall not create a county oversight and power  
23 over local land use decisions.

24 It should provide and does provide for regional land  
25 use planning and sharing of uses. There should be standing

1 for municipalities and others affected by land use  
2 decisions in the neighboring municipality.

3 There needs to be a better mechanism for dealing with  
4 projects of regional impact. Just bumping authority to the  
5 county creates another level of bureaucracy does not  
6 provide the answer.

7 I thank you for the opportunity to speak with you  
8 about this legislation. I'd be glad to answer any  
9 questions following some comments from Mr. Whitlock.

10 THE CHAIRMAN: Was there anything that you  
11 wanted to add at this point, Mr. Whitlock, or did you just  
12 want to go ahead with the questions?

13 MR. WHITLOCK: Just a short comment. I'm also  
14 Chairman of the Board of Supervisor of South Coventry  
15 Township and the first chairman of the regional planning  
16 group in North Chester County was created in 1972, which  
17 encompasses 10 municipalities in one borough. We work very  
18 close in all of our planning.

19 But what I'd like to say is that I feel that I have  
20 been a part of this legislation being performed because Jim  
21 Gerlach from the beginning has had monthly meetings with  
22 the local representatives from our county association and  
23 elected officials and the county planning commission  
24 through this process.

25 We feel that we have been a part of this, and even



1     though we've had some comments, I think you must know we  
2     are in support of this with some amendments and  
3     recommendations and I think it can be stronger and I would  
4     like some to be weaker.

5             One is county involvement in multi-municipal joints.  
6     I think it might be best if we would give the adjoining  
7     municipality or municipalities the right of standing in the  
8     public hearing process for these rather than having an  
9     appointed official making some judicial decisions and I  
10    would like to make public and thank Jim for getting local  
11    municipalities involved in a project of this size. Thank  
12    you. Now we will take any questions.

13            THE CHAIRMAN: You're more than welcome, sir.  
14    To reflect the words of the prime sponsor of the Bill,  
15    Representative Bob Freeman, from our meeting in  
16    Stroudsburg, he has assured us, as I'm sure Representative  
17    Sturla can attest to from yesterday's hearing, a number of  
18    times that he's indicated that we are open to discussions  
19    on various parts of it. We're really thankful that you've  
20    been involved in the beginning. It's appreciated.

21            Any other questions on the part of the members?  
22    Representative Rubley, you haven't asked any questions  
23    here. Let me start with you, first of all.

24            REPRESENTATIVE RUBLEY: Thank you. One of the  
25    issues we've been trying to gravel with in the drafting of

1 this legislation is the concern with the court decisions  
2 mandating that municipalities plan for every kind of use  
3 and that's one of the reasons for this consistency with the  
4 county plan, trying to get into a broader perspective so  
5 that you can look at a larger region than just the  
6 municipality.

7 Jack, I listened to your testimony and I just wondered  
8 if you have any ideas on maybe some concessions that could  
9 be made to address this issue of consistency?

10 For instance, in the solid waste management process,  
11 the county does develop the plan but there is local input  
12 and approval all the way along.

13 Do you think that this is the kind of procedure that  
14 maybe could be used that we can try and tie together  
15 municipal planning and yet, you know, get the county  
16 perspective in it also?

17 MR. HINES: I truly believe that there should  
18 be consistency between a county municipal plan. My concern  
19 is that when it's absolutely required and that's why I  
20 suggest the process that when you have a plan and it is  
21 sent to the county for review that they point out the  
22 inconsistencies between the county plan and the local plan  
23 and then you must deal with that in your adoption process  
24 of that plan and perhaps say, you know, we're not going to  
25 be consistent in this particular area for these reasons but

1 the biggest concern I have is that when we do make a land  
2 use decision, that with the requirement from the  
3 legislature that they do a certain thing, that if they  
4 don't do that certain thing, then it becomes a method to  
5 not look at the real land use issue but look at a technical  
6 requirement as a way of getting around the land use  
7 control.

8 REPRESENTATIVE RUBLEY: Traditionally, in many  
9 counties when the county does give their report and point  
10 out inconsistencies, they're ignored by municipalities.

11 MR. HINES: I understand that and that's why I  
12 suggest that perhaps when there is an adoption process for  
13 your comprehensive plan, that you must, as part of that  
14 adoption process, consider the inconsistencies.

15 I'm not stating that you have to change them but at  
16 least consider them and perhaps state why you are against  
17 the system of the county plan and let it go at that.

18 I think the land use decision should be with the local  
19 municipality and the county, again, is looking at a  
20 different perspective and there may be very valid reasons  
21 why you don't want to be consistent with the county plan.

22 I agree that a lot of things we do, you know, there  
23 are reports that we all generate things certain people  
24 don't pay attention to and don't do anything with.

25 That doesn't mean that the report's not valid. It

1 doesn't mean that someone hasn't considered it. I just,  
2 again, I guess I'm a very strong believer in the local  
3 control land use regulations and don't want that authority  
4 to go elsewhere.

5 MR. WHITLOCK: If I may add to that, what we  
6 have found out to help out in this consistency is that with  
7 our federation in the North Chester County communities with  
8 the inception, we have had a member of the county planning  
9 commission be a consultant to our board and when we adopted  
10 our first comprehensive plan review for the federation, we  
11 had a grant and as our -- and the county did this for us in  
12 conjunction with the federation.

13 We are in the process, and we've done six or seven  
14 different plans including waste water management, etc.,  
15 we're now updating it again and we're using the county  
16 planning commission and that consultant with us to create  
17 this new updated comprehensive plan for the 10  
18 municipalities and the one borough.

19 This way, I think, you get some consistency with the  
20 plan without having anybody outside come in and knock them  
21 on your door. You have familiarity with this and it's  
22 easier to work with. You get more consistency. Some  
23 things we don't agree with, but we work those out that way.  
24 When it becomes an outsider that's not involved in this  
25 process, then you get fear and apprehension.

1                   REPRESENTATIVE RUBLEY: That's very commendable  
2 what you're doing but it's also very unusual.

3                   MR. WHITLOCK: I think it's the way to go and  
4 we've been very successful because we did this in the  
5 beginning and we have to thank the Chester County Planning  
6 Commission and their director to go this way and they  
7 formed a number of other regional groups since then but  
8 it's the way to go.

9                   MR. HINES: It's important to note that in  
10 Chester County, we have excellent planning staff, a very  
11 professional planning staff and they are very supportive of  
12 the local municipalities.

13                   We use them in a number of occasions to help us with  
14 -- in fact, they helped us do our comprehensive plan for  
15 us. They worked with us on our recreational space plan.

16                   There is a consistency of the county plan because  
17 they're part of our planning process and I would hope that  
18 would continue but, you know, maybe that doesn't happen in  
19 other counties and we're very fortunate in that respect.

20                   REPRESENTATIVE RUBLEY: Thank you.

21                   THE CHAIRMAN: Representative Gerlach.

22                   REPRESENTATIVE GERLACH: I don't have any  
23 questions. I just wanted to thank you gentlemen for  
24 testifying today and for all their help in the last year,  
25 year and a half. We've been talking about this legislation

1 so thanks again for coming and for your comments.

2 THE CHAIRMAN: Representative Fichter, do you  
3 have questions?

4 REPRESENTATIVE FICHTER: Yes, thank you,  
5 Mr. Chairman. Jack, the Chester County Planning  
6 Commission, if 2662 is made into law, in your opinion,  
7 would they need additional staff?

8 MR. HINES: I really -- George Gracey could  
9 tell you about their workload. I would imagine that they  
10 would have to add additional staff if there is the  
11 requirement that they review all these plans for  
12 consistency. We're going into a 10 year mode, I think  
13 there has to be a certification under 2662 for every 35  
14 years on your plan, certainly they're going to have more  
15 staff to do those kinds of things.

16 REPRESENTATIVE FICHTER: Thank you,  
17 Mr. Chairman. Thank you.

18 THE CHAIRMAN: Representative Sturla.

19 REPRESENTATIVE STURLA: Just two questions and  
20 comments. You talk about the requirement to be consistent  
21 meaning there will be more legal challenges and you say  
22 that maybe if the county simply told you what was  
23 inconsistent and then you could do what you wanted to with  
24 their comments and you believe that that would make for  
25 less challenges.

1           Don't you believe that the fact that the county points  
2 out that there's something inconsistent and if you don't  
3 make that change that that automatically sets you up for a  
4 legal challenge whether there's a requirement for  
5 consistency or not because the development is going to take  
6 you into court and the court is going to say your  
7 comprehensive plan says one thing and your zoning map says  
8 something else and whether there's a requirement for  
9 consistency or not, these two are in conflict with each  
10 other.

11           And on the other hand, if you look at page 13 of the  
12 legislation, there's a clause that says that certification  
13 by the county planning commission or a regional planning  
14 commission which has been designated by the county that the  
15 municipal zoning ordinance is compatible with the municipal  
16 or county comprehensive plan creates an irrebuttable  
17 presumption that the ordinance is compatible with the  
18 comprehensive plan so in essence, if your county says, yes,  
19 you are consistent, a developer can't take you to court on  
20 inconsistencies.

21           MR. HINES: I agree with that and that may be a  
22 reason for you to make your plan consistent with the  
23 county. My concern is, and we get Act 237 reviews through  
24 the county and those Act 237 reviews do, at times, bring a  
25 county theory on that particular plan.

1           It may be different than what we're doing and while  
2 those issues are properly raised and usually raised in the  
3 course you didn't do this or you didn't do that and the  
4 county says something else, they are not reasons for the  
5 legal challenge.

6           What my concern is that if we require and the  
7 legislation says you must be that that will start the  
8 process for the legal challenge rather than just be  
9 additional things that you talk about as part of that  
10 challenge.

11                   REPRESENTATIVE STURLA: One final comment. You  
12 mentioned local tax reform and when Joanne Denworth  
13 testified, she mentioned something about it also and I  
14 guess yesterday they talked about the fact that if and when  
15 local tax reform becomes a reality that part of what will  
16 happen with local tax reform is that some taxes will be  
17 assessed on a countywide basis and redistributed in that  
18 manner and that in and of itself lends itself to more  
19 comprehensive planning type initiative so that individual  
20 municipalities aren't competing with each other for well,  
21 we want to have the shopping center and you can pay for all  
22 the amenities and that type of thing. If the tax base is  
23 going to be such that it gets distributed back out to the  
24 county, those two things work better in conjunction with  
25 each other.



1           MR. HINES: I think you may be referring to the  
2 sales tax issues under the Tax Reform Legislation, and some  
3 of the amendments that have been requested by local  
4 municipalities have been very particular to the area, the  
5 situs of the regional sales tax.

6           To give you an example, King of Prussia area is one of  
7 the major shopping malls in the entire region. They  
8 certainly want to have a line share of the sales tax that  
9 they raise in there.

10           That's a concern with the present Bill is that that  
11 would distribute to many municipalities in the county that  
12 do not have the problems that King of Prussia has with  
13 providing services so, yes, it's going to do some  
14 regionalization but there's a real emphasis on the part of  
15 the municipalities to say, well, I'm ready to do the sales  
16 tax in my community.

17           REPRESENTATIVE STURLA: On the other hand,  
18 there's a real concern from those people who believe it  
19 should be distributed regionally that if you don't, you  
20 will have competition among the 2500 plus municipalities in  
21 the State of Pennsylvania to grab that little piece of the  
22 pie that's going to generate sales tax revenues versus any  
23 other thing, you know, an industrial base or something  
24 that's perhaps more stable than that retail outlet.

25           MR. HINES: That may be so but I can tell you

1 that many of the land use decisions that we make are based  
2 on economic factors and geographical factors and we can, in  
3 West Bradford, decide to have a King of Prussia mall and we  
4 won't raise any revenue because none of the stores would be  
5 open long enough to make any revenues. To some extent,  
6 yes, it could happen but I think there are other factors  
7 that would come into play to keep that from happening.

8 REPRESENTATIVE STURLA: Thank you.

9 THE CHAIRMAN: Miss Neal, you have some  
10 questions?

11 MS. NEAL: Just a brief question. Other  
12 witnesses have testified in Stroudsburg and yesterday that  
13 discuss section 301-C that the requirement that the  
14 municipal or local municipal comprehensive plan shall be  
15 updated at least every 10 years and we had a little  
16 discussion earlier before the meeting and Mr. Whitlock had  
17 commented to me on what he was going through and I just  
18 thought it might be of interest to the committee to hear  
19 what your experience was.

20 MR. WHITLOCK: I think that 10 years is an  
21 ideal length of time for a comprehensive plan because in  
22 the adoption or in the updating of the comprehensive plan,  
23 you're looking a year or 18 months of creating this new  
24 amendment. Then if things go right, but always there's  
25 somebody somewhere that wants to come in and have their

1 little niche in it, you got to figure another year or 18  
2 months to get it adopted. Then you should have some time  
3 for it to work to see if your dream what this is, utopia  
4 for your municipality or for your region is going to work.

5 If you have a 5 year period or less than 10 years,  
6 you're not going to have this period of time of where you  
7 can see whether this is working or not, where you have the  
8 problems with development or whatever it is, environmental  
9 factors, where then you can say in the ninth year or in the  
10 eighth year, start to come up that we have to do this, then  
11 start the process over.

12 But I think you need three to four years of having  
13 this plan working or your internal or external turmoil all  
14 the time. You don't have any consistency and that's why I  
15 think that we should try to stay at the 10 year period.

16 THE CHAIRMAN: Gentlemen, thank you very much.  
17 We appreciate your testimony today.

18 Next we have Irving Hand, Professor Emeritus, State  
19 and Regional Planning from Penn State University.

20 MR. HAND: Good morning, Mr. Chairman, members  
21 of the committee. Following several people, as I am this  
22 morning, you wonder whether you want to address the group  
23 from our own statement or comment on statements that have  
24 been made by previous speakers. I will resist that  
25 temptation for the questioning. If something comes forward

1 in that fashion, maybe I'll have the opportunity to do  
2 that.

3 In the interest of time, I would like to focus on the  
4 two or three major points that I make in the statement that  
5 I have otherwise prepared. My name is Irving Hand. I am  
6 Professor of State Regional Planning Emeritus at Penn State  
7 Harrisburg and Principal Emeritus with the Delta  
8 Development consultant firm within Camp Hill.

9 The statement otherwise describes some of my  
10 background and experience. I was the Executive Director  
11 for the State Planning Board during Scranton and Shafer  
12 administration and so on. I have that perspective as part  
13 of 30 years of teaching and practicing planning in the  
14 Commonwealth of Pennsylvania.

15 I also have had the privilege of advising with the  
16 House Select Committees and the reports that were prepared  
17 in that connection on the basis of which the legislation  
18 now before you is being considered.

19 In connection with that legislation, I'd like to make  
20 three points. One is to urge the early consideration and  
21 enactment of the Bill. I think it is a remarkable  
22 expression of the work that has gone into the examination  
23 of a variety of issues and a coming together of thinking  
24 that really needs to receive the respect and is receiving  
25 the respect that is warranted. It's a remarkable

1 accomplishment and I compliment the members of those  
2 committees and the legislature for addressing these  
3 concerns as they are doing them at the present time.

4 I feel even more strongly than my remarks would  
5 indicate but more explicitly dealing with capital  
6 improvements programming and budgeting as an explicit  
7 reference in the legislation.

8 We have heard testimony this morning there's a capital  
9 improvements program here, there's a capital improvements  
10 program there, there's a capital improvements program  
11 someplace else as part of the practicing implementation  
12 that has otherwise been described.

13 It needs to be brought together in an explicit way so  
14 that a municipality understands in dealing with the  
15 expenditure of funds, from whatever direction they come,  
16 local funds, state funds, federal funds, all of which get  
17 wrapped up in capital improvements programming, it is being  
18 dealt with in a coherent fashion, consistent with the  
19 planning that is otherwise being undertaken.

20 I would urge, as my statement indicates, that a  
21 subsection E to Section 303 might be considered as a way of  
22 carrying that thought forward. The Bill that, we all have  
23 acknowledged this, makes demands of local government and in  
24 effect, in my view, state government is providing  
25 leadership in connection with which those demands are being

1 made and that has funding protections.

2 There's no point in dancing around that issue. It's  
3 going to cost some money and state government has indeed  
4 supported a measure of that in the past. And section 301.5  
5 talks about Funding of Municipal Planning and that is  
6 certainly a step.

7 I would respectfully submit, however, that it means  
8 substantially more dollars than customarily has been made  
9 available, for example, in the State Planning Assistance  
10 Grant program must be provided. That is a point that came  
11 forward in testimony before the House Select Committee.

12 John DeGrove, who is a nationally recognized expert in  
13 land use and growth management issues, and he testified at  
14 some length one evening before the House Select Committee  
15 reflecting the experience in Florida where he pointed out  
16 that inadequate funding support handicapped the efforts  
17 that that state undertook through its municipalities,  
18 through its regional structure to deal with these concerns.

19 He made an important point which I think we should  
20 recognize. That the funding support is not something to be  
21 viewed as a full employment both plans.

22 It's rather an investment in the community and it's an  
23 investment to the future and it's sort of the ad that we  
24 saw from time to time with some automobile situation, pay  
25 me now or pay me later. There's no free lunch.

1           It becomes a question of how deliberately and capably  
2 do we undertake to deal with these responsibilities. I  
3 continue that we need to look at that if we can.

4           I would respectfully urge that a Subsection C in  
5 Section 303 of the Municipalities Planning Code be deleted  
6 because to continue with that language in the code simply  
7 is not in harmony with the substance and purpose of House  
8 Bill 2662 and everything that you're trying to accomplish  
9 in that regard.

10           I would close in pointing out that there is a  
11 companion Bill to the House Bill 2662, 2992 which  
12 reorganizes the State Planning Board. I think that these  
13 two bills together recognize the work of the House Select  
14 Committee and together, they support the value of what all  
15 that work has meant and I would hope that not only 2662 but  
16 2992 would receive the early consideration of the  
17 appropriate committee of legislature and carried forward.

18           I would be pleased, Mr. Chairman, to comment or  
19 respond to any questions that you may have. I thank you  
20 for your attention.

21           THE CHAIRMAN: I believe some members do have  
22 some questions. Starting to my left, Representative  
23 Sturla.

24           REPRESENTATIVE STURLA: Two quick comments.  
25 One, just a technical correction. The second Bill is House

1 Bill 2972, not 2992 just for point of reference when other  
2 members are looking for that Bill.

3 The other thing is you point out that we need  
4 substantially more dollars, substantial number of more  
5 dollars in order to get this thing off the ground and up  
6 and running and I guess I would just comment that I'm not  
7 sure where any of the gubernatorial, current gubernatorial  
8 candidates stand on this issue, but as legislators, I think  
9 it might be in our interest after hearing testimony and  
10 people saying they thought this was perhaps one of the most  
11 pressing issues that we can place in the legislature that  
12 it might behoove us to go to our prospective candidates and  
13 try to get them to take a stand on planning in the future.  
14 It is something in the long-term that will have a great  
15 impact in the state of Pennsylvania.

16 MR. HAND: My paper of comments is the  
17 experience of the pioneer states that has 20 years of  
18 experience in dealing with these issues and the funding  
19 support there made it extremely difficult for  
20 municipalities to do the things that otherwise were  
21 mutually agreed upon from the state level on down, mutually  
22 agreed upon but there needs to be an adequate measure of  
23 funding support for municipalities to undertake the things  
24 we're asking them to do. It's just part of the equation.

25 REPRESENTATIVE STURLA: Thank you.



1 THE CHAIRMAN: Representative Trich.

2 REPRESENTATIVE TRICH: I guess Mike has already  
3 hit upon that, but I too would like to offer my  
4 appreciation for you bringing that subject out very  
5 clearly, those discussions.

6 I think there are great candid comments about the need  
7 for that funding aspect of the Bill is something that we,  
8 as legislators, must take account for.

9 We hear often that state government sometimes breaks  
10 two things while trying to fix one with some of our  
11 mandates. This, however, I think is a Bill that certainly  
12 is going to be a major fuss in the local municipalities but  
13 the Commonwealth -- but we have a list of ranks must take  
14 into account as far as the funding side of it and I would  
15 assure the committee that as a member of the appropriations  
16 committee, that is something that I will be more than happy  
17 to discuss very thoroughly with our appropriations  
18 chairman. Thank you for your very candid and very frank  
19 comments.

20 THE CHAIRMAN: Any members to my right any  
21 questions? There being none, I want to thank you very much  
22 for your testimony today.

23 Next we have George Chandler, Pennsylvania Recreation  
24 & Parks Society.

25 MR. CHANDLER: Good morning, everyone. My name

1 is George Chandler. I serve --

2 THE CHAIRMAN: Can I interrupt you for one  
3 minute? Is George Gardner or Earl Kline here? Okay.  
4 Thank you very much. Sorry for the interruption.

5 MR. CHANDLER: No problem. As I was saying, I  
6 serve on the Board of Directors of the Pennsylvania  
7 Recreation & Parks Society. I'm also on the Governmental  
8 Affairs Committee of that society.

9 First of all, on behalf of the Pennsylvania Recreation  
10 & Parks Society, I would like to thank you and the members  
11 of the House Committee on local government for the  
12 opportunity to present this statement regarding House Bill  
13 2662.

14 As a brief history, the Pennsylvania Recreation &  
15 Parks Society, PRPS, is a 1400 member nonprofit  
16 organization comprised of professionals and volunteers from  
17 all segments of the parks and recreation industry.

18 The reason of PRPS is to improve the quality of life  
19 for every resident in Pennsylvania by way of realizing and  
20 satisfying the open space, conservation and recreational  
21 needs throughout the state.

22 PRPS also strives to promote enabling legislation for  
23 the enbetterment for leisure time activities for everyone  
24 in the Commonwealth.

25 As an example, with the support and the assistance of

1 your legislators, the society was the main thrust in the  
2 Keystone Recreation, Park and Conservation Fund now known  
3 as the Keystone Program.

4 In general, the Pennsylvania Recreation & Park Society  
5 supports House Bill 2662. However, upon review of the  
6 document, it is apparent that issues relating to the  
7 mandatory dedication of open space and/or fees-in-lieu of  
8 the same are not addressed.

9 PRPS urgently requests the House Committee on Local  
10 Government to revisit Section 503.11 of the Municipalities  
11 Planning Code while discussing the issues involved with  
12 House Bill 2662.

13 In its present form, the MPC hinders the efforts of  
14 local government to receive desired park and recreation  
15 improvements.

16 Elaborating on the above point, PRPS strongly suggests  
17 amending the title paragraph of Section 503.11 in the  
18 following manner. I'm sure you're all familiar with that  
19 title paragraph. I'll just mention it. We suggested the  
20 last line and upon agreement with the applicant or  
21 developer.

22 The municipality completes a comprehensive recreation  
23 plan knows what park and recreation improvements are needed  
24 throughout its communities. Sometimes additional land is  
25 needed. For other areas, land is available and fees are

1 needed to develop an existing park.

2 Municipalities should have the authorization to  
3 determine developer requirements of land, fees, facilities,  
4 etc. The present language could result in a stalemate if  
5 the developer does not agree with the municipality.

6 Another relevant matter is a situation that occurs  
7 when respective parties are discussing a particular  
8 development and inadequate mention is made in regard to  
9 open space and parkland needs.

10 One always hears of funding possibilities of highway  
11 lands, sewer capabilities, steep slope preservation,  
12 support for local school districts, etc. Very seldom, if  
13 ever, does one hear a developer to be asked to contribute  
14 financially towards active open space or a park in the  
15 vicinity of a development.

16 The present language of the Municipalities Planning  
17 Code, Section 503.11, permits only the dedication of public  
18 land and substitutions for that land if the developer  
19 agrees.

20 The municipalities face a court challenge if they  
21 require both the land and facilities. Basically,  
22 municipalities can receive the land to build a park but  
23 must still use tax dollars to develop it.

24 Most parks are not constructed concurrent with the  
25 development. It takes years after the development is

1 complete before most municipalities can afford to complete  
2 the park.

3 Ideally, park and recreation improvements should be  
4 included in any future legislation that addresses  
5 concurrency. Parks and recreation facilities are essential  
6 public infrastructure amenities that are needed to support  
7 new development.

8 As population development increases, so does the  
9 stress on existing park facilities and the demands for new  
10 recreation availability; the greatly needed creation of new  
11 parks.

12 In closing, it is the sincere desire of the  
13 Pennsylvania Recreation & Parks Society that Representative  
14 Pistella and the House Committee appreciate your  
15 professionalism, experience and dedication that constitutes  
16 the Society. We are at the disposal to assist with the  
17 improved progress of House Bill 2662. Thank you.

18 THE CHAIRMAN: Thank you. Questions starting  
19 on my right-hand side. Any questions? There being none, I  
20 want to thank you for your testimony today, sir.

21 Let me ask again if Mr. George Gardner or Earl Kline  
22 are here. If they're not here, we'll now move to Mr. Jeff  
23 Soule, Director of Center for Rural Pennsylvania.

24 MR. JOHNSON: Thank you, Mr. Chairman.  
25 Mr. Soule wasn't able to make it today. He's in

1 Philadelphia.

2 Mr. Chairman, committee members, thank you for  
3 inviting the Center for Rural Pennsylvania to testify on  
4 the important issue of growth management.

5 My name is Jonathan Johnson. I'm the Rural Center's  
6 policy analyst.

7 As the committee is aware, the Center provides  
8 research, information and technical assistance to  
9 Pennsylvania's 3.7 million rural residents. As a  
10 bipartisan, bicameral agency of the General Assembly,  
11 however, the Center is unable to take a position on imposed  
12 legislation. However, we can provide the committee with  
13 analysis on how House Bill 2662 might affect Pennsylvania's  
14 nearly 2,000 rural and small towns.

15 First, some background information on our state's  
16 rural communities. On average, rural and small towns had  
17 the state's fastest growth rate, growth population during  
18 the 1980's.

19 Most of this growth was fueled by new residents moving  
20 from urban areas. As a result, many rural and small towns  
21 have seen a surge in new construction. In the last 20  
22 years, nearly half of the housing built in Pennsylvania was  
23 in rural and small towns.

24 Most of this growth has occurred in townships, away  
25 from boroughs and small cities which already have many

1 public facilities or amenities. The effect of this  
2 development in the rural landscape has been staggering.

3 During the 1980's, the state lost more than one  
4 million acres of farmland, over 10,000 farms have  
5 disappeared and nearly billions of dollars have been spent  
6 to provide water, sewage facilities and upgrading highways.

7 Despite this growth, a 1992 study by the Department of  
8 Community Affairs found that less than half of  
9 Pennsylvania's rural and small towns have comprehensive  
10 plans or zoning ordinances. More surprising, many  
11 communities may have zoning but no plan to guide it or vice  
12 versa; planning but no zoning.

13 Fewer than a third of the state's rural and small  
14 towns have both planning and zoning regulations. In  
15 suburban and urban communities, planning and zoning is  
16 almost universal.

17 In this context, the question becomes how to make the  
18 rural and small town residents more interested in land use  
19 issues. There are many barriers to doing this. Many rural  
20 residents are skeptical of traditional land use controls  
21 because city and suburban ordinances are poorly suited to  
22 rural and small town needs.

23 Moreover, property rights groups have maintained and  
24 promoted a dichotomy between individual rights and social  
25 responsibilities. There's even a perception that planning

1 and zoning will harm economic development.

2 Addressing these attitudes is important to the success  
3 of any land use legislation. Although no legislative body  
4 can change deep-seated fears and suspicions overnight, it's  
5 symbolically important that this committee has held  
6 hearings in both rural and urban communities.

7 For rural communities with planning and zoning, House  
8 Bill 2662 goes a long way towards providing tools needed to  
9 make effective land use decisions but so do the current  
10 regulations. What is missing from the entire land use  
11 debate is a discussion of what we want our communities to  
12 look like and be like.

13 For example, do we want our communities to be unique  
14 and livable places or do we want formless sprawl? The  
15 choice may seem obvious, but in many rural communities,  
16 there has been so much emphasis on land use tools that the  
17 larger vision on the community is lost.

18 State government is good at wrangling over issues like  
19 concurrency, mediation and regional impact. Yet what we  
20 need to be considering is what is special about our  
21 community and what should be done -- what should be valued,  
22 promoted and sustained.

23 For example, a Wal-Mart, K Mart or any other large  
24 store can be located in a downtown. The parking lots can  
25 be environmentally designed and there can be safe highway



1 access, but the community doesn't want it. All the  
2 regulations on zoning, easements and signage become moot.

3 Getting the community to clearly define what it wants  
4 is not easy. Too often residents agree on what they don't  
5 want rather than what they do want their community to be  
6 like. To help communities articulate about what they want,  
7 the Rural Center is sponsoring a number of regional  
8 visioning projects around the state.

9 A vision is a process in which citizens determine what  
10 they want their community to look like in the future. This  
11 process requires local governments, civic organizations,  
12 business and citizens to inventory their resources.

13 These resources can be anything from scenic viewsheds  
14 to educational, cultural and natural resources. The region  
15 can be the county, school district or just a group of  
16 neighboring municipalities.

17 The next step is to articulate a statement of what the  
18 residents want their community to look like and feel like.  
19 This statement has been used by groups as a guidepost in  
20 making decisions effective in the community.

21 There are three fundamental principles to make a  
22 successful community vision: regional perspective, citizen  
23 participation, and a plan for implementation.

24 A regional perspective is needed to secure the  
25 cooperation of others and to enable participants to look

1 beyond the crisis to crisis situation in which so many  
2 decisions are made.

3 This participation means that all elements of the  
4 community have the opportunity to get involved and work  
5 collectively toward a specific goal and commonly valued  
6 goals.

7 Finally, implementation means that a community vision  
8 be more than a document sitting on a shelf. Implementation  
9 requires the community to answer the questions, who will do  
10 what, what's the time frame, and how much will it cost.  
11 Implementation is the stage where land use tools such as  
12 planning and zoning is used.

13 Creating a regional vision is not a warm, fuzzy  
14 academic exercise. It can be rancorous and contentious as  
15 the debates in Harrisburg are. A regional vision will not  
16 solve all of the economic and social problems. It will  
17 provide a mutually agreed upon framework for addressing  
18 these issues.

19 As the Committee begins to discuss house Bill 2662,  
20 more attention might be given to what planning and zoning  
21 are ultimately trying to accomplish. If the discussion  
22 begins here, then our rural and small towns will be in a  
23 better position to sustain future generations.

24 Another issue the Committee might want to consider is  
25 the need for design guidelines. Aesthetics is not a four

1 letter word. It's 10. Too often our communities look the  
2 way they do because they don't bother to articulate in a  
3 clear way what the landscape should be like. Victorian  
4 villages, for example, are viewed as special because theirs  
5 was a conscious effort to make the homes there look a  
6 certain way.

7 Good land use policy will not affect PennDOT in  
8 constructing bridges that look like they were imported from  
9 the Soviet Union or a developer from building cookie-cutter  
10 housing developments.

11 What is needed are good design principles. These  
12 principles will enhance the community's best features and  
13 provide residents with sense of balance and unity and  
14 ultimately create a sense of place.

15 They will also allow changes to occur and change in  
16 development to occur in a sensitive and rational fashion.  
17 Moreover, research has shown that effective design  
18 guidelines not only save money but attract new residents  
19 and businesses to the community.

20 The Local Government Committee might also want to  
21 consider the need for increased education and training for  
22 local officials and community leaders. Agencies like the  
23 Department of Community Affairs, L-TAP provide very  
24 effective nuts and bolts training on everything from snow  
25 plowing to bookkeeping yet little attention is given to

1 help communities think about the future.

2 Larger and more affluent communities can hire planners  
3 and organize future committees. But in most of  
4 Pennsylvania's rural and small towns, there is neither the  
5 money for planning nor the leadership for guidance. While  
6 government resources will always be scarce, the  
7 Commonwealth could actually save more to train leaders to  
8 think about the future rather than react to it.

9 Finally, this Committee may also want to consider  
10 targeting state funds to those communities with documented  
11 regional vision. By tweaking the way the state funds are  
12 dissipated, communities that have gone through the  
13 visioning process will be in a better position to begin  
14 implementation. At the same time, it will create incentive  
15 for communities to adopt a regional vision.

16 In summary, Pennsylvania's land use codes are in  
17 urgent need of reform. The Bill's sponsors and this  
18 Committee should be applauded for addressing this task.  
19 However, it should be remembered that simply changing how  
20 we manage land use will not make our communities more  
21 livable. More attention should be paid on what we want our  
22 community to look like and be like in the future. Thank  
23 you.

24 THE CHAIRMAN: Any questions on the part of the  
25 Committee? Representative Gerlach.

1                   REPRESENTATIVE GERLACH: Just a real quick one.  
2                   On the second page of your testimony, in the paragraph  
3                   beginning, despite this grow, you indicate that fewer than  
4                   a third of the state's rural and small towns have both  
5                   planning and zoning regulations.

6                   MR. JOHNSON: In the back of the chart, it says  
7                   25 percent? Go ahead.

8                   REPRESENTATIVE GERLACH: My question is, as I  
9                   understand the current MPC, in those municipalities that  
10                  don't provide zoning and planning, the counties in which  
11                  they are situated have the power to plan and zone for the  
12                  entire county unless in the subsequent times that  
13                  municipality supersedes that with their own local ordinance  
14                  and plan.

15                  Of those -- of that group of municipalities that don't  
16                  provide plans and zoning in those rural areas, how many of  
17                  those have or are situated counties that do then have plans  
18                  and zones for them when they don't do it on their own or  
19                  are they without both local plans and zones and without  
20                  county plans and zones in those areas?

21                  MR. JOHNSON: The way I understand, the county  
22                  provides that service for them but the question becomes how  
23                  effective is this service they provide and many rural  
24                  counties find the planning can be a real search in the  
25                  courthouse.

1           Usually, they're in the basement with a single light  
2 bulb above their tables. I can find out and tell you the  
3 exact number.

4           REPRESENTATIVE GERLACH: Even though it may  
5 exist, it may not be a real viable structure and process  
6 that's been established even at the county level and so one  
7 must question it's viability?

8           MR. JOHNSON: Precisely.

9           REPRESENTATIVE GERLACH: If you can get some  
10 further information, that will be a real interesting thing  
11 to take a quick look at. Thank you.

12          THE CHAIRMAN: Questions on the part of the  
13 members? I have a couple. What do you mean by design  
14 guidelines?

15          MR. JOHNSON: Many communities, the way the  
16 community looks is how they design it, have a specific plan  
17 in mind. This is kind of the goal we want our community to  
18 look like and we take a look at aesthetics. How can I  
19 rephrase this? It looks like basically what the community  
20 wants it to look like, how it wants it to look like. A set  
21 of guidelines.

22          THE CHAIRMAN: I don't know what it is but I  
23 know it when I see it?

24          MR. JOHNSON: It's more agreed upon by the  
25 community. We want to look like this Victorian village and

1 we'll have our streets, the streetlamps look like this,  
2 we'll have our sidewalks paved like that and any new  
3 development must conform to these design guidelines. In  
4 many cases, they're voluntary rather than mandated.

5 THE CHAIRMAN: I was going to say my  
6 understanding is that I believe the Main Street project,  
7 which is funded by the Department of Community Affairs,  
8 does that. You pick a portion of the downtown area that  
9 you want to have renovated and you make -- you have to  
10 voluntarily get the building owners.

11 MR. JOHNSON: Right. It's all voluntary, yes.

12 THE CHAIRMAN: It's all voluntary in the sense  
13 that the community can apply for the money. You have to  
14 encourage the people and you cannot force a property owner  
15 to buy into the program but the idea is that you try to  
16 work some local incentive for them to join into it so that  
17 they're willing to participate.

18 MR. JOHNSON: Precisely.

19 THE CHAIRMAN: You're suggesting what?

20 MR. JOHNSON: I'm suggesting that the  
21 communities should start looking at that, not make it  
22 mandatory but voluntarily.

23 The communities may want to think about, say, doing  
24 something very similar to the Main Street program, follow  
25 guidelines. Many communities there isn't anything like

1 this and some of the communities they never even heard of  
2 design ordinances or not ordinances but design guidelines  
3 and that might be through the local government they may set  
4 incentives for local governments to start considering this.

5 THE CHAIRMAN: Secondly, you talk about the  
6 need for increasing education and training for local  
7 officials and community leaders. There are a couple of  
8 programs that DCA has. Are you suggesting that they should  
9 be expanded?

10 MR. JOHNSON: Yes, very much so. The DCA does  
11 a very good job in providing technical assistance to  
12 municipalities but most of the assistance is very concrete  
13 nuts and BOLTS and there's really no time, some time for  
14 the local government people to sit back and say what do we  
15 want our community to look like.

16 THE CHAIRMAN: I understand that point. My  
17 only questions on that and on the follow-up which is the  
18 proposal of targeting state funds to the communities with  
19 documented regional vision really would be two parts and  
20 that would be, what do you mean by a documented regional  
21 vision, number one, and number two, really on both counts,  
22 my suggestion is Representative Trich is a member of the  
23 Appropriations Committee.

24 I don't know what arrangements the Senate has made but  
25 I was going to suggest to you that on those two proposals,



1 increased funding for education and within the visionary  
2 review and what you're talking about here, about the  
3 targeting of state funds, the Center may want to make sure  
4 they communicate with all four caucuses, Appropriations  
5 Committee membership at some point, not necessarily leave  
6 it just with us to do the enabling legislation end of it  
7 because we can propose the things that you're suggesting.

8 We can embrace those to draft the legislation, change  
9 the programs, but unless we're willing to get a commitment  
10 from the funding sources in the legislature to follow  
11 through, that would be futile. If you could just address  
12 the question of what you would mean by a documented  
13 regional --

14 MR. JOHNSON: I can give you a little clue  
15 about that right now. The Center is currently funding four  
16 regional vision projects throughout the state. One in  
17 Hanover, parts of York and Adams County, one is along the  
18 west branch of the Susquehanna, one in Warwick Run School  
19 District, which is between Union and Northumberland  
20 Counties and one in an economic vision program out of  
21 Wilkes-Barre/Scranton area.

22 What this is is an actual document. They say, this is  
23 our vision. This is what we want our community to look  
24 like and over here they have a stack of documents of how to  
25 achieve this vision. The general vision is very broad but

1 the documents are very specific on how to achieve it.

2 THE CHAIRMAN: The document itself, though,  
3 what happens to it? Is it turned over to a county planning  
4 agency, is it submitted to DCA?

5 MR. JOHNSON: No. It's adopted -- it's  
6 hopefully adopted by resolution by all the municipalities  
7 in an area and we also encourage the Lions Club, the Rotary  
8 Club, all the civic organizations to also adopt it and then  
9 area businesses, large manufacturers, small manufacturers  
10 and other businesses in that area to adopt it so they want  
11 to expand a larger plan or they want to do something else,  
12 they consult this document and say, well, this is what the  
13 community wants us to do, let's follow that and use that  
14 just as a guideline.

15 The statement of the document is how to achieve this  
16 vision. It's a pile of papers saying we should have growth  
17 cuts here, we should do this. You can structure out in  
18 this field. It tells us nuts and bolts on how to achieve  
19 it. Businesses, local governments can or cannot buy into  
20 the documents to achieve that vision but we try to get  
21 everybody to reach the larger goals and this is a very hard  
22 process to go through.

23 THE CHAIRMAN: Mr. Johnson, I don't think I  
24 have any other questions other than it's my suggestion that  
25 if you want to talk about tweaking the way the state

1 distributes the money, you better talk to the tweakers and  
2 not us.

3 MR. JOHNSON: Will do.

4 THE CHAIRMAN: Any further questions then of  
5 the committee? Thank you very much.

6 We have next scheduled to testify Barry Seymour, Chief  
7 of the Office of Regional Planning for the Delaware Valley  
8 Regional Planning Commission.

9 MR. SEYMOUR: Thank you and good afternoon.  
10 I'd like to congratulate the Chairman and members of the  
11 Committee for keeping this hearing going on ahead of  
12 schedule.

13 My name is Barry Seymour. I'm the Chief of the Office  
14 of Regional Planning of Delaware Valley Regional Planning  
15 Commission in Philadelphia. The Commission is the bi-state  
16 Metropolitan Planning Organization for the Philadelphia  
17 region. Our Board of Commissioners include two Governor's  
18 representatives; the Secretary of Transportation, the chief  
19 elected officials of Bucks, Chester, Delaware and  
20 Montgomery Counties and the mayors of Philadelphia and  
21 Chester. We also include four counties in New Jersey.

22 Cooperative and coordinated planning is what the DVRPC  
23 is all about, bringing together multiple jurisdictions and  
24 different levels of government to plan for the orderly  
25 growth and development of the Delaware Valley region, and

1 that is exactly what House Bill 2662 is all about.

2 I'd like to commend the members of the House Select  
3 Committee on land use and growth management and the House  
4 Local Government Committee for introducing and hearing  
5 comments on this initiative, which can significantly change  
6 and improve the planning process in Pennsylvania.

7 House Bill 2662 is built on pillars of comprehensive,  
8 cooperative and consistent planning. Importantly, it  
9 affirms the importance of local decision-making but  
10 recognizes that a broader perspective is also necessary to  
11 consider the impacts of certain actions. The changes in  
12 the Bill would also serve as a link to all levels of  
13 government to assure consistency among municipal, county  
14 and regional and state plans.

15 The Delaware Valley Regional Planning Commission is  
16 currently undertaking the new long-range comprehensive land  
17 use and transportation plan for southeastern Pennsylvania.  
18 Called DIRECTION 2020, the plan is considering how our  
19 region has developed, documenting conditions there today,  
20 and identifying referred scenario for the future.

21 As we have met with and heard the citizens in Delaware  
22 Valley, the message we hear again and again is that  
23 uncontrolled growth and the loss of open space are the  
24 greatest concerns facing the region.

25 In surveys we have completed, only 80 percent of the

1 respondents felt that most municipalities in the region are  
2 not adequately managing land use and development and 76  
3 percent of respondents would be either very or somewhat  
4 willing to give up some of their municipalities'  
5 decision-making authority to return for more planned and  
6 coordinated overall growth. Clearly, if we wish to improve  
7 the results of land use planning and development in  
8 Pennsylvania, we need to change the process.

9         While the proposed legislation may be viewed by some  
10 as additional regulation or governmental authority, in  
11 fact, the improved planned use decision-making process  
12 would give more predictable results for developers for  
13 attractive and livable communities and a quality of life  
14 that, I think, will make Pennsylvania attractive for  
15 business investment and relocation.

16         While developers may always resist land use  
17 regulations, most will be more than willing to operate  
18 under a clear and consistent set of rules with a single  
19 coordinated message from all regulators.

20         House Bill 2662 did a great deal to improve the  
21 process and the results of planning use in Pennsylvania  
22 with a number of significant new initiatives. Each of  
23 these initiatives represent an improvement over existing  
24 conditions, and together they form a well-considered  
25 comprehensive package.

1           However, if it is necessary to move incrementally to  
2 advance the legislation, this would still be in the right  
3 direction. If certain provisions need to be removed at  
4 this time and revisited at a later date, I think that's  
5 still a viable direction.

6           In reviewing the legislation, I would also urge you to  
7 recognize the diversity of conditions and needs across the  
8 state and to provide flexibility for variations among  
9 county or regional solutions.

10           For example, in southeastern Pennsylvania, we have  
11 well-staffed professional county planning offices and a 30  
12 year history of multi-county regional planning. We're also  
13 facing more of a growth and associated challenges alluded  
14 to in the legislation. As such, we may be in a better  
15 position to assume additional responsibilities at the  
16 county or regional level. In other areas of the state,  
17 different approaches may be necessary.

18           Finally, I would urge you to recognize the need for  
19 some level of additional state support and planning as was  
20 mentioned earlier.

21           The State Planning Assistance Grants or SPAG Program  
22 available through the Department of Community Affairs would  
23 provide \$275,000 statewide this year, competed for by 2,700  
24 local governments and this represents an increase of a  
25 hundred thousand dollars from last year's budget.

1           Without taking too much more of your time, let me  
2 offer a few specific comments about the legislation.  
3 First, the legislation should do everything possible to  
4 encourage and reward good planning, such as priority  
5 recognition of planning grants, priority for infrastructure  
6 investment, and the granting of standing in land use  
7 disputes only to those municipalities determined to be  
8 consistent with county plans.

9           Second, the process of defining consistency among  
10 municipalities, county, regional and state plans needs to  
11 be better explained. While counties and municipalities  
12 could be directed to consider each other's plans in  
13 developing their own, there's insufficient guidance to  
14 determine how to define consistent or how the  
15 inconsistencies will be reconciled.

16           There is also no clear role for the regional planning  
17 agencies in reviewing the consistency of county plans. You  
18 may wish to consider the cross-acceptance process viewed by  
19 the New Jersey State Development and Redevelopment Plan as  
20 one approach to form consistency in plans and resolve the  
21 inconsistencies.

22           Third, given the emphasis on consistency, Section  
23 303(c) of the legislation should be deleted, as it  
24 undermines the intent of the legislation. This section now  
25 reads that notwithstanding any other provision of this act,

1 no action by the governing body of a municipality shall be  
2 invalid nor shall the same be subject to challenge or  
3 appeal on that basis that such action is inconsistent with  
4 or fails to comply with the provision of the comprehensive  
5 plan. It really pulls the legs out from under the planning  
6 process.

7 Fourth, the county role of mediating conflicts among  
8 municipalities should only be available to those  
9 municipalities whose plans have been reviewed and  
10 determined to be consistent with the county plan.

11 You could offer a similar option mediation by  
12 multi-county regional planning agency when there are  
13 conflicts among and between counties and municipalities.

14 Fifth, the infrastructure concurrency provisions of  
15 Section 503.2 are an excellent new initiative to assure  
16 that the facilities and services is available on a timely  
17 basis. It's really the basic planning principle which we  
18 have supported in the past. I'm very pleased to see it  
19 included here.

20 Six, the proposed legislation does not adequately  
21 address two important issues: that is the linkage of land  
22 use planning with water and sewer planning and with the  
23 provision of affordable housing.

24 State agencies, particularly the Department of  
25 Environmental Resources, should amend their permitting



1 procedures to support county and municipal comprehensive  
2 plans. The language of the legislation should also be  
3 expanded to address affordable housing concerns, such as  
4 authorizing density increases to support affordable housing  
5 in Section 603.c.6 or a housing element within the  
6 comprehensive plan that recognizes the need for housing  
7 opportunities at all income levels in Section 301.2.1.

8 Finally, your Committee will no doubt hear a great  
9 deal and already has heard a great deal about what many  
10 regard as the most controversial element of the Bill.  
11 That's article VI-A, projects of regional impact.

12 I believe that this can be a very positive new  
13 initiative with benefits to the State. Our surveys have  
14 shown support for assigning a greater role to the county  
15 planning commissions and our DIRECTION 2020 plans suggest  
16 that certain negative impacts of land use decision-making  
17 such as traffic congestion, loss of natural resources,  
18 overextended infrastructure or services, and economic  
19 impacts on older communities could be mitigated by a county  
20 role in the review of projects of regional impact.

21 Having said that, let me also express my hope that  
22 this proposal does not have the unintended effect of  
23 killing off the many other initiatives of the legislation.

24 Some specific points to consider within this section  
25 would include: first, define projects of regional impact

1 based on those impacts rather than the project type or  
2 size.

3 For example, use the number of automobile trips  
4 generated or the water and sewer loads or the number of  
5 people expected on site as the measure rather than an  
6 absolute square footage measure. In speaking with  
7 developers about this legislation, they told me, well, if  
8 the cut-off is 250, we'll build a 249 and I've heard that  
9 from a few people.

10 Second, regional impacts will obviously vary depending  
11 on which region you are in. It would be more appropriate  
12 that each regional planning agency or county planning  
13 agency to define the appropriate thresholds for their area.  
14 In southeast Pennsylvania, we have a very different issue  
15 than those in northeast.

16 Third, it may also be appropriate to provide a  
17 regional agency review for those projects with a  
18 multi-county plan. Certainly, there are those around.

19 And finally, to avoid charges of additional  
20 bureaucracy and delay, these reviews should be completed in  
21 90 days by the county rather than 120 days offered in the  
22 legislation.

23 Thank you very much for the opportunity to present  
24 these comments. I'd be happy to address any questions that  
25 any committee members have.

1 THE CHAIRMAN: Thank you, Mr. Seymour.  
2 Questions starting with members to my left. Representative  
3 Armstrong.

4 REPRESENTATIVE ARMSTRONG: Your last point  
5 there, page 7, when you say about the 90 days rather than  
6 the hundred twenty days, what do you presently experience  
7 right now in Delaware Valley?

8 MR. SEYMOUR: We do not review applications as  
9 the regional planning agency. Counties right now -- I know  
10 many cases have less than that in that when the application  
11 in municipalities, they only have 30 or 45 days to review  
12 that. Of course, their review right now is advisory but  
13 the 90 days should be sufficient once all the information  
14 is in place.

15 REPRESENTATIVE ARMSTRONG: Thank you.

16 THE CHAIRMAN: Representative Sturla.

17 REPRESENTATIVE STURLA: Two quick comments. On  
18 page 5, point No. 6 of your testimony, you say that we  
19 should also address water and sewer planning and provisions  
20 for affordable housing. I think in our report that the  
21 Select Committee put out, we touched briefly on those  
22 because, basically, we got to a point where we said we can  
23 hold hearings for another two years trying to get these  
24 also incorporated and I believe what we wanted to do was to  
25 say that some of those areas are under review from other

1 agencies and other initiatives that have been looking at  
2 this and we believe they should be incorporated. We just  
3 didn't get into detail and I agree we should perhaps pull  
4 some of that information in because it is obviously  
5 something of need.

6 MR. SEYMOUR: Perhaps a way of doing that would  
7 be a state planning process.

8 REPRESENTATIVE STURLA: I think that's where  
9 House Bill 2972 starts to do some of that. I believe the  
10 two should be companion bills but they're different  
11 committees at this point in time.

12 MR. SEYMOUR: We hope to see them go there as  
13 well.

14 REPRESENTATIVE STURLA: One other point, on  
15 page 2 of your testimony, you say House Bill 2662 is built  
16 on a comprehensive cooperative and consistent plan.  
17 Importantly it affirms the importance of local  
18 decision-making.

19 I agree with you wholeheartedly, but that's a stark  
20 contrast to some people who have come before the committee  
21 testifying that this takes away all powers of local  
22 government. Would you care to comment on that further?

23 MR. SEYMOUR: Well, from my reading of it and  
24 understanding of it, it takes away a small amount of the  
25 local government decision-making and that is really only

1 for those projects of regional impact in terms of specific  
2 project development.

3 It does bring them within an umbrella of planning  
4 principles so that municipalities recognize that it is part  
5 of the county, it is part of a regional and it is a state  
6 and that hopefully we're all marching more or less to the  
7 same tune. There could be some different harmonies in  
8 there but more or less we're all going in the same  
9 direction so I'm sure you heard from certain local elected  
10 officials that they feel this is a front on local  
11 decision-making. My reading and analysis of it, I don't  
12 see it that way.

13 REPRESENTATIVE STURLA: Thank you.

14 THE CHAIRMAN: Thank you, Representative  
15 Sturla. Members to my right, any questions?

16 REPRESENTATIVE RUBLEY: One question. I  
17 wondered if you could expand upon your recommendation that  
18 projects of regional impact be based on those impacts  
19 rather than project size. I just can't envision how we  
20 could quantify, you know, the things you're suggesting  
21 because, you know, the need will vary so much across the  
22 state.

23 MR. SEYMOUR: That was my concern from the way  
24 that the Bill is drafted now. It does try to get very  
25 specific and set measures of 250 residential units or

1 250,000 commercial square feet and two things. One, those  
2 standards will be very different depending on where they're  
3 applied in terms of the scale of the project. But if what  
4 the real goal is is to mitigate impacts and to reduce the  
5 impact of traffic congestion or reduce the impact of sewer  
6 flow or air quality emissions or whatever, a lot of those  
7 go through environmental impact.

8       There may be ways in keeping a project at the same  
9 size to reduce the impacts and if what you're concerned  
10 about is not necessarily whether they're 250 residential  
11 units or 251 residential units, what you're really  
12 concerned about is traffic, there may be ways to keep a  
13 project of the same size but reduce the traffic and I think  
14 that's what the Bill should really focus on is those  
15 impacts and to a certain extent, I would like -- I think  
16 that the counties probably would be best if county regional  
17 agencies define what those thresholds should be. I think  
18 there should be some guidance within the Bill and authorize  
19 that to take place but those specific standards be created  
20 at the local level depending on the conditions.

21       THE CHAIRMAN: There being no further questions  
22 on the part of the members, we want to thank you very much,  
23 Mr. Seymour, for your testimony today.

24       Next we have Noel Dorwart, Chairman of the East  
25 Hempfield Township Board of Supervisors.

1                   MR. DORWART: Mr. Chairman, members of the  
2 Local Government Committee, I will preface my remarks by  
3 saying land use and growth management is best addressed by  
4 elected officials and the appointees to their planning  
5 commissions with the ultimate decisions made by those in  
6 elective office in each grass root municipality, be it  
7 city, borough or township in the State of Pennsylvania.

8                   This statement is a result of my 11 years' experience  
9 as an appointee on the East Hempfield Township Planning  
10 Commission from the mid 60's through the mid 70's and my  
11 experience since 1987 as a township supervisor.

12                   Lancaster County is fortunate in having an outstanding  
13 staff on the Lancaster County Planning Commission. They  
14 give assistance to the local municipalities through their  
15 reviews of comprehensive plans or ordinances, such as  
16 zoning, subdivision and land development and rezoning  
17 requests, giving guidance, comments and recommendations.

18                   For those municipalities who lack some of the  
19 ordinances within the county, the county has approval or  
20 denial power through their ordinance.

21                   Unfortunately, not every one of Pennsylvania's 67  
22 counties have a subdivision or land development ordinance.  
23 It is more unfortunate that many municipalities lack a  
24 comprehensive plan and growth management tools such as  
25 subdivision, land development ordinances, slope ordinances,

1 road ordinances to name a few. These and other growth  
2 management tools should be enacted and enforced by all  
3 municipalities.

4 I have been amazed over the years when I attend the  
5 Pennsylvania State Association of Township Supervisors and  
6 year after year have an attendee say, why should we have  
7 zoning or land development ordinances? We have no growth  
8 now and these things discourage growth.

9 I feel the direction that our state legislators should  
10 take is to convince, not necessarily mandate, but try to  
11 convince these local municipalities to adopt zoning  
12 ordinances and growth management tools. Each of  
13 Pennsylvania's municipalities owes this to their respective  
14 residents.

15 This Bill should address this aspect before including  
16 some of the wording which tends to take responsibility away  
17 from local municipalities and giving more power over them  
18 to the county and state.

19 I urge you to reconsider the primary controversial  
20 issues on page 3 of the House of Representatives Select  
21 Committee's report. In particular, No. 3, the county veto  
22 of proposed municipal projects with regional impact.

23 Along this line, the August/September 1994 issue of  
24 the Pennsylvania Planner, published by the Pennsylvania  
25 Planning Association, includes this statement in the



1 President's message on page 1.

2 I quote, briefly, municipalities are fearful of what  
3 appears to be losing certain land use controls to counties.  
4 However, we do not feel that is the intent of the  
5 legislation to do that. As we see it, the intent is for  
6 counties to have the ability to assist their municipalities  
7 in the review and approval of larger scale projects.

8 If this is, in fact, the intent of this portion of the  
9 Bill, it should be stated in so many words.

10 I urge you to review the letter from Elam Herr,  
11 Director of Legislation for the Pennsylvania State  
12 Association of Township Supervisors, dated May 13th, 1994.  
13 It deserves your attention and discussion.

14 An additional comment from our planner analyst offers  
15 this information and I asked him, and this is not in your  
16 text that I gave you, but our planner analyst in East  
17 Hempfield Township, and this is the only place that the  
18 township comes into this because all the other comments are  
19 my personal comments, but he says under the proposed  
20 legislation, municipalities would have to adopt zoning,  
21 subdivision and land development plans that are consistent  
22 with municipal comprehensive plan and county comprehensive  
23 plan.

24 In this area, I believe that all of our ordinances in  
25 East Hempfield Township are consistent with our new

1 comprehensive plan. The one problem I foresee is that the  
2 Municipalities Planning Code now states under Section 301.4  
3 that the municipality comprehensive plan shall be generally  
4 consistent with the county comprehensive plan. Under the  
5 proposed legislation, it must be consistent. Given the  
6 present relationship between the county and between our  
7 county and township, this is not a problem but if the  
8 county or our way of thinking changes, then there could be  
9 a problem.

10 In conclusion, I feel the county planning commissions  
11 should be a source of assistance and background but remain  
12 a recommending body only. Approval or denial should be in  
13 the hands of local elected officials, not in the hands of  
14 non-elected county and state appointees. I thank you.

15 THE CHAIRMAN: Starting with the members  
16 sitting to my left, any questions? Representative Sturla.

17 REPRESENTATIVE STURLA: You talk about the fact  
18 that appointed county officials should not be the ones with  
19 the veto power and yesterday someone testified that  
20 technically, they believe they probably even couldn't have  
21 the veto power, that there probably should be something  
22 that the county commissioners would have to vote on if, in  
23 fact, there was going to be a veto power.

24 Would that relieve some of your fears of the county  
25 veto or would you still say we would still rather not have

1 it at all?

2 MR. DORWART: I have a feeling that this would  
3 tend to get possibly into the realm of politics and as a  
4 difference of opinion between local municipalities and  
5 county government, I feel that the information that we  
6 receive from those appointees on the county planning  
7 commission is relatively good. I understand that this  
8 unfortunately is not the case.

9 REPRESENTATIVE STURLA: Thanks.

10 THE CHAIRMAN: Any questions on the part of the  
11 members to my right? There being none, Mr. Dorwart, I want  
12 to thank you very much for your testimony today. We  
13 appreciate it.

14 Next is Janet Hammer. Miss Hammer, please feel free  
15 to begin.

16 MS. HAMMER: Thank you for the opportunity to  
17 testify. My name is Janet Hammer, and I am Project Leader  
18 for the Rodale Institute's Rural/Urban Initiative. The  
19 Rodale Institute is a nonprofit research and education  
20 organization committed to promoting economically and  
21 environmentally sustainable land use.

22 There are three main points which I'd like to make  
23 today. First, that there is a critical need to improve the  
24 current land use planning and regulation in the State of  
25 Pennsylvania.

1           Secondly, that coordinating state, county and local  
2 land use planning and regulation can improve the fiscal,  
3 environmental and social health of our communities.

4           And third, that planning for the effective and wise  
5 use of the Commonwealth's resources is an important tool  
6 for accommodating private and public objectives.

7           I am sure that you are well aware that indicators  
8 abound regarding the fiscal, environmental and social ills  
9 resulting in current land use patterns and especially low  
10 density sprawl. These include, for example, loss of prime  
11 agricultural soils, depleted and contaminated water  
12 supplies, loss of habitat and species, and the loss of  
13 community.

14           The fiscal costs of this pattern of development are  
15 high as well, with added expenditures to individuals and  
16 governments paying for such items as increased energy use,  
17 road construction and maintenance, water supply and  
18 treatment, air pollution control, new schools, declines in  
19 health and the impacts of age and class segregation. I  
20 have included an appendix of some of these studies  
21 documenting these.

22           In order to better understand these problems, the  
23 Rodale Institute conducted research on the barriers to  
24 sustain the agricultural and natural resources while  
25 accommodating growth.

1           The research included focus groups, surveys,  
2 interviews and literature reviews. The research revealed  
3 the complex web of interrelated barriers. A couple of  
4 those were mentioned by other speakers including  
5 educational needs as well as the need for increased funding  
6 for planning.

7           For example, state's plan assistance consistently have  
8 received three times more applications than available funds  
9 so even those communities that are trying to promote better  
10 planning are finding a little strapped and unwilling to do  
11 so. But in interest of today's issue, I'll talk about the  
12 Municipal Planning Code.

13           There were specific MPC shortcomings which were  
14 identified in our research. Some of these I'm sure you're  
15 well aware of in light of the drafting of the proposed  
16 legislation.

17           Number one, comprehensive plans at this time are  
18 advisory only. Decisions are not required to be consistent  
19 with the comprehensive plans.

20           Number two, consistency is not required between  
21 various plans and regulations; zoning, comprehensive plans,  
22 sewage plans or storm and water for example.

23           Number three, the impact fee regulation is seriously  
24 flawed. At this time, transit impacts only are provided  
25 for, and even those are perceived as difficult and

1 expensive to implement.

2           Number four, there is no authoritative mechanism for  
3 dealing with projects of regional impact and consistency  
4 between neighboring areas is not required. What we have is  
5 a very bulkinized system in decision-making.

6           At this time, a comprehensive growth strategy for the  
7 state is not called for and counties have littler power.  
8 Vesting land use decision-making power at the local level  
9 means that close to 2600 municipalities are each making  
10 autonomous uncoordinated decisions irrespective of the fact  
11 that incremental decisions work cumulatively to affect a  
12 larger density.

13           Number five, cross-jurisdictional transfer of  
14 developmental rights or TDR are not permitted at this time  
15 until land use development planning is in place and growth  
16 boundaries are not provided for.

17           And number six, the Pennsylvania courts have  
18 interpreted that municipalities are required to accommodate  
19 all uses within their boundaries.

20           No doubt you will hear some opposition to coordinated  
21 state and regional planning, most likely regarding the  
22 issue of property rights. I'd like to make a few points  
23 regarding this matter.

24           With respect to the reduced property value, we must  
25 get beyond the idea that land use regulation means a

1 reduction in property value. There are many examples which  
2 demonstrate that well-designed communities generally have  
3 higher property rights.

4 Less research has been conducted with respect to the  
5 zoning of agricultural lands. However, evidence does  
6 indicate the prices remain stable when land is effectively  
7 zoned for agriculture.

8 Furthermore, with respect to access to farm financing,  
9 lending institutions, for the most part, make their lending  
10 decisions based primarily on productivity of agricultural  
11 enterprise rather than on the potential value of the land  
12 if it is sold for development. Thus, there should not be  
13 concern about access to farm credit zoned for agricultural  
14 use. Some of these studies are also referenced in my  
15 testimony.

16 With respect to takings, clearly, we would not support  
17 the taking of a property without just compensation.  
18 However, the regulation of land use, even if there is some  
19 diminution of value, does not constitute a taking.

20 The courts have clearly held that land use may be  
21 regulated in order to promote public health, safety and  
22 welfare as long as the criteria are met, and the courts  
23 have held that some diminution of property value does not  
24 necessarily constitute a taking.

25 While the property rights must be respected, property

1 ownership does not confer the right to any action  
2 irrespective of this impact on community well-being.

3 Furthermore, when individuals speak about the taking  
4 of their property value, it is important to remember that  
5 often that potential value, which they are referring is  
6 being diminished, exists primarily due to community  
7 investments.

8 That is, without the infrastructure and amenities  
9 provided by the community, the property value would very  
10 likely be much less. Thus, this taking may actually be  
11 viewed as a reclaiming or reduction of a giving.

12 I do find it interesting to note that at the same time  
13 we've seen an increase in not in my backyard, we've also  
14 seen anti-regulation of property rights groups being  
15 increasingly vocal. Essentially what we're hearing is  
16 people saying, I want to be able to tell you what to do on  
17 your piece of land but you sure as heck can't tell me what  
18 to do with my piece of land. It essentially overcomes the  
19 inability to balance personal well-being or the community  
20 well-being and to educate that what is good for the  
21 community is very often good for the individual in the long  
22 run as well.

23 Back to agricultural support. Our research has found  
24 that development pressure is a significant barrier to  
25 sustaining agriculture in southeast Pennsylvania, one of



1 the state's most productive agricultural regions, and a  
2 nation as well.

3 We also found that appropriate land use planning  
4 regulation can be an important tool in maintaining the  
5 viability of agriculture.

6 While conservation easements, tax relief and economic  
7 profitability strategies are also important tools,  
8 effective land use planning and regulation is a necessary  
9 ingredient in the protection of prime agricultural lands.

10 Our research did find that agricultural community to  
11 be split on this issue. While some landowners want the  
12 option of selling their land for maximum profit, many  
13 farmers indeed support planning which would provide for  
14 effective agricultural industry areas.

15 In their opinion, keeping development out of  
16 agricultural areas makes it easier for them to conduct  
17 their business by reducing such problems as noise and odor  
18 nuisance complaints, vandalism, bottles and trash in their  
19 fields, cars ruining their equipment, etc.

20 These farmers felt that good agricultural lands will  
21 command a decent price in the marketplace and zoning for  
22 agricultural areas would strengthen their position by  
23 diminishing conflict and uncertainty and promoting  
24 agriculture as a viable industry.

25 Resistance to more coordinated planning may also come

1 from municipalities who fear a loss of local control. What  
2 these communities fail to realize is that by not planning  
3 in a coordinated fashion they have de facto given them no  
4 control.

5         Currently, one municipality can put in a road, a  
6 racetrack, a new development without any input from the  
7 neighboring municipality and thus a town who may be taking  
8 away efforts to plan effectively may be sabotaged by  
9 conflicting plans from a neighboring community. The  
10 proposed legislation is respective of the time and in many  
11 ways improves the community's ability to control their  
12 well-being.

13         Finally, while some people pit economic,  
14 environmental, and social issues in opposition as an  
15 either/or situation, our research demonstrates that common  
16 root causes, including land use planning and regulation,  
17 affect each of these issues.

18         By effectively planning and regulating land use,  
19 communities can simultaneously improve their economic  
20 prosperity, their environmental health and the community  
21 quality of life. Thank you for your attention. Copies of  
22 our research have been submitted as well.

23         THE CHAIRMAN: Yes. I was going to say that I  
24 think each member has received a copy of the abstract and  
25 the project review. The abstract contains a draft report.

1 I believe we're going to insert this into the official  
2 record in addition to having it distributed to the members.  
3 I'd like to open it up for questions starting on my  
4 left-hand side. Any members have any questions?  
5 Representative Armstrong.

6 REPRESENTATIVE ARMSTRONG: You made mention of  
7 surveys. Are any of those surveys available to the  
8 committee?

9 MS. HAMMER: Not at this time. There were two  
10 primary research activities that we undertook. The draft  
11 report that you have was based on interviews and the  
12 literature review. The surveys are part of a larger  
13 project in cooperation with Penn State and the results of  
14 that research will not be made available until, I believe,  
15 January.

16 REPRESENTATIVE ARMSTRONG: Fine. What was the  
17 range of the surveys, how many people interviewed or  
18 municipalities or what?

19 MS. HAMMER: The interviews in that document  
20 lists the types of people that were interviewed and the  
21 diversity. We have representatives from academic,  
22 agricultural preservation boards, county planning agencies,  
23 profit planning practices, land use and nonprofit planners,  
24 municipal, regional planning agencies and state agencies.

25 The surveys address a broader question of what is

1 required to sustain agriculture in southeast Pennsylvania.  
2 There's a consumer attitude survey with 100 participants.  
3 We have a survey of farmers. We have a number of groups  
4 held throughout the region and I don't have all the  
5 specifics of that.

6 REPRESENTATIVE ARMSTRONG: A number 100  
7 agricultural?

8 MS. HAMMER: No. That was a consumer attitude  
9 survey but specifically regarding the focus groups were the  
10 most able to really -- instead of walking in with our  
11 perspective of what we thought the question may be, we  
12 simply spoke with farmers and other representatives as what  
13 they thought the most significant areas were to sustain  
14 agriculture and consistently develop areas. I think the  
15 numbers for those that were held were participants there.

16 THE CHAIRMAN: Was it your suggestion,  
17 Representative Armstrong, that the committee in the future  
18 try to acquire a copy?

19 REPRESENTATIVE ARMSTRONG: Yes, if we can.

20 THE CHAIRMAN: I was just going to ask, Miss  
21 Hammer, you don't have to do it right now, but at some  
22 point in the future if you could instruct us, through my  
23 office will be fine, how we might be able to get a copy of  
24 that report once it's for distribution?

25 MS. HAMMER: It might be good to engage in

1 dialect as well. There will be a limited invitation on  
2 December 7th in conjunction to discuss this very topic so  
3 perhaps there will be some members of the committee there  
4 that are interested in attending.

5 THE CHAIRMAN: That would be fine. We'd be  
6 more than happy to provide you with the names and  
7 addresses. I must caution you, however, at that point that  
8 the legislature will not exist as an institution and we  
9 don't know what the make-up of the committee will be in  
10 terms of who will be on it but certainly, at least the  
11 impression I get from the members that are currently  
12 serving, those that aren't seeking other offices or are not  
13 choosing to leave the legislature either voluntarily or  
14 involuntarily, I think, have a desire to serve with us  
15 again so we'd be more than happy to give you the names if  
16 you'd like to follow up with them. Continuing with  
17 questions, Representative Sturla.

18 REPRESENTATIVE STURLA: Yes. You raise this  
19 issue of takings and while I believe it is an extremely  
20 important issue, I would guess that I would hope for the  
21 time being anyway keep it out of the Municipalities  
22 Planning Code discussion we're having because it could bog  
23 this issue down for years.

24 But as long as you mention the issue and give me the  
25 opportunity here, you also mention giving and this is

1 something that has been something that I have been looking  
2 at for a couple years now, with regard to just compensation  
3 for taking.

4 But then in turn, in many cases, governments, when  
5 they create a highway, while they will pay \$10,000 a  
6 neighbor or whatever it is that is necessary to acquire  
7 land for that highway, they then do an interchange and all  
8 that land around that interchange is now worth a couple  
9 hundred thousand dollars an acre instead of 10,000 and as a  
10 government as a people who have paid for that  
11 infrastructure, we never retain that additional value which  
12 we give to property owners. It's only a one-way street.  
13 If we're taking, we pay for it. If we're giving, well,  
14 that's just the luck of the draw.

15 Now, does this involve politics? No. Those  
16 interchanges are not the luck of the draw. They're the  
17 luck of who you happen to know in the Governor's office and  
18 whether the road takes a turn this way or that way so it  
19 runs through my property.

20 In that sense, any information that you have regarding  
21 this giving and taking issue, I would be more than  
22 interested in hearing about because I think it's something  
23 that ultimately, when we get down to how we fund some of  
24 these things, will come into play in the future.

25 MS. HAMMER: I don't have any specific study

1 that I've actually looked at that. I would say that a  
2 number of people would argue that if the government does  
3 receive something back in that with property values  
4 increasing due to this infrastructure investment, they're  
5 going to receive additional funds through the property tax  
6 and that there is some balance there but my guess is that  
7 it actually haven't really come across much information  
8 about that.

9 REPRESENTATIVE STURLA: I think that because of  
10 the impact that the increased value has on the land to a  
11 particular property owner, often those decisions are made  
12 for political purposes versus best planning use and in  
13 effect you retain that value, it will be no more  
14 advantageous for one property owner versus another if we  
15 may actually do some of these things based on sound  
16 planning policies rather than who you happen to know in a  
17 particular office in any given point in time.

18 MS. HAMMER: Or who provides the least  
19 resistance.

20 REPRESENTATIVE STURLA: Thank you.

21 THE CHAIRMAN: Any questions on the part of the  
22 members on my right? There being none, I have one quick  
23 question. Following on the concept of the taking and the  
24 giving, are you suggesting that in your testimony what  
25 you're talking about is the value of the land to the

1 individual decreases if the improvements aren't done at the  
2 time of the taking?

3 I have a piece of farmland. You want to take it from  
4 me as the government agency. I say the value of it is  
5 \$10,000. Representative Sturla is suggesting that that  
6 value increases if you put a road in front of it first and  
7 then it increases even more if there is, in fact, an  
8 intersection.

9 Are you then suggesting that, in theory, if you take  
10 the property from me prior to the road being constructed  
11 and in fact prior to the intersection being constructed  
12 that my base value of \$10,000 is in fact less?

13 MS. HAMMER: No. I'm actually not addressing  
14 how much money should be given at the time of compensation  
15 if there is a takings.

16 What I was trying to bring up is that some of the road  
17 with respect to the proposed legislation is that if there's  
18 more planning and land use regulation and then more about  
19 takings and that there be diminution of value of property  
20 and there has, in fact, I believe, been some legislation  
21 introduced to the legislature in Pennsylvania on the  
22 specific issue of regulation affecting value of property,  
23 whether that constitutes a takings and what I would just  
24 like to make clear is that we shouldn't be moving or making  
25 fearful that because we do sound planning for the



1 combination of growth consistent with the general health,  
2 safety and welfare of the Commonwealth that we shouldn't  
3 fear takings lawsuits, that the courts have upheld that you  
4 may regulate appropriately.

5 There's certain things that you must follow. If you  
6 want me to get into what some of the court cases have held,  
7 I can do that but you basically need to be regulated for a  
8 public purpose. There needs to be a clear regulation.

9 THE CHAIRMAN: No. My only point was this. I  
10 was wondering if what you were suggesting was looking at  
11 some formulation of a formula?

12 MS. HAMMER: No.

13 THE CHAIRMAN: That would affect that by  
14 legislation?

15 MS. HAMMER: No.

16 THE CHAIRMAN: What you were suggesting would  
17 be that instead of taking the value of the land raw, you  
18 would somehow try to estimate how much the municipality  
19 would expend in building the road and somehow attempt to  
20 deduct that from the value?

21 MS. HAMMER: It's an interesting idea but that  
22 was not the direction I was heading.

23 THE CHAIRMAN: I just wanted to make sure of  
24 that. Any other information though that you do want to  
25 relay to the Committee, please feel free to do so.

1 Representative Sturla and some of the other members have  
2 served on the task force but you can do that if you want  
3 to. Please don't feel obligated. I just wanted to clarify  
4 that point myself.

5 Was there any other questions? Miss Hammer, then we  
6 want to thank you very much for your testimony today.

7 Mr. Ronald Bailey, who is the Planning Director of  
8 Lancaster County Planning Commission, I see you have come  
9 bearing gifts.

10 MR. BAILEY: Yes, I have, as a matter of fact.  
11 Good morning or good afternoon, I guess. My name is Ronald  
12 Bailey. I'm the Planning Director of Lancaster County.  
13 I'm speaking this morning in my capacity as an individual  
14 and as planning director based on my years of professional  
15 experience. I am the last speaker this morning so I'm  
16 going to abbreviate a little bit some of my comments so we  
17 can all get out of here and face the traffic again which we  
18 do so love I'm sure.

19 As the Chairman just mentioned, I bring some gifts. I  
20 have with me this morning a document of the Congressional  
21 Record. It's a hearing that was established last spring by  
22 the Subcommittee of Investigations and Oversight of Space  
23 Science Technology of all committees. It deals with growth  
24 management and it's probably the definitive word at this  
25 point on the subject of today and so I have brought copies

1 and copies to be given to the committee officially and I  
2 have also copies here for the members individually. If you  
3 wish more copies, I can supply that. If you have  
4 questions, for instance, about how long the state's dealing  
5 with these questions we're talking about, consistency,  
6 concurrency, infrastructure, what have you, you'll find it  
7 in here.

8 The particular reason why I'm introducing this  
9 particular document is that it has three case examples of  
10 how communities and the units are dealing with growth and  
11 growth management.

12 One of those case examples is Lancaster County,  
13 Pennsylvania, and specifically, if I can refer you to pages  
14 of 119 to 143, you will find that case example spelled out  
15 in full. It was done by a professor from the University of  
16 Wisconsin and I think it's a good third-party look at what  
17 we're struggling with here as a county, as a municipality  
18 under the present legislation in Pennsylvania.

19 Instead of talking about case examples, however, this  
20 morning, I would like to discuss the term growth management  
21 in reference to House Bill 2662. The issue, as I see it,  
22 is not really growth. It is change. And in some parts of  
23 Pennsylvania, change is being manifested by growth while in  
24 other parts of the Commonwealth, it's being manifested by  
25 decline.

1           How we respond to change determines the quality of our  
2 environment. The present Municipalities Planning Code is  
3 inadequate to enable state agencies and local governments  
4 to effectively deal with change.

5           For instance, because of the way we are changing the  
6 use of our land, we are becoming more and more dependent on  
7 the automobile. In Lancaster County, we increased our  
8 population by 60,000 persons between 1980 and 1990.

9           During that same period of time, we increased the  
10 number of registered vehicles on our highways by 82,000.  
11 In other words, we more than added vehicles on the highways  
12 for every man, woman and child that we added to our  
13 population in that period of time.

14           All of this increased traffic has had tremendous  
15 impacts on our quality of life, quality of air we breathe  
16 and the economic productivity of our land. Yet the present  
17 Municipalities Planning Code provides no effective way of  
18 coordinating traffic impacts with land change over a  
19 multi-jurisdictional region. Not only that but provisions  
20 such as traffic -- such as the traffic impact fee  
21 provisions of the code are unworkable given the fragmented  
22 governmental structure in Pennsylvania.

23           Likewise, changes in the way that we use lands have  
24 produced impacts on our communities. All across the  
25 Commonwealth you can find similar patterns where rural

1 townships are being transformed into automobile-dependent,  
2 economically suburban -- economically segregated suburban  
3 environments, while adjoining cities and boroughs are being  
4 subject to economic and social decline.

5 As I mentioned, we have added approximately 60,000  
6 persons to the population in Lancaster County between 1980  
7 and 1990. It is roughly the same population as resides  
8 here in the City of Lancaster, our largest municipality.

9 The difference is that the City of Lancaster  
10 encompasses seven and a half square miles, whereas to  
11 accommodate an equivalent population, we have converted  
12 somewhere between 60 and 70 square miles of agricultural  
13 land to suburban and urban use.

14 The Municipalities Planning Code, as it presently  
15 exists, does not adequately enable local governments to  
16 deal with change in a coordinated fashion.

17 House Bill 2662 has significantly improved the  
18 Municipalities Planning Code. Most importantly, House Bill  
19 2662 would require consistency between plans and ordinances  
20 adopted by local governments.

21 As you've heard in testimony yesterday and today, we  
22 are achieving, I think, in Lancaster County through really  
23 remarkable cooperation from municipalities in this county a  
24 very high degree of consistency, something that is somewhat  
25 remarkable for the Commonwealth. At the same time, we

1 don't have a great deal of consistency with state agencies.

2 For instance, the Department of Transportation  
3 routinely ignores local comprehensive plans in making  
4 decisions regarding highway improvements and I'll speak on  
5 that in a little bit.

6 Perhaps one of the most controversial parts of House  
7 Bill 2662 is Article VI-A, the projects of regional impact,  
8 and I often hear this provision referred to as a new veto  
9 power for the county.

10 As a county planning director, I think I can say that  
11 I'm not necessarily that interested in veto power and that  
12 may, in fact, may not really be what we need. Even if the  
13 counties have the ability to potentially veto a project  
14 because of a denial or permit, the discretion for the  
15 county will be no greater, cannot be any greater than the  
16 discretion from the municipal governing body.

17 If a project is on a site that is appropriately zoned  
18 and if that project meets all of the requirements of law  
19 under law in Pennsylvania, the permit must issue. Neither  
20 municipal planning or government body nor the county will  
21 have a discretion to arbitrarily deny that permit.

22 The only instances where I can see a denial of a  
23 permit by the county might come into play is if under this  
24 proposed legislation a project has such far regional  
25 impacts that they could not be mitigated.

1           Now, let us look at a perhaps a pragmatic example of  
2 what we're talking about, and I think that of even greater  
3 importance in this veto power, however, is the ability  
4 potentially of the county to condition a project or impose  
5 conditions of approval that exceed the power of the  
6 individual municipality.

7           Right now in Lancaster County, there's a proposal for  
8 a new box retail to be located at the very southern  
9 boundary of a township. Under the present Municipalities  
10 Planning Code, that host municipality has no authority to  
11 require mitigation of traffic impacts in the surrounding  
12 municipalities, even though the development will generate  
13 more than 7,000 additional vehicle trips on an already  
14 congested two-lane road and through an intersection in a  
15 nearby rural area that is already functioning at a level F  
16 service.

17           In fact, the current traffic impact fee provisions of  
18 the Municipalities Planning Code specifically prohibit a  
19 municipality from assessing a developer for impacts that  
20 are occurring in an adjacent municipality as a result of  
21 his development.

22           By authorizing counties to exercise regulatory  
23 authority over projects of regional impact, House Bill 2662  
24 would make it possible for counties to condition  
25 developments upon mitigating the impacts that are directly

1 caused by that development.

2 This authority would enable counties to protect  
3 adjoining municipalities from some of the impacts that will  
4 be generated by developments that do not yield tax revenues  
5 to those jurisdictions.

6 Again, what is important is not some veto power but  
7 the ability of local government working through the county  
8 to deal with regional problems on a regional basis. In  
9 fact, one of the adverse features of the present  
10 Municipalities Planning Code is that it really sets up an  
11 adversarial relationship between municipalities and the  
12 county, but I think it is unnecessary.

13 It is perhaps one of the few circumstances in law  
14 where if a county adopts a comprehensive plan or a zoning  
15 ordinance or subdivision or land development ordinance, a  
16 municipality can effectively veto the county's action by  
17 adopting their own plan or ordinance. I myself know of no  
18 other circumstance where one government body can repeal the  
19 action of another governmental body but that's the way we  
20 have it at the present time.

21 I urge the members of this committee to recognize that  
22 all levels of government, state, county, regional,  
23 municipal, all have an important role. These roles need to  
24 be defined on a consistent, cooperative basis, not on a  
25 competitive basis.



1 Another controversial provision of House Bill 2662 is  
2 concurrence. One of the problems of concurrency, as has  
3 been implemented in other states, is quite frequently the  
4 standards for concurrency is established at the state  
5 level.

6 One of the very good features which I encourage you  
7 attain in House Bill 2662 is that House Bill 2662 would  
8 allow local governments to establish the levels of service  
9 needed for development with guidance from the county, and  
10 this flexibility is critically important.

11 There are other concerns, I think, with respect to  
12 some of the requirements in House Bill 2662 in order to  
13 implement the concurrency provisions. I would only caution  
14 the committee that these really reflect the restrictions  
15 that are being imposed by the state and federal reports.

16 Specifically, I would refer you to recent U.S. Supreme  
17 Court decision in Dolan versus Tigard. Simply put, we must  
18 have information, we must have our act together at the  
19 municipal level before we can significantly regulate  
20 private land.

21 And finally, I think it's important to note that  
22 during the past several years while the House Select  
23 Committee was examining this issue of an ad hoc task force  
24 was drafting the proposed legislation, and while this  
25 committee began its deliberations, significant changes have

1 occurred at the federal level.

2 We now, whether we know it or not, have a national  
3 land use planning law in effect. It came to us in the  
4 guise of a transportation funding act, the Intermodal  
5 Surface Transportation Efficiency Act or commonly known as  
6 ISTEA.

7 In adopting ISTEA, Congress has mandated the  
8 development of statewide transportation plans to be based  
9 on local transportation plans that integrate land use and  
10 transportation decisions.

11 Even more significantly, Congress has linked the  
12 provision of federal transportation funding to the  
13 achievement of the standards of the Clean Air Act  
14 Amendments.

15 What this means is that local governments must take  
16 into account the effect of land use decisions on  
17 transportation and air quality. Unfortunately, we  
18 currently have no mechanism in Pennsylvania to facilitate  
19 this process.

20 I would urge the Committee to add to House Bill 2662  
21 authority for local governments to take planning and zoning  
22 actions based on air quality considerations. Counties and  
23 municipalities need an express authority to base land use  
24 decisions on air quality impact.

25 The importance of this again is reflected by the

1 magnitude of change that we are experiencing in  
2 Pennsylvania. As I mentioned earlier, the motor vehicle  
3 registrations in Lancaster County far outstrips population  
4 growth.

5 In order to meet the National Ambient Air Quality  
6 Standards, we must reduce the growth of vehicle miles  
7 traveled throughout the Commonwealth, not just in Lancaster  
8 County. Yet transportation and land use are the flip sides  
9 of the same coin.

10 What we do with your transportation infrastructure  
11 affects how we develop our lands, and what we do with our  
12 lands determines the demand on our transportation system.

13 The change that we are experiencing is profound. To  
14 illustrate this magnitude of the change we are  
15 experiencing, there are five box retailer proposals right  
16 now in Lancaster County, three Wal-Mart's and a Sam's Club  
17 and what is termed a power center of a large discount box  
18 retailers. One of these projects, in fact, was approved  
19 last Monday night.

20 In the state of Virginia right now, there is a  
21 proposal to develop a new Disneyland theme park outside of  
22 the Washington urban area. The state of Virginia is  
23 committing over a hundred fifty million dollars in  
24 infrastructure improvements to support this new  
25 development.

1           The new Disneyland would generate 77,000 vehicle trips  
2 a day. Here in Lancaster County the new box retailer  
3 projects, the five box retailer projects that we have,  
4 would generate almost 50,000 vehicle trips per day. In  
5 other words, the cumulative impact of the five retail  
6 projects in this county currently under discussion are  
7 equal to two thirds of the traffic impact of dropping a  
8 Disney World Resort in the middle of Lancaster County.

9           Impacts of this magnitude far exceed the capability of  
10 individual municipalities to deal with. We must have new  
11 state legislation that enables cooperative and consistent  
12 regional solutions to our land, our transportation and our  
13 air quality problems.

14           I urge favorable consideration of this Committee of  
15 House Bill 2662. I thank you for your time.

16           THE CHAIRMAN: Any questions on the part of the  
17 members starting on my left? Representative Armstrong.

18           REPRESENTATIVE ARMSTRONG: A couple comments  
19 and maybe a question or two. The one retail organization  
20 you're talking about is actually falling in my district and  
21 you made reference of a small borough of traffic so it is  
22 real for those of you that are here.

23           Ron, I'd like to ask you a question and I've asked  
24 this, I believe, yesterday. This is a mandate that we  
25 would be passing down to local municipalities and counties

1 and my philosophy is that we need to pay for this. What is  
2 it going to cost, in your guesstimate, at least for  
3 Lancaster County?

4 MR. BAILEY: In Lancaster County, the cost  
5 might be less than it's going to be in other parts of the  
6 state because of where we are already. I think we have  
7 already achieved a lot of the things that would be required  
8 under House Bill 2662. Almost every township, every  
9 municipality now has a comprehensive plan. Every  
10 municipality has zoning in place. We either have municipal  
11 subdivision land development ordinance, we have county's  
12 ordinance and we have a very thorough comprehensive plan at  
13 the county level so we would simply be having to make some  
14 modifications, I think, as a result of this whereas there  
15 are other places in the state that are going to have to  
16 start at square one and the cost would be very substantial.

17 Presently, to do a comprehensive plan for an  
18 individual municipality, existing municipality like a  
19 borough, the cost is probably about \$40,000. Doing a  
20 regional plan -- in fact, before the Board of County  
21 Commissioners this morning just funded the cost of that is  
22 about \$60,000.

23 In addition to that, revise zoning ordinances and you  
24 can start multiplying that by six municipalities in  
25 Lancaster County to see that we're talking for Lancaster

1 County in excess of millions of dollars and it will be very  
2 expensive across the state.

3 At the same time, it's very expensive not to plan  
4 because we're creating problems that we have to fix by  
5 catch-up infrastructure. A good portion, for instance, of  
6 the community lockgrade has created criticism has been  
7 putting in water and sewer lines in areas to solve problems  
8 because of land use decisions that were made and now you  
9 have failing septic systems in an area where there's no  
10 sewer and so we're spending lots of public money to remedy  
11 those problems so it's one of those situations, I think  
12 Representative Sturla mentioned, we're going to pay for  
13 this.

14 One way or the other, we either do it proactively up  
15 front systematically by developing comprehensive plans,  
16 zoning ordinances and controlling the growth of the  
17 Commonwealth in an appropriate way or we're going to pay  
18 for it by correcting the mistakes that are made.

19 REPRESENTATIVE ARMSTRONG: If we could take  
20 moneys from another part of the budget, in your opinion and  
21 especially where you see where some of the state moneys are  
22 going in relation to the communities, municipalities and  
23 planning and such, is there any area that we could reduce  
24 that you can see we have duplication of service that we  
25 could make sure that this money is earmarked for this?

1 MR. BAILEY: I'm afraid, right off the top of  
2 my head, I don't have that answer. I haven't studied the  
3 Commonwealth's budget that thoroughly but I think the point  
4 has been made very clearly this morning that the level of  
5 funding right now of the SPAG programs is totally  
6 inadequate.

7 Here in Lancaster County, we're running municipalities  
8 almost a hundred thousand dollars a year for planning  
9 whereas the state for all municipalities is only funding it  
10 at 275,000 for one county.

11 So clearly, you know, there has to be an increase. At  
12 the same time, I think you have to recognize that  
13 municipalities and counties are already spending a great  
14 deal of money on the planning, zoning issues throughout the  
15 state. It's not, again, starting from square one.

16 REPRESENTATIVE ARMSTRONG: I don't think we  
17 have it fully funded but at least we know what some type of  
18 funding is. Thank you very much.

19 THE CHAIRMAN: Thank you Representative  
20 Armstrong. Representative Sturla.

21 REPRESENTATIVE STURLA: Just one quick comment.  
22 I want to thank you, Ron, for the help you've given me and  
23 I know other members of the task force when we were  
24 initially developing some of the recommendations and in  
25 looking at some of the legislation that is here because

1 this is, in some cases, very highly technical and to the  
2 lay person and most of the legislature that looks at this  
3 and says what does all this mean, it's good to have someone  
4 like you who can interpret some of these things for us and  
5 I just wanted to thank you again for the fact that I  
6 appreciate all that you've done to this point and hope that  
7 we can move this issue forward.

8 THE CHAIRMAN: Thank you, Representative  
9 Sturla. Representative Gerlach, any questions?

10 REPRESENTATIVE GERLACH: No, thank you.

11 THE CHAIRMAN: Representative Rubley, any  
12 questions?

13 REPRESENTATIVE RUBLEY: No.

14 THE CHAIRMAN: There being no further  
15 questions, we want to thank you very much, Mr. Bailey.  
16 That has concluded the agenda for today's meeting and I  
17 would now like to adjourn this hearing on House Bill 2662.  
18 Thank you.

19 (Hearing concluded at 1:10 p.m.)

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C E R T I F I C A T E

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I hereby certify that the pages contained herein accurately reflect the notes taken by me upon the hearing in the above matter, and that this is a correct transcript.

*Rhonda A. Adams*

Rhonda A. Adams, RPR-CM  
Official Court Reporter

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