

Legislative History for Connecticut Act

PA 87-307

Act Number:	307	Year:	1987
Bill Number:	HB 7222		
Senate Pages:	3289-32-91, 3384-3385		5
House Pages:	6025-6041		17
Committee:	Planning & Development 684- 710, 713-718, 720-733, 742- 746, 765-767		55
		Page Total:	77

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1987

VOL. 30

PART 9

3074-3398

WEDNESDAY
MAY 20, 1987

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SENATOR CASEY:

Briefly, Mr. President, in the Gallery is a good friend of ours, Fran Mullens, a gentlemen from Bristol. I guess this is Bristol Day, and recently he just celebrated 40 years of service with the Southern New England Telephone Company and I'd like to show him this citation we've got for him and thank him for his celebration and his service. Fran, as you may know, or maybe you don't know, has been extremely active over decades with the American Legion, whether it's the baseball or the service of other veterans and we'd just like to take this opportunity now to thank him and give him our appreciation.

I'd like to ask the Circle to stand and show our usual welcome.

APPLAUSE

THE CHAIR:

The item has been called. Who wishes to be recognized?
Senator Barrows.

SENATOR BARROWS:

HB 7222
Mr. President, it's Calendar 615?

THE CHAIR:

Calendar No. 615.

SENATOR BARROWS:

Mr. President, I move acceptance of the Joint Committee's

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Favorable Report and move for the passage of the bill with House Amendment Schedule "A".

THE CHAIR:

Do you wish to remark?

SENATOR BARROWS:

Yes, Mr. President. This bill requires local Zoning and Planning Commissioners, the Zoning Board of Appeals and Inland and Wetlands Agencies to notify the adjoining municipalities when any matter before them affects the neighboring municipalities in any four ways of specification in the bill. This bill allows a representative from the adjoining municipality to speak at any hearing on the matter.

THE CHAIR:

Further remarks on the bill? Senator Kevin Sullivan.

SENATOR SULLIVAN:

Thank you, Mr. President. I would just like to thank Senator Barrows and the Planning and Development Committee for bringing forward this legislation which is based on a bill which I co-sponsored and while it does not go quite as far as those of us who sponsored the original bill had hoped, it does address a major inequity that has affected my town and I'm sure many others and will allow municipalities which have the potential to be significantly affected by

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activities in adjoining municipalities, at least a fair opportunity to be heard before the adjoining municipality acts on the zoning matter and I hope that we will adopt this legislation.

THE CHAIR:

Further remarks on the bill? Senator Barrows.

SENATOR BARROWS:

Mr. President, if there is no opposition, I'd like to have this placed on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar Page 14, Calendar 623, File 803, Substitute for House Bill 5758, AN ACT PROVIDING EXEMPTION FROM SALES TAX FOR SALES OF NON-PRESCRIPTION MEDICATION FOR DISEASES OF THE EYE. Favorable Report of the Committee on Finance, Revenue and Bonding.

THE CHAIR:

Senator DiBella.

SENATOR DiBELLA:

Thank you, Mr. President, I move adoption of the Committee's Joint Favorable Report and urge passage of the bill.

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Substitute for Senate Bill 249; Calendar No. 590, Substitute
for Senate Bill 414; Calendar Page 10, Calendar 594,
Substitute for Senate Bill 951; Calendar 595, Senate Bill
889; Calendar 596, Substitute for Senate Bill 946;
Calendar 597, Substitute for Senate Bill 925; Calendar Page
11, Calendar 601, Substitute for Senate Bill 1001; Calendar
602, Substitute --.

SENATOR SMITH:

Mr. President.

THE CHAIR:

Senator Smith.

SENATOR SMITH:

SB1019
Calendar 602, I'd like to have removed from the
Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar Page 12, Calendar No. 607, Substitute for
Senate Bill 5074; Calendar Page 13, Calendar 613, Substitute
for House Bill 7588; Calendar 615, Substitute for House
Bill 7222; Calendar Page 14, Calendar 623, Substitute
for House Bill 5758; Calendar 624, House Bill 6969; Page 15,
Calendar 632, House Bill 6681; Calendar 634, House Bill
7615; Calendar 636, Substitute for Senate Bill 128. That

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concludes the third Consent Calendar.

THE CHAIR:

Any corrections, additions or deletions? If not, we're voting on the Consent Calendar. The machine is opened. Please cast your vote. The machine is closed. The Clerk please take the tally.

The result of the vote:

35 Yea

0 No

The Consent Calendar is adopted. Senator O'Leary.

Item 602 is --.

SENATOR O'LEARY:

Item 602 was taken off of Consent. Do we want to vote that no, Mr. President?

THE CHAIR:

Senator, would you like to suspend the rules first or was that your intention?

SENATOR O'LEARY:

That will be my intention, Mr. President, when we -- if you want when we reach the last item we'll suspend for all items.

THE CHAIR:

The Clerk please announce an immediate roll call.

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HOUSE

PROCEEDINGS
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House of Representatives

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CLERK:

Please turn to Calendar 480, which is on Page 8, Substitute for House Bill 7379, AN ACT CONCERNING THE ROLE OF ZONING COMMISSIONS IN VARIANCE APPLICATIONS. Favorable Report of the Committee on Planning and Development.

REP. BALDUCCI: (27th)

Mr. Speaker.

SPEAKER STOLBERG:

Representative Balducci.

REP. BALDUCCI: (27th)

May that item be recommitted to the Committee on Planning and Development?

SPEAKER STOLBERG:

The motion is to recommit. Is there objection? Is there objection? Seeing no objection, the bill is recommitted.

CLERK:

Please turn to Page 7, Calendar 475, Substitute for House Bill 7222, AN ACT CONCERNING NOTICE TO MUNICIPALITIES OF CERTAIN PLANNING AND ZONING MATTERS IN NEIGHBORING MUNICIPALITIES. Favorable Report of the Committee on Planning and Development.

REP. BLUMENTHAL: (145th)

Mr. Speaker.

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SPEAKER STOLBERG:

Representative Blumenthal.

REP. BLUMENTHAL: (145th)

Thank you, Mr. Speaker. This bill emerges or emerged from the great annexation war between the Town of Bloomfield and the Town of West Hartford. I will not claim to understand all the machinations or details of that great battle, but out of it emerged a very constructive piece of legislation.

Essentially what this bill would do is require that notice be provided to adjoining municipalities in the event that action is under consideration that would affect that municipality by Planning and Zoning Boards and the criteria for the necessary impact that would trigger the notification requirement are spelled out in the bill. I won't go into all the details, but essentially they relate to distance from the adjoining municipality of the proposed project, the impact in terms of traffic, sewerage, drainage and the like.

There is an amendment, Mr. Speaker, that clarifies and changes to some degree the provisions of the bill and I would ask that the Clerk call it, LCO 7313 and that I be permitted to summarize.

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SPEAKER STOLBERG:

The Clerk has an amendment, LCO 7313, is that correct, Sir?

REP. BLUMENTHAL: (145th)

That is correct, Mr. Speaker.

SPEAKER STOLBERG:

Which will be designated House Amendment Schedule "A". Will the Clerk please call?

CLERK:

LCO 7313, designated House Amendment Schedule "A"
offered by Representative Rapoport, et al.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, please proceed, Sir.

REP. BLUMENTHAL: (145th)

Mr. Speaker, this amendment makes a number of technical changes. For example, it substitutes the word "significant" for the word "major" and provides that the word "through" be inserted at various points where there's some indication that there are drainage or other water-related problems. Substantively, it's major contribution to the bill, Mr. Speaker, is that it provides for notification by registered mail and sets a time limit for such notification,

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that is, it requires that the mail be mailed within seven days of the date of receipt of the application, petition, request or plan that is being considered by the local agency.

I move adoption, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark on House Amendment Schedule "A"? Will you remark further? If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary nay.

The amendment is adopted and ruled technical.

* * * * *

House Amendment Schedule "A".

In line 9, before the word "portion", strike the word "major" and insert in lieu thereof "significant".

In line 12, before the word "portion", strike the word "major" and insert in lieu thereof "significant".

In line 13, after "through" insert "and significantly impact".

In line 18, after the period insert "Such notice shall be made by registered mail and shall be mailed within seven days of the date of receipt of the application, petition,

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request or plan. No hearing may be conducted on any application, petition, request or plan unless the adjoining municipality has received the notice required under this section.'

In line 30, before the word "portion", strike the word "major" and insert in lieu thereof "significant".

In line 33, before the word "portion" strike the word "major" and insert in lieu thereof "significant".

In line 34, after "through" insert "and significantly impact".

In line 39, after the period insert "Such notice shall be made by registered mail and shall be mailed within seven days of the date of receipt of the application or request. No hearing may be conducted on any application or request unless the adjoining municipality has received the notice required under this section.'

In line 50, before the word "portion", strike the word "major" and insert in lieu thereof "significant".

In line 53, before the word "portion", strike the word "major" and insert in lieu thereof "significant".

In line 54, after "through" insert "and significantly impact".

In line 59, after the period insert "Such notice shall be made by registered mail and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. No hearing may be conducted on any application, petition, request or plan unless the adjoining municipality has received the notice required under this section."

In line 63, insert "(a)" before the word "The" and strike the word "commission" and insert "agency" in lieu thereof.

In line 71, before the word "portion", strike the word "major" and insert in lieu thereof "significant".

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In line 74, before the word "portion", strike the word "major" and insert in lieu thereof "significant".

In line 76, after "through" insert "and significantly impact".

In line 80, after the period insert "Such notice shall be made by registered mail and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. No hearing may be conducted on any application, petition, request or plan the adjoining municipality has received the notice required under this section."

After line 83, insert the following:

"(b) If the wetlands and watercourses of a municipality is regulated by the commissioner of environmental protection pursuant to subsection (f) of section 22a-42 of the general statutes, said commissioner shall provide the notice required under this section."

* * * * *

SPEAKER STOLBERG:

Will you remark further? Representative Blumenthal?

REP. BLUMENTHAL: (145th)

Yes, Mr. Speaker, I understand there are a number of Representatives whose constituencies were affected by the great war and they may have some observations on this bill and so I will end my portion of the debate at this point and yield to them. Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further? If not, will members please be seated. Representative Rapoport.

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REP. RAPOPORT: (18th)

Mr. Speaker, I'll be very brief and I think that it is sort of the job of the Chamber to take an individual situation and extract from it what then is universally applicable. The bill simply requires that in a development project that is close enough to a neighboring town and has a specific set of impacts, that that town, the neighboring town, will be notified and, therefore, have an opportunity to appear and make their views known. I don't think the bill makes major changes in our zoning law, but what it does is at least make sure that a town has an opportunity to comment and so I would certainly support passage of the bill. Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further on the bill? Will you remark further? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. A question, through you, to Representative Blumenthal, please.

SPEAKER STOLBERG:

Please frame your question, Sir.

REP. KRAWIECKI: (78th)

Representative Blumenthal, my question is more in line

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with legislative intent. I note that the notification requirement will come from the Clerk of the Zoning Commission of a municipality if any one of these four factors come into play. Inasmuch as most Clerks are probably not that conversant on what an application is or means or anything of that kind, is it the intent of you that whenever a project either remotely looks like it might impact on another community, that automatically the notice will go out, through you, Mr. Speaker.

REP. BLUMENTHAL: (145th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Representative Blumenthal.

REP. BLUMENTHAL: (145th)

Through you, Mr. Speaker, it is the intent, in my opinion, of this Chamber in passing this legislation that Clerks ought to exercise a great deal of caution, perhaps an excess of caution, but give the benefit of the doubt whenever there is any question that there may be an impact that would fit the requirements of this bill, through you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further? Representative Cohen.

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REP. COHEN: (15th)

Thank you, Mr. Speaker, through you a question to the proponent of the bill, please.

SPEAKER STOLBERG:

Please frame your question.

REP. COHEN: (15th)

Representative Blumenthal, for purposes of legislative intent, am I correct that though towns would have the right to appear before the zoning boards of other towns, they would have no legal standing in court to challenge the decisions of the town in which the project takes place?

REP. BLUMENTHAL: (145th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Representative Blumenthal.

REP. BLUMENTHAL: (145th)

Not to speculate on what other grounds they might have under standing doctrine that is currently in force in our courts, this legislation would not add to whatever standing they already have, through you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further?

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REP. COHEN: (15th)

Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark further? If not, will members please be seated, staff and guests to the well of the House.

Representative Van Norstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, I don't think this -- I think the bill is well intentioned, but I don't think it's very workable. Five hundred feet is a discernible standard, but now you tell me a Clerk's going to have to know whether a project is going to put water impact or generate surplus water or other drainage water onto an adjacent municipality, going to have to know the extent of traffic impact on that municipality, sewerage and other drainage, without ever having had a public hearing. Nobody's had any evidence. Nobody even knows. He'd have to be a miracle worker to make this work. I think a better approach would have been to do it after there's been a public hearing before they've made a decision, then the board could vote, gee, there's an impact on the fellows next door. Let's send them a notice now and consider it.

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DEPUTY SPEAKER CIBES:

Will you remark further on the bill? Representative Richard Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. A question, if I might, to Representative Blumenthal.

DEPUTY SPEAKER CIBES:

Please frame your question, Sir.

REP. BELDEN: (113th)

Representative Blumenthal, House Amendment Schedule "A" specifically, lines 37 through 40 of the amendment indicate that no hearing may be conducted on any application unless the adjoining municipality has received the notice required. If, in fact, a hearing was conducted, and the adjoining town claimed they did not receive the notice, wouldn't that put the entire proceedings from then on in jeopardy in a legal action, through you, Mr. Speaker?

DEPUTY SPEAKER CIBES:

Representative Blumenthal, would you care to respond, Sir?

REP. BLUMENTHAL: (145th)

Yes, through you, Mr. Speaker, if I understand the question, my opinion would be that if the statute were

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properly followed, if the notification were provided by registered mail and if, for some reason, there were no return receipt, that that would be grounds in any court action for at least establishing that the action by any Zoning Commission was taken in good faith. I wouldn't want to speculate beyond that as to what the consequences might be under all the different facts and circumstances that might arise in a challenge to action taken by a local Zoning Commission under, at this point, unforeseeable circumstances.

DEPUTY SPEAKER CIBES:

Representative Belden, you have the Floor, Sir.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. Through you, another question, if I might, just for intent purposes. On line 26 of the amendment, it indicates seven days. Representative Blumenthal, is that seven work days, seven calendar days? Could you define what you think that is?

DEPUTY SPEAKER CIBES:

Representative Blumenthal, would you care to respond, Sir?

REP. BLUMENTHAL: (145th)

My interpretation, Mr. Speaker, would be that it would

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be seven work days, through you, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Representative Belden.

REP. BELDEN: (113th)

Thank you, Representative Blumenthal. I guess I've got to be true to form here and our marking on this bill was that it needed to go to Appropriations and it's a state mandate upon the towns and I'm sure a large town, my town certainly it's not going to be that big of a deal, we have full-time people that are there Tuesday through Friday, 9½ hours a day, but the smaller towns may not have somebody there who, a Clerk who sits there every day who somebody submits an application, is going to be able to determine, is it within 500 feet? What should happen? Get it mailed out, so it's received within seven days. Work all the hearing procedures and everything else. I think that if we're going to be consistent with our rules and since this is a mandate, that the item should go to the Appropriations Committee for their review, and Mr. Speaker, I would move that this item be referred to the Committee on Appropriations.

DEPUTY SPEAKER CIBES:

The motion is to refer to the Committee on Appropriations.

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Will you remark?

REP. BLUMENTHAL: (145th)

Mr. Speaker.

DEPUTY SPEAKER CIBES:

Representative Blumenthal.

REP. BLUMENTHAL: (145th)

The analysis of this bill clearly indicates that the administrative cost would be "minimal." As for the separate point that Representative Belden is making as to whether or not the capacity exists locally, that is, whether the expertise exists, as Representative Krawiecki very pointedly indicated by establishing legislative intent, any locality in order to be safe rather than sorry, would simply do this as a matter of routine whenever there were any question about whether or not there were an impact that fit the requirements of the statute.

The purpose of this legislation is to avoid the kind of very hostile and unproductive fight that eventually emerged between the Towns of West Hartford and Bloomfield. It does so in a way that is measured and balanced. It would not impose any more than a minimal cost on any locality and, therefore, I would oppose the motion to refer it to Appropriations.

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DEPUTY SPEAKER CIBES:

Will you remark further on the motion to refer?

REP. BELDEN: (113th)

Mr. Speaker,

DEPUTY SPEAKER CIBES:

Representative Belden.

REP. BELDEN: (113th)

Very briefly, I think we have a process here and we are going to tell the towns that they're going to have to change and add to their process. Now I'll tell you, if I took all these fiscal notes and all these minimal charges and rolled them all up and said to anybody in this Chamber, you get an hour a day to do it, you couldn't do it because minimal, minimal, minimal and minimal equals maximum and we must have passed, maybe I'm going to have somebody go back and add them all up, these minimal things, these minimal state mandates we put on the towns. Now maybe this is good. Maybe we should do it. Maybe in the Appropriations Committee we should give some towns some money to staff their Planning and Zoning if they're going to mandate this, but the process up here says if you're going to mandate the towns to do things, then it ought to go through the Appropriations Committee.

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That's all I'm asking, that it be referred there for proper consideration under our rules.

SPEAKER STOLBERG:

Will you remark further on the motion to refer? If not, all those in favor of the motion to refer please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The no's clearly have it. The motion to refer is defeated.

Will you remark further? If not, will members please be seated, staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is now voting by roll call. Members please return to the Chamber immediately. The House of Representatives is currently voting by roll call. Members please report to the Chamber.

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SPEAKER STOLBERG:

Have all the members voted? Have all the members voted and is your vote properly recorded? If all the members have voted -- the machine is still open, Madam. Have all the members voted? If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally?

CLERK:

House Bill 7222, as amended by House Amendment Schedule "A".

Total Number Voting	141
Necessary for Passage	71
Those Voting Yea	109
Those Voting Nay	32
Those Absent and Not Voting	10

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 9, Calendar 520, Substitute for House Bill 6104, AN ACT CONCERNING VOTER REGISTRATION INFORMATION. Favorable Report of the Committee on Government Administration and Elections.

JOINT
STANDING
COMMITTEE
HEARINGS

PLANNING
AND
DEVELOPMENT
PART 3
598-961

1987

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PLANNING & DEVELOPMENT

State Capitol
Room E-21
March 9, 1987
2:00 p.m.

PRESIDING CHAIRMAN: Senator Barrows

COMMITTEE MEMBERS PRESENT:

SENATORS: Barrows, Przybysz, Lovegrove

REPRESENTATIVES: Blumenthal, Fonfara, Meyer,
Buckley, DeZinno, Fuchs, Gill,
Hartley, Knopp, Langlois, Maddox,
Millerick, Rogg, Taborsak, Testa,
Bernier

SENATOR BARROWS: I would like to call this hearing to order, Representative Cohen,...I would like to call this hearing to order. I am Senator Frank Barrows, Co-Chairman of Planning and Development and this is State Representative Dick Blumenthal, my Co-Chairman, and this is the Planning and Development Committee.

We have a rule which we have established which we will allow each person to have at least three minutes. If they have a written testimony, they could leave their testimony for us to read. The first person that I would call on would be the Legislators and also the Directors. The first name I have is Senator Kevin Sullivan.

SENATOR SULLIVAN: Senator Barrows, Representative Blumenthal, Members of the Committee, thank you for this opportunity to offer some testimony on a couple of bills. I think that I should introduce myself as the first half of the Education Committee Comedy Team that is here before you this afternoon. Naomi Cohen is signed up, I think, after I am...to speak on same bills in similar vein, I am sure.

The two bills are House Bill 7006 and House Bill

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SEN. SULLIVAN: (continued)

7222, and what these proposals do, I think, are to ask the Legislature to recognize that major development decisions, major development decisions, in one town can have very significant effects on adjoining towns.

A couple of examples come to mind, actually three, and they are not hypothetical at all, because each of them is one that at least effects my town, and I am sure that there are similar ones that Members of the Committee and other Members of the Legislature can think of. A circumstance, for example, where a major shopping mall wants to significantly expand. That shopping mall and the expansion of it is completely located in one town, but most all of the traffic from that property and from that expansion ends up traversing another town.

A situation where one town owns a very small piece on a major road, but that small piece of land adjacent to two other communities widens out into a very large area that can be developed, and that curb-cut fords a tremendous amount of traffic.... again, onto the road of two other communities, but in that instance, all the benefit is to the first town doing the development, all the burden to the adjacent towns. Finally, an example which is also not hypothetical, a very real one at this moment.....where the access to development in an adjoining community is completely and solely through the second community. Community A has the road; Community B has the property, and Community A is being asked to provide the entire access to that development in that property without any opportunity to contest or challenge.

I think it is important to remember that that is really all these two bills are saying. They are not saying that you can't do it; they simply are saying that where one or more communities are effected by a significant development and where

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SEN. SULLIVAN: (continued)

the second community can show that development in the adjoining community has certain adverse and substantial impact on that community, there ought to be a right to at least contest or there ought to be a right to aggrieve and challenge that decision. Where there is sole access through one community to another, there ought to be some control in the second community.

Now, I know that those who probably will...the person who is probably going to follow me may talk to you about the principle of local control, and I think local control is a very important thing and something that this Legislature is always concerned about. It is going to be suggested perhaps that these bills fly in the face of the tradition of local control and zoning.

I would submit to you that if anything, these bills speak directly to the idea of local control, because where decisions in one community can be made without consideration of the other, even though the other community bears most if not all of the burden of those decisions, the second community's local control has effectively been taken away. So, I think that we are looking to this Committee to consider striking a better balance in some very narrow circumstances where a community can show that adjacent development in an adjoining town has significant, or may have significant...impact on that adjoining town.

With that, I would urge the Committee's consideration and hopefully action on some legislation this year. Thank you very much for your time this afternoon.

SEN. BARROWS: Thank you, Senator. Any questions?
Representative Blumenthal?

REP. BLUMENTHAL: How did you...how did you arrive at the 500 foot qualification?

SEN. SULLIVAN: You will recall that in the planning agency statutes that presently exist there is a proviso that where development, a zone change, if you will....occurs within 500 feet on one community in another community, that it must be referred to the regional planning agency for a review, and it is my understanding that when the Corporation Council of the Town of West Hartford originally proposed the language that would be considered here, it was borrowed from that statute.

The problem, of course, would be...with that review mechanism is that it is only a review mechanism and largely a paper review. It was not something that has, has ever had any significant impact on the decision-making process. But, that is where the 500 feet came from.

REP. BLUMENTHAL: From that statute.

SEN. SULLIVAN: From that statute.

REP. BLUMENTHAL: Is there a similar analog with respect to the definition of "major" where you say in the bill: "a major portion of traffic" or "a major portion of sewer and drainage?"

SEN. SULLIVAN: I am not sure that one could point to any analagous language, and I think that the word "major" always is one that is subject to interpretation. What I think we have to remember in the context of 7222 is that someone is being put in a position of making a showing, and it is the community that would like to show its aggrevement by the decisions of another community. So, at that point in time, where we are talking about an appeal process, there will be a finder of fact when they try it at law, sitting in a position to determine whether one had met the task of showing major impact, not unlike some phrases called "substantial impact" that I think we deal with from time to time in terms of the implementation of legislation and the findings of fact.

REP. BLUMENTHAL: Except that procedurally, the question of standing would be decided at the outset for the....if there were any findings of fact, and I don't know exactly how that would work. I suppose the same way as with respect to any other bill, coming before a court. The court would have to decide whether the municipality had standing, and...

SEN. SULLIVAN: I suspect that municipalities seeking a review would plead its aggrievement citing in evidence of having satisfied this statute. The other party presumably would make the appropriate motion to challenge that aggrievement and the Court would have to reach a determination at the outset as to whether to go forward with the matter or not.

REP. BLUMENTHAL: And as I understand it, basically, what you would be doing here is giving a municipality the same rights in terms of standing as any other litigant, private litigant would have within the town or the Zoning Commission....
(inaudible....)

SEN. SULLIVAN: I think that is a fair statement, and I think it is a fair statement in reflection of fact that in certain instances there is a burden that falls on a community or a municipality as a whole because of traffic control, the cost of road repair, the cost of absorbing and dealing with run-off and sewerage from an adjacent municipality's development.

In that instance, it would be analagous to the individual homeowner who right now could bring an action challenging a decision, assuming that they could show aggrievement. So, it does put the municipality in a similar standing to an individual.

REP. BLUMENTHAL: And I presume also you would apply this not only in commercial development, but also in residential, and housing development? As it is presently written, it would apply.

SEN. SULLIVAN: It is unrestricted in that respect, and I think that that is a matter that I will be frank to say that the impacts can either flow from a commercial business type of development or from a very large sub-division, if one is talking about run-off, wetlands impact or the flow of sewerage into an adjacent community's sewerage system.

So, I think that whether it is commercial or residential, the impacts can be similar.

REP. BLUMENTHAL: Thank you very much.

SEN. SULLIVAN: Thank you.

SEN. BARROWS: Representative Meyer?

REP. MEYER: Alice Meyer, 135th. Senator Sullivan, you would have this apply to a town, not to a group of individuals from a neighboring town, is this correct? Or would it apply to either a group or just to the municipality?

SEN. SULLIVAN: Your Co-Chairman's question went precisely to that point: that individuals can now, individual property owners, can now show their aggrievement. Whether associationally they can show their aggrievement may be another issue which this bill does not attempt to address, and there is a whole body of law as to when associations have standing and when they don't.

This looks specifically to one municipal, municipality having the standing to show its aggrievement and challenge the decisions of another municipality.

REP. MEYER: The other problem I have is that it is my understanding that either the officials of the town or individuals of another town, unless it is done through the courtesy of the Planning and Zoning Commission cannot appear before that Planning Commission.

SEN. SULLIVAN: I am not sure that that is an accurate statement. I know that....just from my own experience, when I was Mayor of West Hartford and the West Farms Mall was up for major expansion in the town of Farmington, we did in fact appear, through our Corporation Council, in the proceedings, the zoning proceedings of the town of Farmington.

Whether that was by right or by the agreement and the permission of the Farmington Zoning Authority is unclear to me. I suspect that one would have some permission to participate. The problem is that the door, as far as the law goes, closes at that point. If the decision is adverse to the municipality, there is no recourse.

REP. MEYER: Then, what you are seeking, then...is a recourse if that door is closed. I know in my area, there have been times when the abutting community has not been given the courtesy of hearings, so what would you do in a case like that? If they had not....you would just give them the right to go to court at that stage?

SEN. SULLIVAN: I think there is a problem in just giving the right to go to court at this stage, and part of it may have to do with the record below. It would...it is surprising to me that communities do not extend that right, or need not extend that right, and I would suggest that if you are interested as a Committee in pursuing either of these bills that that is an issue that you look at: and that is the right of one community to participate in the Zoning Procedures of another.

Because, to give you the right to appear without having had the opportunity to make a case on the record, in the administrative proceeding, puts you in a very poor light indeed to appeal the decision.

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REP. MEYER: Thank you.

REP. BUCKLEY: Senator, in the first bill, you indicate development projects. Would that include housing, for example, since we are so very concerned about the lack of adequate housing? Would something of that nature be applicable in this bill?

SEN. SULLIVAN: When you refer to the first bill, 7006?

REP. BUCKLEY: 7006, yes.

SEN. SULLIVAN: I think in any type of development... The problem with a proposed bill, of course, and that is all that both if these are...is that they are so broadly written, that one would need to become more specific.

I think that if I can give you frankly what the specific concern in this instance is....it is not so much the question of general substantial impacts. This one was intended, and that is in my comment about sole access, was really to address the circumstance where one community is being asked to provide the sole access to development in an adjacent community. That I would urge you, in terms of 7006, to be the narrow range of consideration if one were to provide that kind of veto by one community over another community's decision.

To address the other side of the coin, I think one is better positioned to provide an appeal statute generally. But, there is a concern where you have the route, you....it traverses an existing...I will give you a real example... a culvert bridge comes off of a main roadway. That roadway passes over it and through an existing community. Right now, it deadends at the border of another community. The other community proceeds to subdivide all the property at that dead end. There is no other way to get in presently. Now all the traffic for 30 or 40 or 60 houses proceeds through Community A in order to get to Community

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SEN. SULLIVAN: (continued)

B, even though Community B has absolutely no tax benefit from that development in Community A.

I think that 7006 as it is presently stated in proposed form is stated far too broadly, and I think that you would want to make it very specific to that access question. Then, 7222 is a far better remedy for the general concerns and imoacts.

REP. BUCKLEY: Thank you.

SEN. BARROWS: Representative Knopp?

REP. KNOPP: Yes, thank you,....Representative Knopp of the 139th. I am just looking here for 7222.I don't seem to have this on my bill list. Can I borrow somebody's.....

On 7006, in terms of creating standing for aggrievement, wouldn't you say that it goes substantially beyond that in terms of veto there?. You can be an aggrieved party and have standing and the second issue is: okay, you have standing. Now, what are your substantive rights? Here, you are not only creating standing; you are creating the substantive right of veto, as opposed to the example of an adjacent land owner.... has standing, but then you have to allege an arbitrary action, notice requirements weren't fulfilled or some other substantive violation of the law. This is much more than a procedural standing....this is a substantive veto right that one town would have over another.

SEN. SULLIVAN: If I may....which is precisely the line of my response to Representative Buckley: that I think that as 7006 is written in the proposed form, it is far too broad. There is one circumstance, the one I mentioned, where I submit that the veto, if you will, may be an appropriate remedy...and that is the circumstance

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SEN. SULLIVAN: (continued)

where the first town is being asked to provide all of the means of access: egress and ingress, to development in another community.

In that instance, the substantial burden is falling solely, exclusively on the first community. It ought to have the right to say whether its roads ought, can be used for that purpose. But that is the only circumstance in which, frankly, I would ever appear before you to argue for that kind of veto. That is why I think that the other bill towards the more general concerns of substantial adverse impact would be an appropriate way of giving the right of appeal.

REP. KNOPP: And the second question... if you will describe again briefly what is the underlying factual situation that brought in this concern.

SEN. SULLIVAN: There are actually more than one underlying factual situation. There is one factual situation where there is...there is a road that right now runs along the border of my community and one of our nearby communities. On one side of it, there is some residential subdivision that has been in existence for a long time. On the other side: open land.

At present, as developed, there is only one means of access to a very large parcel of undeveloped property, and that is through the Town of West Hartford. That doesn't mean that there is no possibility of access through the other town, but at present, there is only one means of access and that is through West Hartford. The concern there is...the one I cited before...how does West Hartford protect against the concerns of its community in terms of suddenly becoming the conduit for a significant amount of additional traffic going to development in another community? In that instance, shouldn't town A, West

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SEN. SULLIVAN: (continued)

Hartford, have some right to say whether or not its streets should be used for that purpose, or under what conditions?

The more general case, I could take you back to the West Farms incident, the example that I cited, that the adjacent town of Farmington, as an example. Three office buildings were to be added to the West Farms Mall. It is a statistically provable and proven fact that the volume, the inordinate volume of traffic as a result of that mall falls not in Farmington, but in West Hartford, because that is where you get on and off the highway to the mall. And the third instance as an example on New Britain Avenue on the Newington, West Hartford, Farmington area where a little piece of Newington opens out to a huge piece of Newington, and the traffic for...I think, for Phases I through Lord knows what... is proposed to flow....again, the traffic falling principally in West Hartford, principally in Newington....I mean, Farmington. Not in Newington, which is the community where the Zoning decision would be made.

Those are three examples, very parochical ones, to West Hartford...but I would suggest that if we sat and thought for awhile, I would suspect that the Members of the Committee could think of a whole lot more than occurred in their areas and that they are familiar with.

REP. KNOPP: Thank you.

SEN. BARROWS: Representative Fuchs?

REP. FUCHS: Representative Fuchs from the 136th. In a case where towns are at odds or don't agree, wouldn't there be a great tendency for one town to hold up the works of another?

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SEN. SULLIVAN: If you are talking about the ability to veto, that is perhaps the case or it might provide the leverage for those communities to have to work something out, as opposed to the feeling presently where a Community A which has the development can simply do what it wishes to do, knowing that it and it alone has control over the Zoning decision.

It is possible.

REP. FUCHS: But in working it out, will there be a higher body that would help them mediate or...?

SEN. SULLIVAN: I think...as to the veto legislation, the higher body...? No, there wouldn't need to be in that instance; there would simply be the two bodies: one knowing that it has the right to have...you know...it has the development proposal before it and has certain decisions to make about it. The other community knows that it has the access within its jurisdiction and the right to have certain decisions made about that. That might well force the two to the table to come to some agreement that says: yes, you can use the access, but there is a certain cost to use that access. You are going to have to help maintain the road over a period of time in order to absorb the wear and tear in our community.

As to the aggrievement, we are beyond that point. We are simply saying that one municipality can participate in the zoning decisions of another, because I think that is a very good point... and secondly, if it can show certain impact, certain adverse impact to the satisfaction of the court, then the aggrieved for purposes of challenging that decision.

REP. FUCHS: Thank you.

SEN. BARROWS: Questions?

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REP. BLUMENTHAL: Just to follow up on that last question, though.....You really do need.... 7006... in order to make effective 7222, because you can..... Or the other way around, actually.. Because with the developer...when the developer goes to his Zoning Commission and the town wants to ignore the veto requirement because it says that the impact wasn't substantial for one reason or another, or there are other available means of access....and the developer gets permission to go ahead from the Local Zoning Commission, and he does indeed proceed to go ahead..... The other municipality or someone has to have standing to enforce that law.

SEN. SULLIVAN: You are quite right.

SEN. BARROWS: Representative Langlois?

REP. LANGLOIS: Geri Langlois from the 51st. Kevin, do you consider possibly making the Council of Government or Regional Planning Review Process a binding process? As a rather method towards the same end?

SEN. SULLIVAN : I don't think, if I can respond... I don't think that was given consideration for a couple of reasons. One of which has to do with, frankly, the capacity of staffing, the level of resources that might well be necessary for the original planning agency to take on that responsibility.

Secondly, it creates, I think, sometimes a circumstance where on a regional basis, you can essentially place before the Planning Agency a very divisive issue, that may in fact only effect one or two or three of the member towns that be in it. I have a feeling that is one of the reasons why it was made advisory in the first place, so that they could kind of look at the benefits and the cost to the region, but not become embroiled in a dispute between one or two of their member towns.

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SEN. SULLIVAN: (continued)

That is a hard thing to ask an RPA, which basically works on a very cooperative basis....to ask an RPA to take on, because it would be divisive internally to all of the other issues at the ... that the Regional Agency has to work on with those towns.

SEN. BARROWS: Any more questions?

REP. BLUMENTHAL: You would recommend, wouldn't you, addressing the concern of local official having the right to appear before Zoning Commissions, and that being necessary for making a record for the appeal purpose? That this legislation should somehow address this?

SEN. SULLIVAN: If indeed it is not permitted now, I think it is critical. It is a very good point.

SEN. BARROWS: Senator Lovegrove?

SEN. LOVEGROVE: Thank you. Who would be representing the municipality that a property could not exist? Would it be the Mayor or First Selectman, or would it be that municipality's local Zoning Authority?

SEN. SULLIVAN: It would differ, I suspect, depending on...from municipality to municipality. I would think that the final..in the instance of taking an appeal, in the instance of appearing before another town, that would probably be whoever speaks for the Executive or the Legislative Body of that town....in which case, if it is the Town Manager through the Corporation Council or the Town Council or the Board of Aldermen or the Selectmen, they would be the ones that would bring the case of the town to the adjacent town. But, I don't have any fixed position on that. I can think of a circumstance where one might wish to allow the Zoning Authority. I know that the danger, however, is that many towns, of

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SEN. SULLIVAN: (continued)

course, have a separate Zoning Authority, a separate Planning Authority and a separate Legislative Authority, so that one would have to, I think, in some fashion narrow that down, so that you didn't have the circumstance of three bodies suddenly appearing and attempting to take inconsistent appeals from a decision of a neighboring town.

SEN. LOVEGROVE: So, what you have in mind is that the developer of property on Town B would not have to appear before the Planning and Zoning Commission of Town A to get their permission.

SEN. SULLIVAN: With respect to the general bill, 7222, that is correct. The developer would appear in Town A. The authorities of Town B could participate in the process in Town A and then have standing if they can show aggrievement to take an appeal of the decision of Town A.

With respect to the other bill, that is a little different. In that suggested...in 7006, the developer would have to, as to...let's say to the access question...come before Town B.

And I think, that if I were just to digress or expand....I think the wisdom of putting these two together and kind of taking the general approach of 7222 probably makes the greatest sense.

REP. BLUMENTHAL: Just...just....I don't mean to hold you, but I think that this is a very serious issue.

SEN. SULLIVAN: I appreciate the time you are taking.

REP. BLUMENTHAL: I know from personal experience that this is an area where the Legislature does things and has no idea of the ramifications that follow

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REP. BLUMENTHAL: (continued)

in many instances. But, I assume that this proposed bill...where it uses the word "neighboring" you mean contiguous, don't you?

SEN. SULLIVAN: I think that to make it workable, one would have to have some measure of the contiguity or the adjacency....whether it is by definition of distance to 500 feet.... 500 feet might well in some circumstances take into account the decision in a non-contiguous town. There are circumstances, and I can show you one on New Britain Avenue....where within that 500 feet, you can show three communities...four communities abutting one another, so it may be a distance determination; it may be a contiguity determination, but clearly it is not meant to sweep out...without limitation into the region.

REP. BLUMENTHAL: And lastly, the spirit or the implied intention of the proposed bill seems to be to require a decision by the municipality to challenge another municipality's decision be made by some representative body, some elected body, and elected official of the challenging municipality, so I assume that your preference would be to preserve the proposed legislation, and for example, let a Zoning Commissioner on his own, without some approval from the Mayor or the elected representative body...proceed to challenge another municipality's decision.

SEN. SULLIVAN: I think that would be wise because, ultimately, we are making a general policy determination as to whether the community as a whole ought to be participating, ought to be challenging, and frankly, ought to be spending tax-payer money, because at some point, council is going to have to be involved. So, that I think whoever has final authority legislatively in the community should be the body that authorizes both the appearance and ultimately the appeal.

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REP. BLUMENTHAL: Thank you.

SEN. BARROWS: Questions? Thank you, Senator.

SEN. SULLIVAN: Thank you very much.

SEN. BARROWS: Representative Cohen?

REP. COHEN: Thank you very much, Senator Barrows, Representative Blumenthal, Members of the Education Committee....and...this is the Planning and Development Committee. I am from the other team.

Let me tell you a little of the political history not only of the two bills which Senator Sullivan spoke to, but also 6996, which he did not mention. 6996 which basically provides that West Hartford can annex a portion of Bloomfield, I think was the attention-getter. There are developments being built on the Bloomfield side of the street, one with 16 houses, one with, I believe, 30 houses. The residents were concerned about a number of things, including drainage.

Some of the resident's concerns were founded, some were not. I think the drainage concern was a real concern, and I can tell you that that is being worked out between the two communities and so much for the attention-getter.....other than to say, parenthetically....that when you talk about access solely out of, into one town from another town, I have a situation in Bloomfield where there are homes which are in Windsor and can access only through Bloomfield. That situation has existed for longer than I can remember. There has never been a problem; the towns have worked out who maintains the roads, who plows, which school buses run and all those other kinds of questions.

Moving along to what I believe are really serious concerns, I can say that I really didn't hear

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REP. COHEN: (continued)

much that Senator Sullivan said at this Committee that I can agree with. The story is not the same at the Education Committee. I think when you talk about language like in 7006 where you say : "approval by an adjoining town" or when you talk about language in 7222 where you talk about "appealing decisions"....I don't think that that is as he described it, that they can't do it, necessarily, but they just should have some chance to express their opinion..

I think that it veto power, and you know...we tend to throw around terms like "local control" sometimes more seriously than others, but I think that the history of this General Assembly is clearly one of attempting to respect local control. Boundries are artificial; the lines don't relate to where traffic drives, but I think that you have this problem all over the State. I checked with the State Traffic Commission to see what other kinds of projects would be involved.... were either of these two bills to pass. It is very interesting...and by no means is this a complete list...but, there is a project called Covers Commons in East Windsor and Enfield which would have been effected by this language. In Southington and Cheshire, there is the Appleberry Mall. In Bristol and Southington, there is Lake ... (inaudible) park....in Marion and Wallingford, there is the Midway Business Park...in Orange and Derby, there is a shopping center.

In my towns, ...I represent part of Bloomfield and part of Windsor, there is the Griffin Center Sales. I know that Stamford tends to widen its development; that there are concerns in Old Greenwich.... There was an article in the New York Times recently that detailed how the residents of Old Greenwich feel that their goal is to preserve the residential community while the residents of Stamford feel otherwise about

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REP. COHEN: (continued)

the development. I think...

REP. BLUMENTHAL: I can tell you about that project, because it just so happens that it is in my district. It involved, by the way, not only opposition from Old Greenwich, but opposition from within Stamford as well. It was a project to expand an office park, specifically the CONAIR Corporate Headquarters, and there was a lot of opposition because it was on the border with Greenwich,...from Old Greenwich as well as from Stamford, and this problem arose in the very sense because the municipality, both municipalities...Stamford and Greenwich, were involved and the Municipality of Greenwich was seeking to challenge the decision of the Zoning Board. Subsequently, it was changed so that the whole issue was moot, but...it was the same kind of an issue.

I agree with you that it is a veryvery wide-spread issue.

REP. COHEN: I think it is a wide-spread issue, Representative Blumenthal, and I think it really is the Pandora's Box. I...I have never been involved at the local level in Planning and Zoning, and I...had I been, or known what I know now having seen these bills, I think I would probably been a Planning and Zoning local Official who would want to encourage the participation of affected communities in the dialogue as the decision in made. But, I am as sure now, as I probably would have been then, that I don't think that we give veto power to neighboring communities, one over another, because I think you create more problems than you solve.

Thank you very much.

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SEN. BARROWS: Any questions? Representative Millerick?

REP. MILLERICK: Millerick, 22nd. Naomi, it is very interesting to hear both sides of this particular situation. I have seen instances in my own town where the town of Farmington wanted to put a development just on the other side of the Plainville line. The access was only from Plainville for probably 50% of the development. They held up three years, I believe, for the town of Farmington and the town of Plainville to come to an agreement as to what they were going to need. They needed water, they needed drainage from Farmington to Plainville.

Now, I was always under the impression that you never could, a town could not use this property when there was access from another town, unless they had permission from that town, and listening to this testimony, I guess...in some cases, there is. But, I guess my question to you would be: if the legislation that Kevin is proposing on this thing, if you are saying that it is a veto, what would you say would be the proper recourse? What would you say would be the proper formula for this whole picture?

Obviously, it is state-wide, and it is certainly country-wide, I would assume.

REP. COHEN: I just..frankly, I can't believe that the Connecticut General Assembly as a matter of public policy would say that one community has veto power over the development of another community. That is the reason that you have local Planning and Zoning Commissions. If you want to go to a state-wide Zoning Panel that is going to study all kinds of implications, that is one thing. And I can't believe that we want to do that either. I know that there are other environmental statutes where there are concerns in that area where the people of one community

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REP. COHEN: (continued)

are protected from the development in another community if it has an environmental impact.

But, when you get to projects where people say, ...I have it on my street which was very different 20 years ago from what it looks like now, because there was a lot of open land owned by two families, and that land is now being sold off in one acre lots for homes.....you get to feeling like: but when I came here, I thought I was moving to the country. All the neighbors run down to the Zoning Board to argue that you are taking away the country flavor. It's bad enough when you have that within a community, but when people of another community say: well, you know, we don't want any more traffic on our streets; we thought we were coming to a place where the kids could play in the cul-de-sac. Then you get legislation that addresses that such as what you see before you....I think that is a very dangerous precedent.

REP. MILLERICK: I understand that, but I am looking for some...you know...for some light to be shed on this thing, as far as...you know...what do you think....

REP. COHEN: I think that you should vote :No, Representative Millerick.

REP. MILLERICK: You would have us leave the status quo?

REP. COHEN: I would say....I did and was interested in Kevin's comments and your questions about: should communities have some standing at least to present testimony as Planning and Zoning Boards consider projects. I really don't have any problem with that. I would hope that local Zoning Boards would want to gather...as we in the Legislature do...want to gather as much information as we can, in an attempt to make well-reasoned decisions, but I would stop there.

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REP. MILLERICK: As far as I am concerned, Mary, I think you did open Pandora's Box, and I don't think that there is anything that we should do hastily on this. The only ...only is conceive that neighboring Planning and Zoning Officials should have standing to appear before land-use Commissions in neighboring municipalities. Don't you really also have to concede that they should have the standing to appeal, because...if a decision is erroneously made by that neighboring land-use body and you have afforded the official the standing to appear and make a record of what is said at the outset, and that official believes that the decision is illegal or wrongly decided as a matter of fact, you have created a right without a remedy.

REP. COHEN: Obviously,...(inaudible)...than I am. I can't really speak to the terms that...you know, right without remedy. I view it more as the difference between input and action. Even within a community or in this General Assembly, we are seeking input. There are...there is always input on both sides of the question. That does not mean that when a Planning and Zoning Commission makes its decision that it did not consider the input. It may just have chosen another action, but it doesn't mean that it didn't consider it.

You know, I would be willing to go that far. If you are telling me that legally once I do that, I have created a right without a remedy and therefore have to create a remedy, then I am not interested in the input.

REP. BLUMENTHAL: Well, to put it another way, you are discriminating against one individual, looking at the municipality as an individual for these purposes...as against other individuals that appear before Planning and Zoning Boards and have the opportunity and right to appear and if the decision goes against what they feel is correct under the law, they have the right to appeal.

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REP. COHEN: I mean, I can understand what you are saying, Representative Blumenthal. I look at it slightly differently only in the sense that ...for instance, with the drainage problem that happened and which precipitated the annexation bill....probably a lot of the concerns could have been ironed out if the Town of West Hartford had come before the Bloomfield Planning and Zoning Commission and said: hey, we use a certain width pipe. The land has to be graded in a certain way. The residents have a concern that there will be run-off if there isn't.

That would of, at least, given the Bloomfield Planning and Zoning Commission the opportunity to consider that in its dialogue with the developer. Maybe in that dialogue with the developer....and this is a hypothetical, of course...the developer would have said: well, that's fine, they use a certain width pipe, but I have done 18 developments with a different width pipe and there has never been any run-off....

So, they may have chosen not to agree with West Hartford's pipe width, for instance. But at least there would have been some dialogue, and I think some of the concerns would have been ironed out. If that means, again, that therefore, we should take it a step farther and give them veto power, I don't think that is a good...

REP. BLUMENTHAL: Leaving aside the veto power, looking only at the right to appeal..... The right to appeal, by the way, doesn't mean that the project stops. The appeal has effect, as I understand this bill, only if there is some claim and a claim that is eventually decided to have merit, that the law would be violated if the project were permitted to go forward.

You're contending, as I understand it, that number 1, you don't want the initial input if that means that there is a right to appeal; and number

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REP. BLUMENTHAL: (continued)

two, you don't want to stop the violation of the law, or the violation of the local ordinance or in some way, in some other....problem with the project that is cognizable under the law. You just want that town to be able to do what ever it wants to do.

REP. COHEN: In the Bloomfield/West Hartford drainage situation, there was no violation of Bloomfield's ordinances in terms of the size of the pipes and that the lean should be greater, etc...as I understand it. Yet, some problems real and some problems imagined developed around it. I viewed the opportunity for West Hartford to at least be able to sit in the same room at the same time with the Planning Commission of Bloomfield to discuss it would have helped both from a purely comfort level and also from what the eventual outcome is going to be, short of this annexation bill.

But, I still have that same strong concern that if there is a remedy that is made available to a town other than the town in which the project is....that what you have done is not only opened a Pandora's Box, but you have affected the whole State in terms of projects, you have perhaps slowed up things...and destroyed local control.

REP. BLUMENTHAL: Let me ask you another question. I don't want to delay this whole thing, but I do have a concern that there be some possible remedy for towns and for residents of towns that are affected by adjoining projects where they have to bear the cost or the inconvenience or the damage to the environment, the pollution and so forth. At the moment, there is no means of getting the other town to the bargaining table. There is no means of forcing the adjoining town to recognize that there are other costs and other burdens are borne by the neighboring town. Doesn't that concern you?

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REP. COHEN: Clearly in terms of polluting the environment, it concerns me, and it was my understanding that there are already remedies in state and federal environmental statutes that...there are regulations that protect communities against that.

In terms of the cost to be borne, for instance, as cars traverse a road, I don't know how you can legislate what cars can travel on what roads when. As we see from highway projects, for instance, as the State begins to construct, certain citizens choose certain alternate routes, and how you can legislate who drives where....I don't know how you can accomplish that.

REP. BLUMENTHAL: Let me just ask you, and this is my last question to you...in the Bloomfield... and I don't know much about the project itself. But, suppose...

REP. COHEN: We are organizing a luncheon field trip.

REP. BLUMENTHAL: Suppose someone from Bloomfield had decided to contest the decision. Was there any basis in terms of Bloomfield's local ordinances or local procedure followed by your land-use bodies that would have given rise to a basis of that challenge?

Do you understand my question?

REP. COHEN: Try again.

REP. BLUMENTHAL: Leaving aside the standing question, if someone already with standing under the present law had decided that they didn't like this project, and had decided that...it or he or she had decided to appeal, was there any basis for doing so? In terms of a claim that somehow this project didn't comport with local ordinances, or procedurally, the ...one of the land-use Commissions hadn't followed the right procedure?

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REP. COHEN: Not that I am aware of, but...you know.. I would caution that with the caveat that I am not 100% sure.

SEN. BARROWS: Representative Knopp?

REP. KNOPP: Representative Knopp, 139th. You know, it seems to me that what Naomi is proposing is not a situation of a right without a remedy for the following reason. There is a clear precedent in that the statutes authorize a Regional Planning Agency to make a comment to a local Planning and Zoning Commission if that Commission is going to take any action or adopt a new zoning regulation that has an inter-town or regional impact. The statute says that if the Regional Planning Agency is not given 30 days in which to consider a proposed zoning ordinance, then that zoning ordinance is null and void and can be challenged in court by the Regional Planning Agency.

Now, the Regional Planning Agency doesn't have substantive powers as an aggrieved party to challenge the Zoning Ordinance; all it has is the power to do is to comment of it. But, if the local Planning and Zoning Commission denies the Regional Agency the opportunity to comment, then in that case, the Regional Agency can go to Court.

I think that is a clear analogy here. Why not give, hypothetically, adjoining municipalities the same opportunity to comment that the Regional Planning Agency now has? If the Zoning Commission does not give that right, does not respect that right, by sending proper notice and simeant copy and so on...then in that event, the adjoining municipality may have some claim as an aggrieved party. Otherwise, its only purpose would be to present the view of the adjoining municipality; just as now, the only purpose of the Regional Planning Review is to

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REP. KNOPP: (continued)

present the regional perspective?

The municipality's Zoning Commission does not have to follow what the Regional Zoning...the Regional Planning Agency recommends, but it has, at least, to hear it. From what I hear Naomi saying, there is a clear precedent right here in our statutes now, in which we give a right to be heard without a sort of formal legal remedy...and the remedy comes in only in the event that the right to be heard is ignored procedurally.

So, I don't think it is a problem to broaden the opportunity for the local Planning and Zoning Commission to hear views, other than those of its own citizens or of the Regional Planning Agency. It wouldn't hurt to give the adjoining municipality the same opportunity.

REP. COHEN: Gee, I wish I had said that.

REP. BLUMENTHAL: The statute to which you refer... permits the right to comment on a proposed ordinance. It requires the local Zoning Commission to provide a 30 day period in which the Regional Planning Agency has an opportunity to present a comment....is it 35? Sorry...and if that is not done, then the ordinance can be declared null and void in court.

REP. LANGLOIS: Zone changes.....

REP. BLUMENTHAL: Our next witness will be Representative Rell.

(laughter)

SEN. LOVEGROVE: I gather you are opposed to 6996?

REP. COHEN: I am opposed to.....and I can't put words in the mouths of the co-sponsors, but as I said

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REP. RAPOPORT: (continued)

Cohen's amendments, I am not sure that we will be ready for a Floor Debate on it, but I would think that 7006 and 7222, what they do is to take from the problem that the situation is generating ...a solution and a direction. I think it would be helpful not only in this situation, but in others.

I think that it would bea lot of questions and answers that Senator Sullivan and I share basically all of what he said....and what it is coming to is proper, and that is that what I think we really need is some combination of 7222, which... I might point out...lists a series which I suppose could be added to or subtracted from...of specific characteristics of a situation which would apply standing. It is not a broad and blanket thing. It is not the same as a veto, by any means... I really sharply disagree with Representative Cohen on that point.

I mean, ...I think giving a municipality the opportunity to participate in, as was ordered, and then appeal...simply means that the developments in a town which have a substantial impact on a neighboring, that that town has a way of inputting.

It is hard to argue the opposite point of view but...in the situation where a town is substantially impacted by a development in an adjoining town....(inaudible...) proper word...There ought not to be a way for the town to intervene. I just think that it would be helpful both to the town of West Hartford and to the residents in that area.....in this case. But, universally helpful to have an orderly process by which a town which has a Corporation Council, which has a Legal Staff, which has the ability to be an individual resident or not...even though they are the ones that are originally impacted...is

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REP. RAPOPORT: (continued)

a good way to address this situation.

So, I think that the proper course is to narrow and define the circumstances in which this would be applicable to include both the standing to appear and to have input into the decisions while they are being made, and then the subsequent right to sue. I just think....I guess that I would strengthen,...in response to what Representative Knopp's point...that the analogy given the Regional Planning Agency a certain amount of time in which to comment....and that the comments could be ignored.

The problem with that is that it does not go far enough, as far as...at least, our feeling in this..and that is that this gives an effective way of dealing with the situation in which the town's plans are made but ignored, and I think that we ought to do that. So, I would support an amended version, or a substitute version of 7222 which I think would accomplish much of what we want to do.

I really feel that this ought to be abstracted from this particular situation which gave rise to it, because what gives rise to the public policy hopefully can be made applicable under the circumstances.

SEN. BARROWS: Representative Blumenthal?

REP. BLUMENTHAL: A couple of questions....would you ...let me put the question a different way. Assuming that you had 7222 on the books at the time that the question relating to West Hartford and Bloomfield arose, what would you claim is the violation of law on which you would actually appeal?

REP. RAPAPORT: Well , I think...in other words, 7222 simply gives tou standing.

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REP. BLUMENTHAL: Right.

REP. RAPOPORT: It doesn't create any new substantive rights.

REP. BLUMENTHAL: Okay, assume that we change the law, though.

REP. RAPOPORT: Right. It doesn't change Bloomfield's local ordinances or its Planning or Zoning Ordinances.

REP. BLUMENTHAL: And I assume those would be the relevant ones, rather than West Hartford's. You wouldn't claim that the construction of these homes violated West Hartford's zoning ordinances. You would be claiming that somehow, there was a violation of law or local ordinances that someone who already had standing would be claiming had occurred.

REP. RAPOPORT: Okay, I am not a lawyer, and I certainly have not appeared in zoning cases, but my assumption is here...that there are certain things that are given by state statute...certain rights, to...you know...to individuals or local residents, and if they are being imposed upon, that the presentation...first of all to the Zoning Authority..... (inaudible...) environmental situations, there are certain situations in which certain bodies are involved, and where they are not.

Certain violations would have to be shown of things that are in other sections of the statutes, and get the opportunity to present those both to the body and then to a court...were provided if a case could be made. Obviously, if there is no substantive impact...or nothing that you could base a case on, then ultimately, it would be turned down, but at least we would get our shot in Court.

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REP. BLUMENTHAL: And I assume that...in terms of the veto power...recognizing the standing proposal doesn't really create a veto power as such...in terms of practical effect. The ability to go to court often can have much the same result, because if you tie up a project long enough, in effect, you are going to....in some instances, you will perhaps...(inaudible)

REP. RAPOPORT: I suppose that is true, but in effect....what that will do...the positive side of that could be to require that.....(inaudible) in terms of the town of West Hartford and the town of Bloomfield are meeting, are trying to find a way of developing a drainage study that is satisfactory.

The fact that the issue is being dealt with now as it should have been dealt with,...you know... 6 months or 9 months ago..and it is unfortunate and I think that it shows the reason for the bill. We, in the town of West Hartford, felt that we had to fire some shots over the bow in point of legislative action to simply get the negotiation process started in a meaningful way. I think that this would give a more orderly way to do that.

SEN. BARROWS: Representative Millerick.

REP. MILLERICK: Millerick, 22nd. Miles, I presume from what you have said here that you are pretty much in agreement with the theory behind Representative Knopp 's idea of how to approach this whole situation.....in other words, so that there will be a fiscal authority that will be notified so that everyone involved will have notification prior to any hearings or so on... between two towns. So, you are in agreement then...that perhaps what we should be looking at is some sort of legislation that would include the wording that we have for regional agencies and perhaps something that would include the

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REP. MILLERICK: (continued)

number of feet from the particular area that you are talking about. In other words, you put 500 feet, or 1,000 feet or whatever...which would then bring the municipality....

Because what we are talking about here is a situation I think everyone agrees that there should be recourse for people.

REP. RAPOPORT: Right.

REP. MILLERICK: And it seems to me that we had presented probably the best way to go at it. So, do I assume that you agree on that particular area?

REP. RAPOPORT: Well, I listened to what Representative Knopp said, but the concern that I had with what he was saying was that it did seem as though in the Regional Planning Agency's case, whether the town decided to ignore fully any input, that was sort of the end of it. I think that we are giving...if I understand him correctly...and that they really do not have standing to run to the court and say: hey, we were ignored in this situation and we want to take the next step.

I think what we are saying is that we want to create a situation where you can't be ignored, so that you can go to the next step... Actually, that is a little stronger than the legislation that...

REP. MILLERICK: That is what I was attempting to get from you....what you felt about that...

REP. RAPOPORT: I am in general agreement with what Representative Knopp was saying, but I do think that we ought to make it a little stronger than that. In 7222, there is a list of sort of trigger mechanisms that make it such, so that it is not a blanket: anytime you feel that you...that a

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REP. RAPOPORT: (continued)

town feels impacted by something that may be happening aways away...very specific, and I think that those are right. I think that those have to be worked out carefully to see whether there are any additions that might be valid as well.

So...that we don't get into a situation where we...each local situation triggers another set of points on how we should expand the categories. Let's try to get those categories...

REP. MILLERICK: Thank you.

SEN. BARROWS: Any questions? Thank you, Representative.

REP. RAPOPORT: Thank you very much. I am sure that you will hear a little more of this still, today, but I appreciate the attention.

SEN. BARROWS: Senator Morton?

SEN. MORTON: Thank you, Senator Barrows and Representative Blumenthal. I didn't think I would get here. I really didn't think I would make it today. No, seriously....

I am not going to say a lot, because Representative Testa is here now. If you had arrived earlier, I would have packed my things and gone home... or gone to my Committee Meeting, but he was a little late, and I wasn't sure he was going to make it...and I thought...

SEN. BARROWS: He always makes it.

SEN. MORTON: All right. I wanted to comment on some of the bills before you. I commented when you came to Bridgeport, and I appreciated the fact that you did come to Bridgeport and hold a hearing. I am certain that you gathered enough data from that brief public hearing to know that we are serious about the bills that

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SEN. MORTON: (continued)

Area in Bridgeport is critical for us to get bonding that is requested for that because without the infrastructure in place, there is nothing that is going to move without that infrastructure. Bridgeport cannot afford to provide the means to get this development going.

So, we are asking for bonding for that. I think I have just about covered....I didn't want this hearing to be held in Hartford, and some of your members that weren't in Bridgeport and didn't hear the testimony to think that Bridgeport just put those bills in and wasn't serious about them. We are serious about the bills we put in, and...since we have someone here to cover us adequately, on the Committee, I feel secure that I can go along to my Committee Meeting now and leave you in the hands of Representative Testa.

Thank you.

SEN. BARROWS: Thank you, Senator. Are there any questions?

SEN. MORTON: Thank you.

SEN. BARROWS: Thank you, Senator. We are going to go to the Public Portion, and the first person I have is Mayor Droney from West Hartford?

MAYOR DRONEY: Senator Barrows, Representative Blumenthal.... My name is Christopher Droney and I am the Mayor of West Hartford. I would like to speak to Proposed Bill 6996, 7006 and 7222.

At the outset though, I would like to say that I speak only for myself this afternoon and not necessarily for other members of the West Hartford Town Council. First, I would like

MAYOR DRONEY: (continued)

to address Bill number 7006, which is what we call the Veto Bill in West Hartford, and 7222, the Standing Bill. As you know, these bills arose from the Cordon Drive situation in West Hartford, but they are not limited to that situation. Cordon Drive adjoins Bloomfield, and there is a development in adjacent Bloomfield which severely impacts West Hartford homes.

We in West Hartford have been extremely concerned about this situation. Drainage and traffic are special concerns of ours. Overriding these specific concerns however, is the geographical problem which is general in scope, repeats itself frequently and thus is especially appropriate for this Legislature to act on. That problem exists wherever one town is solely and exclusively acting on proposed developments which impact on homes in an adjacent town.

These neighbors in the other town feel shut out of the process and that there is little that their own town can do for them. Political pressure is of little significance because the elected officials in the town which is passing on the proposed development need not respond. Those most concerned cannot vote for or against those elected officials.

These two bills take steps to remedy that situation. They restore political power to those most deeply effected, regardless of the political boundary between the two towns. It is essential that these bills be favorably considered.

Whether it be Cordon Drive, West Farms Mall, Newington Road or somewhere in Fairfield or Waterbury, one should have some say about neighboring land use, and should not be precluded from participating in a process imply because of an artificial political boundary.

MAYOR DRONEY: (continued)

As to the Annexation Bill, this bill was born of frustration by those of us in West Hartford, as others have commented. For some time, the West Hartford residents felt ignored by the Bloomfield Administration. Their legitimate questions and concerns caused us, the West Hartford elected officials, to take whatever steps were available to us.

Frankly, even the West Hartford elected officials felt frustrated and initially encountered a lack of complete cooperation from Bloomfield officials. That caused us to take the symbolic if not real step of voting for an annexation resolution. Over the past month or so, however, I have seen dramatic change.

During this period, West Hartford and Bloomfield officials have cooperated well and have responded to our concerns. Because of this, I am withdrawing my personal support for the annexation bill. It appears that West Hartford and Bloomfield are finally working together in good faith and energy to resolve a situation which deeply effects both towns.

I am pleased to announce that as of last week, West Hartford and Bloomfield agreed to co-sponsor and co-fund a drainage study by qualified drainage engineers for the Cordon Drive development. This study will finally produce an objective result which all of us will be able to rely on, including the residents both of West Hartford and of Bloomfield.

Before I conclude my formal statement, I would like to thank one person for the events of the last month that I spoke of: Mayor Dave Baram of Bloomfield. Without his coolhanded approach to this controversy and his wisdom, we would not have been able to take the first real positive,

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MAYOR DRONEY: (continued)

significant step toward resolving this situation. The drainage study agreement we entered last week was that first step, and without Dave Baram, I can tell you....we would not have been able to make that step.

There are two other people that I would like to thank if I could for the progress that we have made so far, and that is Kevin Sullivan and Naomi Cohen, who have both done very much to bring both towns together.

Thank you.

SEN. BARROWS: Any questions? I have a question from the layman's point of view, since I am not a lawyer....or familiar with the terminologies. This problem is probably a problem that has been existing for a long time between different towns across the State of Connecticut. Somehow, the development has not ceased; it still goes on as usual. Is it because the towns decide to get together like your towns did and resolve this issue, or have there been other ways to resolve the problems that kept growing?

MAYOR DRONEY: It is hard to say. I think that each situation probably resolves itself differently. I would say that it is not true that the developments are usually not approved. My experience has been that they are typically approved, because of the pressure on the part of neighbors who are not in the town in which the approval is pending. There have been a variety of situations where they have not been approved, and I am familiar with the West Farms Mall Proposed Development of last year.

I think that West Hartford's involvement in that, even though less formal than these bills before you would allow....sent a clear message to Farmington that Framington received, and I

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MAYOR DRONEY: (continued)

think Farmington wants to be a good neighbor, and that is one of the reasons why they voted against the project. And I think that Bloomfield wants to be a good neighbor now...and that is why they are acting so well in the past month of so.

But, if you look at borders of towns, I think you see much more development in some situations that you do in the heart of town. For example, West Farms Mall...one of the reasons I think it has grown so much and so quickly is because it is on the fringes of 4 towns, and I think that each of those towns can say: well, it really is not going to effect our town. New Britian can say that; Farmington can say that. Newington can say that, because the traffic doesn't go through those three towns, it goes through West Hartford. I think in the past, it has been easier for those towns to approve that kind of development. If it were in West Hartford exclusively and entirely, I believe that West Farms Mall would not be...would not have grown to the extent that it has grown today.

I think that being on the fringe of those towns has contributed to that growth.

SEN. BARROWS: Thank you. Other questions?

REP. BLUMENTHAL: As the elected official, the Chief Elected Official of West Hartford, if you had been able to use a statute like 7222 to gain standing, what would have your claim been, substantively, about the defect with respect to the Cordon Drive bill?

MAYOR DRONEY: Well, of course, we are not at the appeals stage yet. I have ...I don't know what our legal plan would have been had we lost throughout the whole process. I know that Representative Rapoport has pointed out those

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MAYOR DRONEY: (continued)

three sections of the bill at the end which seem to allow some kind of technical arguments before a court hearing an appeal. Whether those there
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REP. BLUMENTHAL: Yes, but those three provisions merely apply to standing. That gets you in the door.

MAYOR DRONEY: Right.

REP. BLUMENTHAL: That gets you before the court.

MAYOR DRONEY: Right.

REP. BLUMENTHAL: But it doesn't have anything to do with what your claim would have been as to the defect in the development itself, the mistake, for lack of a better word...the error that was made by the local land-use...body that approved that development.

MAYOR DRONEY: Well, I am not zoning...(inaudible).. but let me point out a situation that I think without even the knowledge...we had knowledge of the Bloomfield's Zoning Regulations...would have...I think would have created a substantive basis for an appeal by West Hartford,...and that is the drainage issue.

Last December, there was significant flooding behind the Bloomfield side of Cordon Drive, and what the developer did was to try and slip-trench across one of the lots and let all of the water run into Cordon Drive, to be handled however it was to be handled. Cordon Drive not being curbed of course. Now, even without an adequate knowledge of Bloomfield's Zoning Regulations, I have to believe that if that entire development was neither in Bloomfield or in West Hartford, that kind of an approach to a drainage situation would have been unlawful.

MAYOR DRONEY: (continued)

And I think that Bloomfield did respond to that but I think that if it had been entirely in either town, regardless of what specific zoning regulations Bloomfield had or West Hartford had... those would give rise to a substantive claim.

That is just an example.

REP. BLUMENTHAL: Did you or did anyone else from West Hartford appear before the Bloomfield Zoning Commission at the time that that development was under consideration?

MAYOR DRONEY: That development, I believe, was passed either in the '50's or the '60's. We have appeared before Inland Wetlands on another development. There are really two parts to the Cordon Drive problem. One is the Cordon Drive sub-division, which was approved many years ago, but which is being built now to some extent...and then there is the other sub-division...the Edgewood Sub-Division, which is entirely in Bloomfield and which goes off of a spur of Cordon Drive.

Because the Cordon Drive is already approved, there was really no forum for us to...any administrative forum for us to discuss it in or to voice our complaints. To some extent, we voiced our complaints on the Edgewood Sub-Division approval, that deal with the Cordon issues....the drainage issue.

Now, as I understand it, the Edgewood proposal has been withdrawn at this point, so there really is no pending administrative review right now other than the informal one that we are both going through.

REP. BLUMENTHAL: Thank you very much.

MAYOR DRONEY: Thank you.

SENATOR BARROWS: Questions? Mayor Baran.

MAYOR BARAN: Thank you very much Mr. Chairman. My name is David Baran and I am the Mayor of Bloomfield. And I'd like to address you on the three bills which have been spoken to all ready.

First let me address the anexation bill, which is my major concern at this point. The only cases that I am aware of, where the legislature has taken positive action in anexation, has been when where the two Comunities have agreed upon the anexation. And also the territory which is the subject of the anexation movement. It is legitimately disputed territory.

This is an instance where the property proposed for anexation is firmly established as a territory of an independent, newly chartered municipality. And I think to permit anexation in instances such as this, would be to infringe upon the home rural, local autonomy and setting a precedent, which I believe political wars which would enhance the territorial disputes and claims and infringe upon governmental autonomy. Anexation in this instance, I believe, would establish a very bad precedent and if we could use an analogy, perhaps take us back to the futile times when the mark of successful government was how much land you acquired. And basically there was, wars fought over that period based upon economic instances and what not were based upon how much property you owned.

That is not the case here, obviously, but could you imagine if this legislature was faced with 169 bills each year, and you had to decide which towns you would support for a territory expansion and which ones you would oppose. Right now,

SEN. BARROWS: I don't mean to discourage you, but especially in light of the testimony from our last witness and some of what you may have heard from the other legislators today, I don't think that can be regarded as a serious proposal at this point. So I would assume that you haven't had a high level of anxiety about it even before today, but in any event,

MAYOR BARAN: I will restrict my comments, I just want however, to extend my hand of friendship to the Mayor of West Hartford and thank him for his own political statement on his own. I believe that it has been genuine cooperation between two mayors two town managers and the staff. Or perhaps take one difference in issue and that was I would allege that that cooperation began from day one. But nevertheless it is here and that is what counts at this point.

Briefly as to the other two bills. Let me say the bill which has been labeled the Veto bill, I oppose unaquivcably. I believe that this bill sets no guidelines, no criterea, and it undermines, if not dismantles the whole theory of home rural. I believe its vagueness and import which has increased the potential for civil litigation in this area and I would suggest that it would probably be easier to repeal the Statutes giving local communities all the authority and just create a county where a regional zoning board where at least members from the disputing towns could disqualify themselves and the other remaining towns could address the problem. Obviously that is not going to get your support and I am not advocating it, but by way of analogy, I think that this is an intrusion upon local autonomy. And it is all a mechanism for failure, because we all know that if one community, a sizable segment of the population, opposes development, which is often the case for new development by the existing residential neighborhoods. It is bound for defeat and failure because there is no accountability for the local officials of one community to the other community.

In terms of the last bill, the standing bill, I can't say that I oppose this unaquivcably, and I can't say that I support it either. I believe that this was a bill which was introduced because of a specific conflict between Bloomfield and West Hartford, and I would suggest that the Planning and Development Committee continue to study this, to see how it relates to existing Statutes. I heard some discussion about the Statute, I believe it's 8-3, which requires any change in zone within 500 feet to be submitted to Crog, as the regional policy board in the Hartford

MAYOR BARAN: (continued)

area. And I think that that has worked rather well. Perhaps that can be strengthened so that Crog can have standing as a party kind of litigation as well. And give more input and credence to the report by the regional body. But I would like to see that this issue studied to see how the regional bodies have handled these kinds of conflicts, and also to allow Crog as well as other regional bodies to study the legislation and take a stand on it.

I would also suggest that perhaps the Committee would like to look at existing case law to see how law has developed over the years, where courts have recognized aggrieved parties for standing purposes. I would suggest that perhaps you are duplicating what all ready exists and then you are leaving some things that are critically important out of this bill, and perhaps you are going beyond what the court originally imagined. I am an attorney, but not a zoning attorney practicing at this time. But I will say that aggrieved parties to my knowledge do have some wide interpretation, and I don't think a town is precluded from appealing a decision of another community, but again I would suggest that even though this bill has been characterized as creating levels of standing. The level of standing, the wording in itself, creates an interpretation that the judge might review. For instance, the one about traffic, because a development utilizes the streets of another community, does it necessarily mean that it is uncontrollable, that it is harmful or detrimental to that other community.

However, it just opens the door to, again, political and neighborhood intervention, because they oppose the specific traffic. But it doesn't necessarily mean it is harmful. And fortunately, one of the problems with this whole confrontation, was that it became highly politicized in many ways, and I think that attributed to the failure for us to reach the kind of agreement we have now. And I am not sure that this would litigate those circumstances. So I would just conclude by saying, I don't think it is a bad bill, but I am not ready to support it yet.

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MAYOR BARAN: (continued)

I'd like to see more study in the regional planning body to give more input to this piece of legislation.

SEN. BARROWS: Any questions, thank you.

MAYOR BARAN: Thank you very much.

SEN. BARROWS: The next speaker is Donald Foster.

(Testimony on Cassete 4)

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Cass. 4 MR. FOSTER: Members of the committee, I am Donald Foster. I am the Town Planner in West Hartford. Pat Olare Assistant Corporation Counsel. He's (inaudible) the clerk submitting a letter to you which I am would like to read into the records from my Town Manager, which speaks to two of the Bills. Bill 7006 and Bill 7222. Members of the House Committee on Planning and Development, this letter is to serve as my testimony with respect to House Bill 7006 and 7222. Mayor Christopher Droney also has some remarks with respect to these bills.

These bills provide mechanisms by which municipalities can have some meaningful and necessary input into development in adjacent communities when that development has a significant impact beyond the town line. As the provisions of the General Statutes now stand, if a municipality permits property within its borders to be developed in a manner adverse to the interests of its neighbor municipalities, those municipalities have virtually no legal recourse by which to protect their important and specialized interests regardless of the severity of the impact. Only by showing that it has a specific property interest in the area can a municipality appeal such decisions. If no regional planning agency exists in the area in question, or if any affected municipality is not a member of such a planning agency, neighboring municipalities may not even be notified of proposed developments which might be adverse to their interests.

At the present time there are a least four developments either existing or proposed, in the West Hartford area which provide ample demonstration of the need for legislation of the type proposed in House Bills 7006 and 7222. Perhaps the most easily identifiable of these is West Farms Mall.

West Farms Mall sits on the town line dividing West Hartford and Farmington. The Newington town line is just to the south of the mall. Recently, West Farms Associates sought permission from the Town of Farmington to build three office towers and a restaurant within

MR. FOSTER: (continued)

the Farmington portion of the property, and from West Hartford to build a second restaurant within West Hartford's portion of the mall property. Neither municipality had statutory authority to become involved in the planning and zoning procedures of the other. Instead, the Town of West Hartford intervened in the Farmington proceedings pursuant to General Statutes Section 22a-19 which permits limited intervention for the purposes of raising environmental concerns. Although West Hartford had serious environmental concerns at the time, many more issues were present and could not be expressed by West Hartford because of the limits upon our intervention.

Fortunately, this tale had a relatively happy ending because Farmington listened to the concerns of West Hartford and for those reasons, among others, denied both applications. Had West Hartford's concerns been other than environmental in nature, however, its interests would have been absolutely unprotected from the actions of a less considerate neighbor, despite the fact that virtually all traffic to and from West Farms Mall travels upon West Hartford streets, storm water runoff and sanitary sewage from the site near West Hartford sewage systems and the majority of residences adjacent to the mall are in West Hartford. Indeed, virtually all of the harmful effects of the proposed developments in Farmington would have inured to West Hartford while the tax and other benefits would have favored Farmington. The interests of West Hartford, as a municipality, were important. They were also unprotected by the current planning and zoning laws of this State because they did not fall within the property interests concerned upon which the General Statutes now focus.

House Bill 7222 would provide municipalities with statutory authority to appeal from the planning, zoning and inland wetlands decisions of adjacent municipalities under limited circumstances. This legislation, if enacted, would serve a dual purpose. First, it would promote a spirit of cooperation between municipalities and developers in the development of property on or near a common municipal boundary. Second, this legislation would provide a safety net for municipalities which would otherwise suffer by the lack of such

MR. FOSTER: (continued)

voluntary cooperation.

As a purely technical comment, I would note that if the legislative intent is, as it appears to be from the language of the proposed bill, to apply House Bill 7222 to inland wetlands decisions as well as planning and zoning decisions, it should be retitled, and should amend General Statutes Section 22a-43 as well as General Statutes Section 8-8 and Section 8-28 to reflect that intent.

House Bill 7006 would require developers to obtain the approval of adjoining municipalities where their proposal would have a substantial impact on those municipalities. Although the proposed bill does not define "substantial impact," it would seem that the criteria listed in House Bill 7222 might apply equally well. Once again, this legislation would encourage developers to work with all concerned municipalities with the power to compel unwilling developers to listen to concerns which might otherwise go unheeded.

There are those who may express concern that these bills restrict the autonomy of a municipality's decision making within its own borders. Undeniably, these bills do so to a very limited extent, but there are two sides to that argument. In each case where these bills would restrict the autonomy of one municipal decision maker, an adjacent municipality may be helplessly watching, with no decision making authority whatsoever over developments which threaten to damage its interests and the interests of its citizens within its own borders. These bills represent a trade-off: at the expense of one municipality's complete autonomy over decision making, another municipality gains real protection for its interests in the health, safety and well-being of its citizens. It is respectfully submitted that this constitutes a very real loss on one hand, and a much larger gain on the other. This was respectfully submitted by Barry M. Feldman, Town Manager of West Hartford.

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REP. BLUMENTHAL: Thank you, Alan Francis.

ALAN FRANCIS: My name is Alan Francis, I am a resident of West Hartford, the Sherwood Homes Homeowners Association President. Sherwood Hills is a neighborhood which includes Clearview Drive, and I am here to speak or testify for 6996, 7006, and 7222.

I was here for most of the hearing. So I have heard remarks made by Senator Sullivan, Mayor Drony, Representative Cohen, Representative Rapoport, and I think my job at this point should be to give the Committee a sense of our frustration in terms of what brought us to this particular point and time today.

Last fall our neighborhood began to organize and try and deal with Bloomfield. We found the unresponsiveness. Steariness bordering on rudeness, really noway for us to address our concerns regarding drainage. Now, agreed, we are not drainage engineers, we are just ordinary folk that happen to live in the neighborhood. But we know what kind of a flood plain we live on and probably today the entire neighborhood wouldn't have been built, it was originally built in the late fifties and early sixty's and we knew there was going to be drainage problems when they began to raise the level of the houses across the street in Bloomfield, 70 to 80 feet above grade. We knew there was going to be more problems. When a pond was filled of water catch basin was filled, without authorization, we knew there was going to be problems, and we were told over, and over, and over, again, that we either didn't know what we were talking about. Or if we chose to think there was going to be difficulties that was our problem that was something that we had to deal with it, because everything was going to be fine. Then we had some moderate rains around Thanksgiving weekend, not a ten year storm, nothing even that significant, and there was water behind everyone of those houses that is being built on the Bloomfield side of the street. Standing water, and it stayed for a good two or three weeks, or at least until the developer dug a slip trench and drained in across the road in the neighboring driveways in West Hartford, along with the silt and sludge that came

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ALAN FRANCIS: (continued)

with it. We really didn't know what else to do except take our frustrations to the town council. When the town council expressed our frustration to Bloomfield in the form of 6996, and then the other two bills came along with it. And I think the main purpose for my being here, is to speak for those last two bills.

Agreed, this is an awkward situation. It kind of falls between the cracks in terms of regulations and responsibilities as I have found out in dealing with our own association council and in dealing with West Hartford Council. We constantly brought up the question of standing for West Hartford in this situation.

It is probably an A typical situation. But it seems to me that there still needs to be some way for residents to appropriately redress their views and get some satisfaction. Because it wasn't until we took some drastic action and the council took some drastic action that you seemed to be listening to us.

That is really the sum total of everything that I wanted to say. In terms of whether or not annexation is a real possibility or not, I am not even going to speak about that.

REP. BLUMENTHAL: Thank you very much, are there any questions? Thank you, sir.

ALAN FRANCIS: Thank you.

REP. BLUMENTHAL: John Gekler Abe Gayle, Richard Davis.

RICHARD DAVIS: Thank you Mr. Chairman, Members of the Committee, my name is Richard Davis, I represent the Homebuilders Association in Connecticut. Approximately 1500 forms, I do the majority building of homes in our State. With regard to 7006 and 7222, which is not the main reason we are here, but now that I have heard the testimony, I think it should have been. We have built for a number of

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RICHARD DAVIS: (continued)

years without the cooperation of this Committee in dealing with this subject of appeals in court. I think, and certainly the Judicial Department is aware of a number zoning cases which in the first instances should not have been there, under the rights of automatic standing (inaudible) the list goes on.

I think this will open the, no pun intended, another slip trench for that type of activity. The reason we are here today, is to talk about how we think that could be dealt with in terms of 256, which I will address in a moment. But we have developers who have experienced the delays of 7 and 10 years when you take the areas through the superior court to the supreme court.

Whether or not the point prevails is not the issue is these instances. What he does for the market place is what prevails. And as we try to get a handle on housing costs, we talk about a lot of issues, these are considered the element of risk when you pass bills like this you increase risk to the point where the profit factor goes up extraordinarily high, or we don't build and better towns at all. We just let it stop and we walk away. Because development pressures, perhaps where they should not be from a planning point of view in terms of infrastructure and what have you. I believe these two bills are that intimidating. I am taking them on their face, what I see is to approve if acquired, in affect, two public hearings, I ask the question what affect does this have on 65 (inaudible) sequence or the 180 sequence, does that turn into a 360 day memory now, because we (inaudible)

REP. BLUMENTHAL: Where do you see in the section the requirement of that there be a second approval?

RICHARD DAVIS: Well it says literally that in 7006.

REP. BLUMENTHAL: Well you are talking 7222.

RICHARD DAVIS: Well my comments are pertaining to 7006. It says that this should require approval from the adjoining town right there on its face. We

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RICHARD DAVIS: (continued)

ask what is substantial. You have a definition there of 500 feet, we suggest that is arbitrary, why not a major traffic standard of 200 trips per day. Why not, why not, why not, whether substantial is up for debate.

Should there be recourse has been philosophical comments that we suggest no, that if a town makes a practice, or there is a practice in this state on a grand scale of development infringing on another town in a negative way, that the opposite is true, that one town will not have respect for the other, but in most cases developers are trying to take in account the regional planning agency and their comment within that 35 day period.

We are most concerned about the impact on low income housing in commercial development and we tie the two together because the first thing you service is the question of taxation. And someone could, the alternative is in the negative here earlier, can you envision not having recourse. We'd like to envision where a town has nothing to gain but traffic or possible (inaudible) any low income housing, moderate income housing or commercial development, a shopping center, what have you.

It isn't a bill that will....I think that this bill will lead to chaos. Residents have to be listened to. Clearly, there is a Public Hearing process for the residents in the town. There is no standing here for residents to appear, but what we are concerned about is: time and time again, facing ... (inaudible) residents who despite the reports from the Traffic Engineers and the Environmental Engineers and what have you, say: we are going to exercise our right under standing. We don't care what the professionals say. We have a different opinion. We find that that is used again through the backlog in the courts to hurt us.

We find no real relief by allowing the municipal agency which is.... (inaudible)... and I will move on here to another bill. Just let me look at my

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MR. DAVIS: (continued)

notes here for a second....

There is a question on neighboring contiguous and non-contiguous. That is, that appears to be an open question which causes me concern. The lack of grounds already pointed out, under what grounds would the existing town use the authority given by this bill? and so much help....

If I can, I would like to speak to 256 momentarily. You came here to suggest that a bill that was worked on two years ago with various groups be brought back to your consideration, and my last comment on the two former bills is that if you want to deal with it, you could possibly include it in the bill that I am suggesting here under 256, which is to study the issue.

I would like to suggest that 256 be turned into a study bill to consider a bill that was written two years ago, that was a rather lengthy bill, but not necessarily Draconian.... (inaudible...)
It is a rewrite of the sub-division statutes. There hasn't been one that was...that has been substantive for the last 30 years; the last time it was actually put on the books was 1947, and most of the bills that have come forward are labelled... (inaudible)...are really not new legislation but merely revision of the existing statutes.

The proposal that we would like you to study, and I would...just one political note here....This is the year that you really have to study it and next year is the year you have to pass it, because it you brought this bill in last year, we had so many new faces up here that there is always a continuity problem. So, there is a sense of urgency. We are generally anti-study; let's get on with it because there is a crisis. But, for one entity to deal with it as a group....this is the year that we really should use the time to

MR. FINLEY: (continued)

study that would be established to look into the ...one to put together an inventory of such property and look at the uses of such property.

Proposed Bill 256, An Act Providing for the Simplification of Administrative Proceedings and Requirements in Connection with the Development of Low and Moderate Income Housing..... The lines in line 23 there...concerning simplification ...simplified filing....simplified permanent filing and special requirements is a little vague, and we would be willing to work with the Committee if they wish to flesh out this proposal...as to what is intended there.

Proposed Bill 6955, An Act Concerning a Limited Integrated Housing and Transportation Plan on a Municipal Level....Quite frankly, we hadn't heard this concern through our ranks, but if there is a problem, we would be glad to work with the Committee to establish some mechanism whereby the Public Transportation needs of elderly residents of Public Housing Projects can be addressed.

Proposed Bill 7006, An Act Concerning Development Projects Which Have a Substantial Impact on Adjoining Towns. As veteran members of this Committee are aware, this proposal has come up frequently in the last several years. The language of substantial impact on such adjoining town... is vague; it is often difficult to get more precise. We just had some concerns about the particular situations that this proposal is trying to address, as is Proposed Bill number 7222, An Act Providing Municipalities with Standing to Appeal Planning and Zoning Decisions on Neighboring Municipalities.

How can we try to foster cooperation among municipalities rather than get into a confrontational situation? Of course, there have been incidents in the past where the Zoning decisions of one

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MR. FINLEY: (continued)

community has had what another community has felt to be a(inaudible) effect on them. We would be glad to work with the Committee to determine whether there really is a need to bring in specific standing in this area, or whether other remedies exist now to allow the effected communities to raise issue of this sort.

I would be glad to answer any questions.

SEN. BARROWS: Questions? Representative Meyer?

REP. MEYER: I am wondering...has it been brought to your attention there are any communities where one Planning and Zoning Commission will not allow someone from a neighboring Planning and Zoning Commission or an official from a neighboring town to testify? Or something...on something that might be of mutual concern?

MR. FINELY: I am not aware of any situation where a local Planning and Zoning Commission has denied a representative from another community access or the ability to testify at a hearing on a proposed zoning change. Often, the Regional Planning Agencies in the area would foster some type of cooperation, and attempt not to have their individual members get in a confrontational situation.

REP. MEYER: Well, I know where it has been done rather...(inaudible), and that is that the neighboring communities cannot testify until everyone from the home community has testified, which is meant...has meant that the testimony has gone until 1...2 in the morning. Therefore, people have left and the come-back has been: well, you have not told us your problem. So, in effect, they said: yes, you may...but made it so impossible that it was not done. That was the only thing I have heard personally.

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REP. MEYER: (continued)

But I wondered if there were any others.

MR. FINLEY: I have not heard any as I mentioned, and I think it really depends on the individual Codes of Etiquette that are adopted in each community in regard to Public Hearing testimony.

The situation you mentioned still allowed the neighboring community the ability to make a statement, and I really can't speak on individual situations that I am unaware of.

SEN. BARROWS: Questions?

MR. FINLEY: Thank you.

SEN. BARROWS: Thank you very much. That ends our Public Hearing.