Mayor Santos Defends Tax Sharing in the Meadowlands District

The New Jersey Meadowlands Commission (NJMC) is the zoning and planning agency for the 30.4 square mile Meadowlands District created in 1969. The District consists of 45,000 acres, including 19,500 land acres, in portions of 14 municipalities. One of those municipalities is Kearny. This paper summarizes the importance of regional land use planning in the Meadowlands District and the key role of revenue sharing in that framework. Kearny is the largest recipient of tax sharing in the Meadowlands District; however, less known is that Kearny has also suffered a significant financial detriment since the District's inception over four decades ago.

A. The Importance of Regional Land Use Planning and Revenue Sharing in the Meadowlands District

Because of the magnitude of the area in the Meadowlands District and the number of municipalities included, it is not possible for the NJMC to fulfill its statutory mission of protecting and promoting the environment, ensuring orderly economic development and growth, and providing and facilitating shared regional services such as solid waste management, in the absence of a regional planning and land use regulatory framework that is applicable to the entire area. Achievement of the NJMC's trifold mission benefits not only the entire District but also each member municipality.

In this regard, all 14 NJMC municipalities benefit from efficient, local solid waste disposal sites. The NJMC manages solid waste disposal from the region as one of the State's solid waste management districts by accepting certain categories of solid waste at the Keegan Landfill in Kearny and at the leased vegetative waste disposal site located on the 1-E Landfill at the border of Kearny and North Arlington. All District municipalities also benefit from the preservation and maintenance of open space and wetlands that drain into the Hackensack River, even if those sites and preserved areas are not distributed equally among the member municipalities. For example, properly functioning wetlands mitigate flooding and, as a result, enhance property values in all District municipalities affected by tidal flooding. Similarly, heavy industrial economic development may not be suitable for the NJMC District municipalities that have been zoned for housing, retail or office uses; those municipalities, as well as the regional economy, benefit from the placement of heavy industry elsewhere in the District.

Solid waste disposal, open space and wetlands preservation and heavy industry yield much less in fiscal dividends in the form of property taxes and hotel or parking fees when compared to other types of economic development. Because New Jersey municipalities rely heavily on development and property taxes to fund municipal services, municipalities would not have delegated their powers of land use, which determine the tax outcomes for those properties, in the absence of a regional revenue-sharing mechanism that would compensate the municipality's tax payers for financial inequities arising from land uses that yield little or no property taxes. That was the heart of the bargain reached by the NJMC's member municipalities at the founding of the NJMC in 1969. In short, tax sharing undergirds the NJMC's regional land use framework.

B. The Economic Relationship between Kearny and the Meadowlands District

52% of Kearny, or 3,419 acres, is in the New Jersey Meadowlands District. Of that acreage in the District, 1,775 are land acres.[1] The part of Kearny outside the District, including all publicly-owned property, consists of approximately 3,150 land acres. That means the Meadowlands District encompasses 36% of Kearny's total land area.

The aggregate assessed value of all properties in Kearny was $1.064 billion in 2011. The portion derived from the Meadowlands District was just 6.9% of the total assessed value even though District properties comprise 36% of Kearny's total land area.[2] The tax levy for all of Kearny in 2011 was $100,724,139.00 (including school, County and municipal levies), of which just $6.95 million was collected from District properties. In other words, the non-District portion of Kearny generated 7.6 times more revenue per acre than did the District portion. If the land acreage in the District were to perform at the same level as the non-District properties, an additional $45.9 million a year in tax revenue would be generated. Thus the $3,863,134 that Kearny is scheduled to receive in 2012 in tax sharing payments is very low when compared to potential tax revenue from District properties.

The obvious reason for the tax underperformance of the Meadowlands District in Kearny is the land use of District properties. For over 40 years, regional zoning and planning in the Meadowlands District has resulted in comparatively little in property tax revenue for the Town of Kearny from its 3,419 acres in the District. That is in part because retail, office, hotel and entertainment uses, which pay the host municipality significant property taxes and hotel and parking fees, were not permitted in Kearny.[3]

Instead, non-tax performing uses are predominant. For example, over 400 acres of the District in Kearny consist of historical solid waste landfills: 1-A, 1-B (Keegan), 1-C, 1-D and 1-E Landfills. Of these, only Keegan currently accepts solid waste under an agreement between the NJMC and Kearny that expires in 2014. A majority of the remaining acreage is unused or underused heavy industrial sites that generate little or no tax revenue, including the following: Koppers Coke (169 acres); Hartz Mountain (27 acres); Chemical Land Holdings (26 acres); Standard Chlorine-Standard Napthalene (24 acres); Campbell Foundry (7.9 acres); and Diamond Head (7.5 acres).

The District properties' low aggregate assessed value means that a disproportionate financial burden is placed on non-District properties to fund the cost of providing municipal services and capital improvements in the District. By way of example, in the past five years there have been over 800

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[1] The water acreage in Kearny includes the Kearny Marsh Preserve (468 acres) and most of the Saw Mill Preserve (741 acres in Kearny and Lyndhurst).

[2] The tax paying properties in the Meadowlands District had an aggregate assessed value of $73.34 million while the properties outside the District bore an aggregate assessed value of $990.84 million.

[3] Since becoming Mayor in 2000, I have repeatedly asked the NJMC to include retail, office, hotel and entertainment uses in its redevelopment area plans for Kearny. Several years ago, the Kearny Redevelopment Plan covering Bergen Avenue was amended to permit retail uses and, three years ago, a Wal-Mart opened in that redevelopment area. This is the largest new assessment added to the tax rolls since I became Mayor.

Kearny Fire Department responses in the Meadowlands District of which 62 were actual fires involving brush, vehicles or structures. In just the past 12 months, there have been four fires at the vegetative waste facility that the NJMC leases on the 1-E Landfill requiring a response from the Kearny Fire Department. The Kearny Water Department has also been called numerous times for emergency repairs of the water transmission system and has maintained, repaired and replaced hydrants in the District. In addition, the Kearny Municipal Utilities Authority has in recent years invested over $4 million in pump station and force main improvements for the conveyance of NJMC wastewater flow to the Passaic Valley Sewerage Commission.

This transfer of costs of municipal services from District properties to non-District properties is troubling and inequitable. None of Kearny's total population of 40,684 lives in the District. The median Kearny household income is $58,698, below the State median of $82,289; the average household size is 2.89, with over 5,100 children enrolled in the public school system. Because of the financial limitations of the average Kearny homeowner, the Town Council and I have reduced municipal services in recent years through attrition and several lay-offs such that total municipal appropriations in 2011 were $75,361,701.00, which equates to $1,852.00 per capita.

C. <u>Tax Sharing Has Not Impeded Economic Development in the Paying Municipalities</u>

A close analysis of the NJMC's tax sharing mechanism and history of tax sharing payments does not demonstrate that tax sharing has been an undue burden on the paying municipalities. Even with tax sharing, most of the property revenues generated by new development – i.e., 60% of property taxes on the improvement, 100% of land taxes and 100% of the municipal portion of hotel and parking fees – are retained by the local municipality. In addition, County taxes are netted prior to determining the tax sharing obligation and a municipality receives a credit for the full cost of educating each child residing in the District. The current annual tax sharing pool for the entire District is approximately $7.4 million; that represents less than 1% of the total tax amount of $960.8 million (including municipal, county and school levies) raised by the 14 municipalities for the year. Looking only at tax revenue collected in the NJMC District portions of the 14 members, the tax sharing percentage rises to just 7%; from 1973 through 2005 $1.8 billion was raised in the District and just $118 million was paid in tax sharing.

The District member paying the highest tax sharing payment – the Town of Secaucus – paid the somewhat higher amount of 8.5% of its District tax revenues from 1973 through 2005. In other words, Secaucus retained $599.9 million out of $655.5 million in District tax revenue collected from its 3,752 acres in the District (of which 2,584 are land acres) and paid $55.6 million into tax sharing during that 33 year period. During that same period, Kearny generated only $92 million in tax revenues from its 3,419 acres in the District (of which 1,775 are land acres) and was the largest beneficiary of the sharing pool, receiving $60 million. Using the 2010 populations for each municipality and their most recent equalized property valuations, the stark variation in economic development between Secaucus and Kearny becomes even more evident: there is $143,540 in assessed property valuation for each Secaucus resident and just $59,155 for each Kearny resident. For 2011, that translated into an average property tax bill of $6,338 in Secaucus and $8,960 in Kearny.

If we could go back to 1969, as Mayor of Kearny I would gladly trade places with Secaucus and accept for my town land uses that permit high economic development even at the cost of 8.5% of tax revenues collected. I still would have retained over 90% of tax revenue which would have resulted in significantly lower property taxes for Kearny homeowners than they presently pay. Kearny's taxpayers do not have that choice in the year 2012, however. To alter now that bargain in a way that reduces tax sharing payments would trigger draconian cuts in municipal services. For over four decades, Kearny has relied on the NJMC's land use bargain – that is, the substantial detriment of lower tax revenue from regional land use regulation would be mitigated at least in part by tax sharing. To lower or undo tax sharing payments without first increasing economic development and tax revenue in Kearny violates that bargain and would do great harm to the citizens of Kearny.

D. <u>Maintaining Regional Land Use Planning and Reducing the Imbalance in Tax Sharing Payments</u>

There is significant value to a regional land use planning and regulatory framework that enables the provision of government resources on a more efficient basis and addresses issues that cross municipal boundary lines such as, in the NJMC District, flood mitigation, solid waste management and economic development impacts. Due to the high costs of providing government services, regional land use planning and tax sharing is more useful today than it was four decades ago. Not surprisingly, more jurisdictions across the country are considering regionalizing the provision of government services and the promotion of orderly development; regional revenue sharing is a key component of that discussion. For example, the American Planning Association has proposed a model tax sharing program.

The key to maintaining a political consensus for regional land use planning in the NJMC District is to address the underlying cause of the significant difference in tax sharing between the amount to be paid by the highest payer in 2012, $2,684,777, and the amount to be received by the highest receiver in 2012, $3,863,134, and why Secaucus and Kearny are consistently the highest payer and highest receiver, respectively, under the formula. Any adjustments in the formula that do not address the cause of this imbalance will do more harm than good for the long term viability of regional planning in the District and the mission of the NJMC. The following are my recommendations on how to reduce the imbalance in tax sharing.

1. <u>Promote Economic Development in Kearny</u>

In order to reduce the gap between payers and receivers in the District, the NJMC must correct the imbalance in land use regulation that has restricted high revenue economic development in Kearny. As I have stated repeatedly over the years, the Belleville Turnpike and Harrison Avenue corridors in Kearny can support retail, office and hotel uses. These corridors have direct access to the New Jersey Turnpike and Route 280 and are near Newark Airport and the cities of Newark, Jersey City and New York City. In addition to the restrictions imposed by land use regulation, the most significant constraint on redevelopment of these properties is that they are mostly unused commercial and industrial facilities that require environmental cleanup. The NJMC should allocate more resources to brownfield redevelopment and work closely with Kearny and the Department of Environmental Protection on funding for cleanups and designating redevelopers with brownfield experience.

2. Consider Other Property-Related Revenues That Benefit District Members

Considering only property taxes and payments in lieu of taxes (PILOT) in the tax sharing formula may not capture fully the financial benefit of a property to its municipality. For that reason, the exclusion of host community benefits for solid waste landfill and transfer station uses should be reconsidered. In addition, the formula should be reviewed to take into account changes in State law since 1970 that have expanded municipal revenue sources to include hotel and motel occupancy fees and parking lot fees. Finally, in addition to any PILOT amounts, agreements with redevelopers should be reviewed to consider other financial benefits to the municipality such as redeveloper-funded improvements to parks and public rights of way.

3. Eliminate the Sports and Exposition Authority's Exclusion from Tax Sharing

Prior to 1976, the New Jersey Sports and Exposition Authority (NJSEA) contributed 40% of its profits from its facilities in the Meadowlands to the District's tax sharing pool. The subsequent exclusion from tax sharing of the most substantial economic development in the history of the Meadowlands District harms all the District's municipalities. The exclusion of the NJSEA's 750-acre site located at the very heart of the Meadowlands District means that the arena, racetrack and stadium improvements, having a value in the billions of dollars, contribute little to tax sharing. That fundamentally contradicts the premise of sharing the benefits and burdens of regional land use planning in the District. Although the key facilities are not assessed by the local municipality, there are other revenues directly arising from the uses on the 750-acre site that could be considered in the District's revenue sharing formula and perhaps be captured through an entertainment fee or access fee to the site.

4. Maintain the Base Year

Adjustment of the 1970 base year on which tax sharing is calculated prior to a correction in the land use regulation and uneven economic development that has created the gap between paying and receiving municipalities would be a substantial financial detriment to receiving municipalities such as Kearny. Tax sharing only partially compensates for the effects of over four decades of land use regulation that has restricted economic development. Much like the exclusion of the NJSEA's facilities in 1976, the exclusion of additional properties from the tax sharing pool through a change in the base year contradicts the premise of sharing benefits and burdens of regional land use planning and would likely reduce payments to receiving municipalities.

A recent proposal to change the base year to 2004 is particularly troublesome because it has the potential of eviscerating tax sharing. The aggregate true valuation of all District assessments in 2004 was $7.357 billion. The data provided in the NJMC's most recent tax sharing distribution chart (using 2009 data) shows a current, aggregate true valuation of $10.011 billion. Accordingly, if the base year were changed to 2004, 73% of assessments would be removed from tax sharing. Under the current formula, after netting out valuations as of 1970, the aggregate value used in this year's tax sharing formula is $9.52 billion. With a 2004 base, that number would plunge to $2.65 billion, with just one of the District's municipalities accounting for 45% of that reduction. In short, the biggest beneficiaries of the base year change would be those municipalities that had the highest growth in taxable economic development from 1970 to 2004 and have been the biggest beneficiaries of the NJMC's land use planning and regulation.

5. Reduce Tax Sharing Volatility in Both Payments and Receipts

Volatility in tax sharing payments and receipts has become more problematic for purposes of municipal budgeting due to the 2% tax levy cap. Where there is no increase in the municipal tax base that can absorb either an upward fluctuation in tax sharing payment or downward fluctuation in tax sharing receipt, there is a need for a stabilization fund to mitigate the budgetary impact. It is important to recognize that the State's tax cap affects both paying and receiving municipalities. For example, Kearny will receive 4.5% less in tax sharing payments this year compared to 2011. That reduced revenue is not an exception to the tax levy cap and must be absorbed through budget cuts. While the NJMC recently adopted a resolution that eases the burden of the paying municipalities which are facing an increase in payment under the tax sharing formula by paying half their increase in 2012, it has taken no similar measure to assist receiving municipalities facing a reduction in tax sharing receipts for 2012.

E. Conclusion

The NJMC's statutory mission is as important today as it was at its founding. Revenue sharing remains necessary and highly useful to the achievement of that mission. A weakening of tax sharing will lead to the dismantling of the NJMC's regional land use planning and regulation purpose, including its solid waste management and wetlands preservation roles. In order to ease the financial burden on the District's municipalities, the NJMC and the District municipalities should instead work to correct the imbalances in economic development in the District and seek to reverse the exclusion of the NJSEA's Meadowlands facilities from revenue sharing.

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