

**Interview with Governor Brendan T. Byrne
by Michael Aron**

August 11, 2009

Michael Aron: It's the morning of August 11th, 2009. We are at the Eagleton Institute on the campus of Rutgers University. I'm Michael Aron of NJN News. We're here for the Rutgers Program on the Governor, the Brendan Byrne Archive. And this morning we're going to continue our series of discussions with Governor Byrne. It's been two years since our last interview with the Governor. This morning we plan to spend the bulk of our time talking about his legacy item, The Pinelands Protection Act, and perhaps some other land use issues.

Michael Aron: Governor, let's talk about the Pinelands. Why did you get drawn to that issue, to that goal pretty early on in your governorship?

Brendan T. Byrne: It wasn't pretty early on. It was mostly an issue in the second term. I had a fondness for the Pinelands because it was the Pinelands and because I had read at some point, John McPhee's book called *The Pinelands*. It's a book you can read in little over an hour I think. And the Pinelands seem to have a charm. Not only a charm, but when McPhee said at the end of that book, with all of the competing pressures, that the Pinelands was headed for extinction, it represented a challenge to me. I said, you know, I'm one of the guys that can stop that extinction.

Michael Aron: Had you spent any time down there?

Brendan T. Byrne: Well, not traipsing through the Pinelands and I did not spend any real time-- I mean you went to the Pinelands, you saw all the trees-- you see a little bit of that on the way to Atlantic City.

Michael Aron: You knew John McPhee's brother, is that right?

Brendan T. Byrne: Well first of all I knew-- yeah, John McPhee's brother, Roemer was in college with me and in law school with me.

Michael Aron: Roemer?

Brendan T. Byrne: Yeah. His father's name was Roemer. H. Roemer McPhee. I never found out what the H stood for. Yeah. Roemer McPhee late became counsel to the Republican Party and was in the periphery of Watergate, clean, but on the periphery.

Michael Aron: Counsel to the Republican Party nationally or in the state?

Brendan T. Byrne: Nationally.

Michael Aron: Nationally.

Brendan T. Byrne: And he also had spent some time as counsel to Al Driscoll.

Michael Aron: You say it was largely a second term issue and yet from what I reviewed last night about the history of Pinelands preservation it got on your plate as early as '75, '76. It was a thought formed in your head and...

Brendan T. Byrne: No it wasn't, it was actually the Department of Interior nationally, I think had designated the Pinelands as an area for preservation. But what it didn't do and what nobody did and what became the issue in the Pinelands, is how do you give it some teeth? And the Pinelands preservation effort that we made gave it some teeth. I mean there were a lot of people against the Pinelands Bill who were in theory in favor of Pinelands preservation but they didn't want to do anything about it, a couple of congressmen.

Michael Aron: Congressmen from that area?

Brendan T. Byrne: Yeah.

Michael Aron: Forsythe, Hughes...

Brendan T. Byrne: And even Florio who later became an enthusiastic fan and headed the Pinelands Commission.

Michael Aron: Well one thing I read last night that I'd like your comment on is the notion that one of the reasons you wanted to preserve the Pinelands was because

you had seen what development had done to the northeastern part of the state that you grew up in and you didn't want to see the same kind of thing happen in the southern part of the state.

Brendan T. Byrne: Well it's just the Pinelands was-- I don't think I was contrasting the Pinelands with what was happening in Newark. I don't think I ever viewed the issue in those terms. But the Pinelands was such a pristine part of the state and the McPhee book frankly was an inspiration to me. Why do we, you know, why do we let this go? And the Pinelands-- as we sit here today, the Pinelands are in danger because there are-- every compromise you make in the Pinelands is irreversible. And so you chip away a little bit, you put a cell tower in the Pinelands, it's gone, I mean that's part of the destruction of the Pinelands.

Michael Aron: You say that you gave teeth to preservation.

Brendan T. Byrne: I'll tell you how I did it by the way.

Michael Aron: Please do.

Brendan T. Byrne: I called David Bardin into my office and I said to David, "Do not issue any more permits to build in the Pinelands." I just said it. And he came back a few months later and he said, "I'm having trouble with the law on this, you know, I'm not giving permits and they're threatening to sue me and I don't know that I got a good defense." So that's when we did the executive order and introduced the bill. And by the way, Joe Merlino who was the Senate President was very supportive of Pinelands protection and got to give him credit and I did when I signed the bill. It took a while, I mean there was a whole theory there of how we're going to get this done. I was thinking this morning, who was it, Chris Jackman who would come in-- the Speaker of the Assembly would come in to the legislative sessions and say, "What cliff does Byrne want us to jump off today?"

Michael Aron: Was the nub of it that you were taking land use approval away from the municipalities and aggregating it to the state, was that...

Brendan T. Byrne: Sure.

Michael Aron: Was that the heart of what this fight was about?

Brendan T. Byrne: Sure. And it was a very unpopular fight, people don't realize that.

Michael Aron: Who opposed it?

Brendan T. Byrne: Everybody. No, seriously, as a matter of fact Congressman Hughes and I had a very strained relationship for a while, we're great friends now and his documents are here at Rutgers. But his constituents were very much against, you know, aggregating power to the state and to a commission and taking it away from the local municipality. The irony by the way is that these local municipalities who didn't get the power taken away from them are telling me, "Why didn't you include us in this because we're getting all the development from the casinos?"

Michael Aron: Places like Egg Harbor Township, that kind of place?

Brendan T. Byrne: I don't know which-- you know. But anyway...

Michael Aron: Galloway Township? That's where all the housing is going.

Brendan T. Byrne: Is that right?

Michael Aron: <inaudible>

Brendan T. Byrne: Yeah, but now they regret that I didn't include them.

Michael Aron: Did you view preserving the Pinelands as some kind of companion to gambling in Atlantic City? "We'll try to revive Atlantic City and we'll have all the development happen right there and we'll<inaudible>the adjacent million acres." Did you see the two things as...

Brendan T. Byrne: No. As a matter of fact, one of my great regrets is that when I did gambling in Atlantic City I did not regionalize Atlantic City for that purpose. We should have when we-- when I did Atlantic City, my overwhelming concern was to keep it clean, law enforcement. And when I convinced myself I could do that, I went for gambling in Atlantic City. Now when it came to, you know, the housing and the other development, I did not have the foresight that I should have had. I

should have had the whole thing-- they would have given me anything when I went for gambling-- I was the only...

Michael Aron: Who's they, who would have given you anything, the casino industry or...

Brendan T. Byrne: Well there were no casino people at the beginning. I had to attract casino people. I'll tell you the story when we come to it. But I pleaded with Hilton to come into Atlantic City and get a casino, at least get a casino He wouldn't do it.

Michael Aron: So when you say they would have given you anything, who's they?

Brendan T. Byrne: The people in Atlantic City, the owners of the hotels, even the Steve Perskies of the world who was a great leader in casino development. But they would have done anything. I mean if I wanted to zone adjacent municipality, they would have let me do it. I didn't see the need for it at that time. I thought casinos was something we could solve just by good law enforcement. Well, we had more success than we have now with casinos, but anyway. This-- what your original question was was did I see casinos as a part of the overall development of the Pinelands? And the answer is no.

Michael Aron: We use the term Pineys when we speak about the culture of the Pinelands. What does that word mean to you, Pineys?

Brendan T. Byrne: Well I think it's a word of affection. There was a man by the name of Piney Parker who was related to Senator Barry Parker and I think he enjoyed-- and he got involved somehow in the Lindbergh trial. I think the Pineys talk affectionately of themselves as Pineys. And there are Pineys, I mean there are people in the Pinelands for whom that's a way of life, it's not just, "We live here," it's a way of life. And it's a way of life they love. And I think I helped preserve that way of life. If you read John McPhee's book again, you'll see some of the characters that he draws and some of the...

Michael Aron: Some of the lore coming out of that region is that there was a lot of inbreeding and a lot of craziness and a lot of antisocial behavior.

Brendan T. Byrne: It's also-- yeah, and it's also a Jersey devil. I mean there's a lot of superstition and a lot of tradition and a lot of truth that isn't the truth. And as a matter of fact, when-- I was part of the group that brought the New Jersey Devils into-- our hockey team into New Jersey. And we were thinking of a name, we put a bunch of names in the hat and tried them out, but I was the one who asked them to put Devils in the mix and Devils was the name that came out. But before it came out, we had to check with religious leaders to make sure that wasn't going to offend anybody.

Michael Aron: What would the Pinelands look like today if there had been no Pinelands Protection Act?

Brendan T. Byrne: It would like the towns that I-- we just talked about.

Michael Aron: Egg Harbor Township and Galloway Township.

Brendan T. Byrne: Yeah, yeah. It's like-- I did an interview recently on the Driscoll Expressway which was an extension of the New Jersey Turnpike from like New Brunswick into Ocean County. And I killed...

Michael Aron: Linking up with the Parkway?

Brendan T. Byrne: Turnpike.

Michael Aron: But linking up with the Garden State Parkway?

Brendan T. Byrne: Yeah, but it was basically getting here from the Turnpike to Ocean County. And I have been-- I killed it and I think that's one of the things that Al Driscoll was mad at me for.

Michael Aron: Why did you kill it?

Brendan T. Byrne: Why'd I kill it?

Michael Aron: Yeah.

Brendan T. Byrne: Because I was convinced that it would cause Ocean County to be a concrete parking lot. And everyone tells me I'm right. People I ask now about whether I was wrong in doing-- in killing the Driscoll Expressway will tell me that it would have been chaotic in Ocean County.

Michael Aron: There were plans back in the sixties for the Pine Barrens to create a city in the Pine Barrens of 250,000 people, to put a jet port in the Pine Barrens.

Brendan T. Byrne: Yeah.

Michael Aron: Was there a lot of development pressure in that _____?

Brendan T. Byrne: Yes, there was development pressure but I don't know that the day after the Pinelands Bill was defeated, if it had been defeated there would be a huge development. But I think that the fact that-- well especially the fact that you had casinos in Atlantic City and you had-- you know, demand was going to do what everybody feared it would do. And you're getting-- you're seeing it now. And unfortunately they're doing it by reviving Long Branch or reviving Asbury Park and revising some of the towns that..

Michael Aron: Is that the way to go?

Brendan T. Byrne: Yeah, that's the way to go.

Michael Aron: There was something called the Pinelands Council Master Plan in 1975 that called for 400,000 units of housing...

Brendan T. Byrne: Sure.

Michael Aron: ...in the region and you abolished that council or its plan. Do you recall that?

Brendan T. Byrne: Sure.

Michael Aron: Tells us about that.

Brendan T. Byrne: Well...

Michael Aron: And by the way, this proves my point that it was early enough-- this was 1975 when you abolished it.

Brendan T. Byrne: Well there was always talk of development in the Pineland and there was always control of that thinking on the pro development side. I mean, the Pinelands preservation or whatever they wanted to call it, was not preservation at all, it was development and I made that point. And, you know, I don't know that we can recreate how bad it was.

Michael Aron: How bad what was?

Brendan T. Byrne: The opposition to the Pinelands preservation. Everybody wanted to have their municipality in their own hands so that they could develop it or not develop it. And every municipality wanted the ratables, everybody wanted the development. You've seen the senior citizen development in some of the communities in Ocean County now, that was going to be the whole Pinelands.

Michael Aron: We're talking about somewhere between 56 and 62 separate municipalities. I saw two different numbers, but that's a lot-- that's 10 percent of the municipalities in the state that were being asked to give up their power to bring ratables in, correct?

Brendan T. Byrne: Sure and Joe Katz who was a lobbyist and heading the-- a good guy, by the way --but heading the opposition to the Pinelands Bill had a map drawn of North Jersey and the point he was making is if we had done this in North Jersey, it would have covered Essex County and Union County and Hudson County and why not do it North Jersey and let you do it in South Jersey?

Michael Aron: Do you know who he was representing?

Brendan T. Byrne: Builders

Michael Aron: Builders? Do you remember Garfield DeMarco?

Brendan T. Byrne: Sure.

Michael Aron: What was his role in all of this?

Brendan T. Byrne: Fortunately I've dimmed on some of ..._ Garfield DeMarco was one of several DeMarcos and they were known as opponents to the Pinelands regulation and they were up front on it. There were several DeMarcos.

Michael Aron: Garfield DeMarco was prominent in Republican's politics. He was the Burlington County Republican Chairman at a certain point in time. And he's a cranberry...

Brendan T. Byrne: Burlington.

Michael Aron: Burlington. I'm sorry, what did I say?

Brendan T. Byrne: I thought you said Bergen.

Michael Aron: Yeah, Burlington.

Brendan T. Byrne: No. Burlington, yes.

Michael Aron: And he as a big cranberry farmer.

Brendan T. Byrne: Oh, yeah, yeah. I met with DeMarco on several occasions. I think they even had a reception for me at one point.

Michael Aron: After the Act or before the Act?

Brendan T. Byrne: When I was running for reelection. I think they had a reception, nobody showed up but they had a little reception for me.

Michael Aron: Do you remember if any of your cabinet or staff opposed...

Brendan T. Byrne: Yes.

Michael Aron: Who?

Brendan T. Byrne: Phil Alampi. Not opposed it, but saw their point of view and-- Phil Alampi was a loyal guy but his overall loyalty was his constituency which was the farmers. And the farmers were opposed to the Pinelands protection, regulations-- I'll tell you why and this is in fairness. A farmer, who's got land in the Pinelands is growing maybe cranberries, now the way he grows cranberries is in the spring he gets a loan from the bank. He puts his land up as security for the loan. And when the harvest comes he pays off the loan and then the next spring repeats the thing. Now, I regulate the land that he's putting up and the bank says, "Hey, this security isn't so secure anymore, 'cause I can't do anything with it if I foreclose." I understand that and I think that's part of the continuing effort to buy as much land in the Pineland as we can. And I'm for that. But Phil Alampi had his constituency. He had to try to defend the constituency. When I was appearing before farmers, he would appear first and say, "Pease be polite to Governor Byrne."

Michael Aron: They were afraid that it would cut down on their credit every year...

Brendan T. Byrne: Sure, sure.

Michael Aron: ...'cause the land wasn't worth as much to the banks?

Brendan T. Byrne: Yeah. And that's perfectly logical.

Michael Aron: And what would you say to them at one of those gatherings, what would you say?

Brendan T. Byrne: Well, I'd say we were trying to develop a program to buy development rights. And we did. I don't know if you know what development rights mean, but it means we'll pay you so much money to in effect buy your disability to develop the land. And we did a fair amount of that. We had programs and we probably got some money from Congress. Joe Minish by the way was the one guy in Congress who really helped me out in all this and deserves a lot of credit.

Brendan T. Byrne: He was from Essex County.

Michael Aron: He was from Essex, didn't know what a pine tree looked like, but he was loyal, he saw the benefits of it and I'm forever in his debt.

Michael Aron: In 1976 your popularity was low, it was the year of the-- income tax passes, it was a year before you would run for reelection and that's when according to the official history, that's when you really began the effort to come up with some sort of preservation mechanism and I guess there were-- either those around you then or those looking back who would say, "Boy that was a kind of a bold thing to be thinking about at a time when you're struggling to get an income tax passed and worrying about the-- even winning a primary in your own party a year later.

Brendan T. Byrne: Yeah.

Michael Aron: Is that part of your recollection?

Brendan T. Byrne: No. <laughs>

Michael Aron: Okay.

Brendan T. Byrne: No, my recollection is that the only issue in the 1977 election was the state income tax. And the Pinelands-- I'm not even sure I was focusing on the Pinelands.

Michael Aron: Well you passed-- you signed Executive Order 56 that set up the Pinelands Review Committee in 1976.

Brendan T. Byrne: Yeah.

Michael Aron: The year before the election. So you were thinking about it in the year before the election.

Brendan T. Byrne: I don't think I got the Pinelands Protection Act passed until after that election.

Michael Aron: No, the Act, it took years to get passed, but the...

Brendan T. Byrne: The concept...

Michael Aron: The concept...

Brendan T. Byrne: Yes.

Michael Aron: ...was in your head.

Brendan T. Byrne: Yeah, oh, yeah.

Michael Aron: And you were bringing it forward publically.

Brendan T. Byrne: Yeah.

Michael Aron: Craig Yates...

Brendan T. Byrne: But it didn't generate the opposition until we drafted the Act.

Michael Aron: Craig Yates, is he a legislator from...

Brendan T. Byrne: No, he was a brother of Charlie Yates who was a legislator.

Michael Aron: Okay.

Brendan T. Byrne: Craig Yates was a environmentalist, very progressive guy, he was from Burlington County and the kind of guy you would want in government.

Michael Aron: What was his role?

M1: <inaudible>

Brendan T. Byrne: He...

Michael Aron: Oh, he chaired the Pinelands Review Committee.

Brendan T. Byrne: I think he did, yeah.

Michael Aron: Apparently it was enough of an issue-- you say that the income tax was the only issue, but apparently your eyeing the Pinelands was enough of an issue in '77 that Democrats on the ballot in '77 beneath you were worried-- in that part of the state they were worried about fallout.

Brendan T. Byrne: Might have been, but that-- I'm telling you that the issue in-- yeah. Like Yogi Berra said when somebody asked him if he read his book, he said, "No, I wrote it, I was there." <laughs> The issue in 1977 was the income tax. And that's almost all the commercials we made or ran were the income tax.

Michael Aron: When you won that election did you then feel emboldened to tackle something big?

Brendan T. Byrne: Yeah, I don't think I'm going to be remembered as somebody who looked to see how much support I had for an issue. I think I'm going to be remembered as somebody who saw an issue and fought for it. And if I'm remembered that way I'll be pleased.

Michael Aron: The month before the election of '77, Congressman Jim Florio came up with a Pine Barrens National Ecological Reserve Plan that would have 50 million federal dollars behind it and that didn't go anywhere. And Congressman Ed Forsythe and Bill Hughes came up with some weaker plan to address slowing development in the area and that failed. Do you recall the Congressman getting involved?

Brendan T. Byrne: Well this was all an appropriation of money to buy land so that you took it out of development by buying it. And you can only do so much of that. But there was no congressman who was supporting the idea of the state regulating development in the Pinelands.

Michael Aron: Not Florio. After those two House of Representatives' efforts failed, the two Senators, Clifford Case and Harrison Williams put a Senate bill together in 1978 setting up a two year process of a state commission to come up with something, some solution and that apparently passed and as a result of that you

started this state commission process going in February of '79. Does that ring a bell?

Brendan T. Byrne: Vaguely.

Michael Aron: Okay.

Brendan T. Byrne: But the point is that the only way to save the Pinelands was to regulate development and the only way to regulate development is to do it with some teeth and then the only way to do it with some teeth was to fight the opposition to the concept. And the support for that concept was something we had to fight for. And we fought for it and basically we got a lot of opponents.

Michael Aron: You say at a certain point you called David Bardin and said, "Don't approve anything, any development down there."

Brendan T. Byrne: Yeah.

Michael Aron: You basically slapped a moratorium on development in the Pinelands, is that correct?

Brendan T. Byrne: Well, yeah, I tried to do it that way just by telling the Commissioner to do it. And when he told me I couldn't, that I was going to get resistance by law suits is when I did the executive order. That executive order is famous nationally as being as far as a Governor can go by executive order.

Michael Aron: In what, usurping municipal power?

Brendan T. Byrne: No, in usurping the legislature's power.

Michael Aron: So was the moratorium challenged legally, do you recall?

Brendan T. Byrne: Sure. We were sued right away and as a matter of fact, maybe history ought to know this, it was a shaky legal stance we took and the Supreme Court of New Jersey let it be known that they would much prefer the legislature to deal with this than for them to deal with it.

Michael Aron: Let it be known how?

Brendan T. Byrne: Various ways. Dick Hughes was then the Chief Justice in the Supreme Court and Dick Hughes was as practical a politician as New Jersey has ever had and I'll let it rest with that.

Michael Aron: Pardon me?

M1: <inaudible>

Michael Aron: Yeah. Let's pursue that just a little bit. First of all-- well, no, let's pursue that. Did Dick Hughes call the Governor and say, "Hey, get the legislature to act on this before you kick it into my..."

Brendan T. Byrne: I don't think he ever called me directly.

Michael Aron: Why didn't you listen to him and get the legislature...

Brendan T. Byrne: Oh, we had-- I mentioned before that Joe Merlino had-- was the sponsor of the Act to-- the Pinelands Preservation Act. It was tough to get the votes in either house to pass that bill which is now the law. It was very tough to get. And even...

Michael Aron: Even from North Jersey legislators?

Brendan T. Byrne: No, we had a lot of North Jersey support, but on the other hand there was-- not everybody was for it even in North Jersey. And the day that the Pinelands Bill passed I had scribbled a note to Harold Hodes saying if the Pineland Bill passes tonight call it. And the reason I had that note was I was so afraid that that was so fragile and that the vote was so fragile that I figured if they passed it they might recall it and change their mind. So I wanted...

Michael Aron: So what did you mean, call it, if it passes then call it? What does that mean?

Brendan T. Byrne: The procedure in the old days was that when a legislature passed a bill, it was not delivered immediately to the Governor. The Governor called for the bill and sometimes you'd leave the bill uncalled for months. But they've stopped that now, they have to deliver it to the Governor. But in those days you called it when you wanted it. And I wanted that bill on my desk within hours of when it passed and I got it. And as a matter of fact, somebody has that note I sent either to Harold Hodes or Jerry English saying call the bill.

Michael Aron: John Degnan who was Attorney General at the time thought that maybe your executive order was unconstitutional.

Brendan T. Byrne: We'll never know.

Michael Aron: Do you remember, why did the Supreme Court not get to rule on that? Was it because the legislature ultimately stepped up?

Brendan T. Byrne: Well the Supreme Court of New Jersey, generally speaking, defers to the legislature and to the Governor. And a matter of fact, the reason we have senatorial courtesy today is because the Supreme Court won't take the issue and deal with it, they could solve a lot of problems by doing that. So the deference to other branches of the legislature especially the two branches that respond to the people and are accountable to the people, the judiciary is not accountable to the people and they're very sensitive to that fact. So they defer and they defer and it's not a bad concept of a government.

Michael Aron: Degnan said that the court was amazingly positive toward him when he appeared before the court.

Brendan T. Byrne: Sure. I mean I think the court, seven justices thinks that the Pinelands preservation is a good idea, but...

Michael Aron: They didn't want to go out on the limb.

Brendan T. Byrne: They don't-- they have an obligation to look at something and if it's a question of who has the power to do what, they have an obligation to do it objectively. And in fairness, they were doing it. The court has always been opposed to capital punishment basically, but they would never abolish it, had to wait till the government, the legislature to abolish it.

Michael Aron: I read a line that...

Brendan T. Byrne: They would attack it collaterally, but they wouldn't...

Michael Aron: I read a line that Chief Justice Hughes didn't want the third branch of government, the judiciary to do what the second branch hadn't done about what the first branch wanted done.

Brendan T. Byrne: <laughs>

Michael Aron: Does that ring true?

Brendan T. Byrne: Oh, yeah, it sounds right.

Michael Aron: Did Hughes in any way indicate to you that he didn't want to deal with this?

Brendan T. Byrne: You asked me that before.

Michael Aron: <laughs> Sometimes we re-ask questions. And your answer was he never called you. Maybe he wrote you. He didn't email you we know that.

Brendan T. Byrne: If he wrote me, it's in the archives somewhere.

Michael Aron: All right. So what finally brought the-- I think I t passed the Senate first and then the Assembly.

Brendan T. Byrne: Yeah, Merlino got it through.

Michael Aron: It passed the Assembly at 3:00 in the morning on June 21st, 1979.

Brendan T. Byrne: I was in bed.

Michael Aron: What do you think finally got it through the legislature?

Brendan T. Byrne: First of all, we had a lot of support from things like the League of Women's Voters who thought it was a good idea. From the media, who thought it was a good idea. I had a superb staff. People like Harold Hodes, Jerry English], Don Linky, who were in charge of getting it through. And the stories I now hear about how much about they entertained legislators and got them drunk and so forth in order to get something moving, something I didn't know at the time. But yeah, I mean, it came to where we had to move and we had to face defeat or victory.

Michael Aron: Would you say you shut down development in one fifth of the State of New Jersey?

Brendan T. Byrne: The Pinelands represents one fifth of the State of New-- We did not shut down development. What we did was recognize where development was appropriate and where it wasn't. And the Pinelands Preservation has separate zones and has a Pinelands Commission, which you can go to with a plan to develop. We were not arbitrary. We were not monsters. We wanted the Pinelands preserved but we wanted to be fair. And we have development in the Pinelands; putting cell towers in there. I think is a bad idea but--

Michael Aron: Was it the water underneath the Pinelands that was the driving force?

Brendan T. Byrne: No, the aquifer under the Pinelands is a very tentative and sensitive issue. But I don't think we were using the aquifer or seeing the immediate need to use the aquifer to constitute the water supply for South Jersey. We know it's there. We know it's pristine. There's intrusions already, which make it even more sensitive to try to use the aquifer. But that was not the primary reason for preserving the Pinelands.

Michael Aron: What was?

Brendan T. Byrne: Because it was the Pinelands.

Michael Aron: When Jim McGreevy signed the bill to preserve the Highlands, drinking water purity was the driving force there.

Brendan T. Byrne: Sure, but they were reservoirs. I mean, he was talking about reservoir. I'm talking about the aquifer.

Michael Aron: The Cohansey Aquifer.

Brendan T. Byrne: Whatever. But we did not do that so we could have access to that water.

Michael Aron: When you first thought about preserving the Pinelands, did you have any models in mind?

Brendan T. Byrne: I don't think so. We did what we had to do. The objective is to save the Pinelands, to protect the Pinelands. How we did it was a case by case, day to day strategy. So we didn't say we have this playbook in mind and it's what we're gonna do. It was a question of what we had to do to get the votes. That's the simple strategy. And as a matter of fact, in one of the last days of Pinelands Protection, Dan O'Hern, who was my counsel, made a deal with Steve Perskie that he would accept a certain portion of the area in his district. We call it the finger I think.

M1: The thumb.

Brendan T. Byrne: A thumb?

Michael Aron: What did he do?

Brendan T. Byrne: He wanted to carve that out and make it not part of the Pinelands Protection and O'Hern agreed with him. And I disagreed and I wouldn't let him do it.

Michael Aron: What did he want to carve out?

Brendan T. Byrne: A little portion of the Pinelands in his district. And I didn't think we ought to do that. O'Hern was a negotiator. There was a lot of negotiations going-- That was a little thumb that I didn't want excluded at the time. I can't tell you why now but I didn't want it done and we didn't do it.

Michael Aron: The Commission that was set up by the Act, is it all gubernatorial appointees?

Brendan T. Byrne: No, there was one appointment-- well, there was a number of appointments from counties that counties had representing them. And there was one appointment-- This is an interesting story. There was one appointment by the Secretary of Interior. And when I was going out of office, I forget who the Secretary of Interior had appointed. The Secretary of Interior was notoriously anti-preservation. And so I called Jimmy Carter or actually, I forget who the Secretary of Interior was. Maybe Cecil Andrus. And I had him appoint Ray Bateman, who I had run against in 1977 for the--

Michael Aron: Did you call Andrus or Jimmy Carter?

Brendan T. Byrne: I think I called Andrus. And he may have checked with him. But anyway, so now I figure I got Ronald Reagan blocked because he has a very popular Republican on that Commission who he can't possibly replace. And he did.

Michael Aron: So Bateman served on that commission?

Brendan T. Byrne: Bateman served until he got removed. That's how anti-preservation that administration was.

Michael Aron: Which administration?

Brendan T. Byrne: The Reagan Administration. Remember Secretary Watt?

Michael Aron: James Watt.

Brendan T. Byrne: Yeah, yeah.

Michael Aron: So I understand that it is half gubernatorial appointees, half county appointees and one from the Federal Secretary of the Interior.

Brendan T. Byrne: Yeah, yeah.

Michael Aron: Has it worked?

Brendan T. Byrne: By and large it has worked. There were a couple governors who have not been as enthusiastic in their commitment to be a purist maybe. Christy Whitman was not an enthusiastic supporter of the Pinelands Commission and made some what I thought, were inappropriate appointments. And I've had a little trouble with Corzine, in getting him to be gung-ho on the plan.

Michael Aron: In terms of who he is putting on the Commission?

Brendan T. Byrne: Yeah. I mean, he's totally enthusiastic about it and loves the Pinelands and loves the concept. But there are people on that Commission who don't share his enthusiasm.

Michael Aron: It is sometimes said, that it wouldn't have happened without your personal intervention. Can you give us an example of your personal intervention?

Brendan T. Byrne: In the Pinelands?

Michael Aron: Yeah.

Brendan T. Byrne: First of all, starting off by having Bardin stop issuing permits. I mean, I was committed to the Pinelands; still am. I still try. It wouldn't have happened without me. Everything else in government could have happened without me. The income tax would have happened eventually. If Bateman won the election, he would have changed his mind. Atlantic City probably would have happened. Maybe not, but probably would have happened without me. The Meadowlands would have been built eventually; I think. Although the Meadowlands, by the way, did not have popular support. And if I had nixed it-- and Charlie Sandman by the way, was against it. He would have killed it. So I take credit for at least keeping the Meadowlands viable. Anyway, all of that could have gone the other way but nobody would have developed the Pinelands. Nobody would have developed the Pinelands Preservation Program without me.

Michael Aron: Is that your proudest moment?

Brendan T. Byrne: I am. I'm not theory ... in it that this is something I did. I did a lot of things that changed this State. I probably did more than any other governor for good or bad, to change this State. That's one of them.

Michael Aron: Let's take a break here.

Brendan T. Byrne: I'm for that.

Michael Aron: We are still with Governor Byrne on Tuesday morning, August 11, 2009 and we're gonna stay with the theme of land use and talk about the Mount Laurel Housing Case, which the Supreme Court ruled on in its first Mount Laurel ruling during your first term I believe. I think it was 1975, that the first Mount Laurel ruling came down. Did that have an impact on your administration?

Brendan T. Byrne: Yeah, and we had a number of cross currents in that. One thing I remember is the—

<Interrupted by phone call>

Michael Aron: We are still with Governor Byrne on Tuesday morning, August 11, 2009 and we're gonna stay with the theme of land use. The State Supreme Court issued its first Mount Laurel ruling in I believe 1975. You had been governor for a couple years. Did that have an impact on your administration?

Brendan T. Byrne: Yeah, first I had to understand it. Mount Laurel I think concept has changed a lot over the years. When I became a candidate for governor, one of my early advisors was Joseph Weintraub. He had been the Chief Justice. He had been my sort of godfather over the years and became an advisor to me. I asked him about Mount Laurel. He said he thought the concept of Mount Laurel was that if Ford Motor Company builds a huge automobile plant in Mahwah, that they ought to have an obligation to supply housing for the workers who are gonna work in that and not put the burden on surrounding communities that supply housing. I thought that was a good idea. And I supported it. Now how much the court has an obligation to intervene in this is open up for question. And frankly, I don't have the enthusiasm for some of the Mount Laurel types of commitments that the court is asking for now. I don't think that Essex Fells, New Jersey, has an obligation to take a share of low income housing. I think it's a community that has its own personality. I don't live there. And it's attractive to people. To have a homogenous community in 567 communities in New Jersey, to me is not New Jersey. And plus, I have some doubt as to how far constitutionally the Supreme Court can go into a situation and still have it be a constitutional issue.

Michael Aron: What do you mean by that? We just talked for two hours about you taking authority away from municipalities for a greater good. Are you saying the Supreme Court doesn't have that?

Brendan T. Byrne: The Supreme Court has got a different function than the governor. And they're not policymaking. They are constitutional interpreters. Now to say that you have to have low income housing in New Jersey is one thing. But to say we have to have six houses on Main Street and 12 houses on Sussex Street and 14 houses <inaudible>; is I think stretching the constitutional obligation.

Michael Aron: After the second Mount Laurel decision in 1983, the legislature created the Council on Affordable Housing to implement the constitutional principle and it's COA that said we have to have six houses on Walnut Street. Right?

Brendan T. Byrne: Pretty much except that I think that legislature feels the pressure of the court on Mount Laurel. I mean, when you talk to legislators about why they're doing this, they're doing it because the court is making them do it. That's what you get bounced back.

Michael Aron: So you think this is an instance where the New Jersey Supreme Court overreached?

Brendan T. Byrne: Yeah, I think that there's a point at which it's not a constitutional issue anymore. And I think that affordable has got to be viewed in terms of an overall policy in New Jersey of supplying the kind of housing, which meets constitutional standards but not abandoning the obligation to the courts. And I don't think we would have had a Council on Affordable Housing if it hadn't been for the Court's pressure.

Michael Aron: IS that the most significant instance of New Jersey Supreme Court overreaching in the past 35 years?

Brendan T. Byrne: It's the only one I object to. <Laughs>

Michael Aron: You don't object to Abbott v Burke?

Brendan T. Byrne: Well, I think Abbott v Burke is a whole different issue. And supplying education to kids, I firmly believe that what the court is doing and what the legislature is doing with respect to pre-K as they call it; is a good idea. And it's been one of the few things that helped develop an educational program for New Jersey that works. I mean, we've done a lot of things on education and Tom Kean has been a leader in all of this and there's been a lot of programs. And every year we say the programs from last year are not really working but this year, the programs are gonna work. So, the overall question is, does the Supreme Court overreach sometimes? They probably do. And the whole concept of does the Supreme Court make law or find law. It's clear that they make law.

Michael Aron: It is clear.

Brendan T. Byrne: Oh sure.

Michael Aron: All Supreme Courts or just New Jersey Supreme Court?

Brendan T. Byrne: Pretty much all Supreme Courts.

Michael Aron: The US Supreme Court?

Brendan T. Byrne: Oh sure. I mean, Scalia says I'm finding law. I don't know where he's finding it but the original interpretation.

Michael Aron: Mount Laurel was set up to correct a perceived injustice, which was that the poor couldn't move into Bedminster or Essex Fells or other wealthy enclaves because the zoning was keeping them out.

Brendan T. Byrne: Exclusive.

Michael Aron: It was exclusionary zoning. What would have happened in New Jersey had there not been a Mount Laurel ruling?

Brendan T. Byrne: I'm not sure. I'm not sure. I'm not sure Mount Laurel was necessary at the beginning. We didn't always have Mount Laurel. We have pretty good rational development of housing in New Jersey. And what excludes housing in Essex Fells if you will, is the type of community Essex Fells is, a lot of people can't

afford the housing that's there. That's not exclusory. That's the market. And I think that in a community that you ought to aspire to being able to live in Essex Fells. Not being donated a house in Essex Fells.

Michael Aron: Were there alternatives to the Mount Laurel approach? For example, requiring major corporate complexes to provide or subsidize housing.

Brendan T. Byrne: Yeah, that I would be in favor of. That was the original concept that Chief Justice Weintraub advanced to me as to why Mount Laurel was appropriate and that was the original concept of Mount Laurel. And there are other things that you cannot ask of a developer. You can ask that they put in streets. You can ask if they can put in sewers and water. But to say in a community where most people have paid a lot of money for the house, to say you can't keep doing this. You have to provide \$10,000.00 houses or \$100,000.00 houses; I don't think it's consistent with keeping New Jersey as an attractive viable place to live.

Michael Aron: And there must be a lot of agreement with you because that mandate has been very slow in getting fulfilled.

Brendan T. Byrne: And Tom Kean and I do a column for the newspaper now. And we've discussed that several times and I think we're in agreement that Essex Fells ought to be left alone pretty much. And people are not being excluded from Essex Fells because of their color or previous problem. They're excluded from Essex because they don't have the money to buy the house. And where they have the money to buy a house, they can buy a house. But that's been in America for 200 years.

Michael Aron: My colleague observes that New Jersey Courts have actually been fairly restrictive on requiring developer contributions. Is that your sense?

Brendan T. Byrne: Even lately. Yes. And maybe that's not fair-- or good politics either. I think that a community can make certain obligations for a developer.

Michael Aron: When you were governor, were you frustrated by the number of different municipalities that could make land use decisions in their own self interests seeking ratables without regard to the regional impact of those decisions?

Brendan T. Byrne: Not really. I'm for a certain amount of personality to a municipality. It should be a municipality where if you want German restaurants you go to Irvington and eat all day. I don't see anything wrong with that.

Michael Aron: Did you respect home rule as a governor?

Brendan T. Byrne: I respect home rule only I think home rule is sort of on the way out; not because we mandated it but because it happened. But I think having a personality of a community is a nice idea.

Michael Aron: Would giving counties a stronger role in land use decision-making result in more balance?

Brendan T. Byrne: Yeah, we tried to do that.

Michael Aron: You did?

Brendan T. Byrne: Yeah. We had master plans and we had joint Boards that did that.

Michael Aron: How did that work out?

Brendan T. Byrne: First of all, the whole concept of how we govern ourselves in New Jersey is something we should discuss because we're really getting what we want, no matter what you say. There's nothing in concept wrong, with having a joint police and fire department in the municipality. So that police officers could respond to a fire, especially in a community where they don't really have a paid fire department. You can't do it. You can't do it. I originally made that recommendation in the Johnson Administration when we did that report on organized crime. Anyway, you can't do it.

Michael Aron: Are County Executives more likely to balance urban/suburban needs?

Brendan T. Byrne: Well, it depends on where you put the power. What's happening in New Jersey is we're putting the power everywhere. I mean, the municipality has a power, the county has a power, the state has a power, the region

has a power. And we're duplicating a lot. And in law enforcement especially; in Essex County we have the local police. We have the prosecutor. We have the Sheriff. We have the State police all chasing the same car sometimes.

Michael Aron: Was statewide planning something you gave thought to?

Brendan T. Byrne: We did. We had a statewide plan and it's enforcement is dependent on other than us. And so it got limited enforcement.

Michael Aron: Your successor, Tom Kean, presided over the creation of a State Planning Commission. Do you think that's been a success or not really?

Brendan T. Byrne: A limited success. Yeah. But it's the duplication and frankly the fact that the people want it that way.

Michael Aron: They don't like the taxes they pay to support it.

Brendan T. Byrne: But one of my favorite quotes is, "If you're not getting something for nothing, you're not getting your fair share." And you've heard me say that. And that's exactly the attitude of people and that's why we're in trouble. We keep borrowing money to do what we should be doing out of-- As we sit here we got a ballot measure for Green Acres for a half a billion dollars I think. Close to it. And no way of paying it back.

Michael Aron: So we should defeat that ballot measure?

Brendan T. Byrne: I'm gonna vote against it unless they come up with a way of funding it. I'm getting tired too.

Michael Aron: Did you do anything in your eight years to try to create consolidation of municipalities?

Brendan T. Byrne: Yeah, I think we did. I'm not sure how we did but I think we did. We did the overall plan. We encouraged consolidation.

Michael Aron: There hasn't been much consolidation in 35 years.

Brendan T. Byrne: No, but there have been joint services. I think you're starting to see some movement in that area.

Michael Aron: Do you think there is going to be progress in reducing the number of municipalities in New Jersey?

Brendan T. Byrne: Maybe.

Michael Aron: Maybe?

Brendan T. Byrne: Yeah, because it's like putting the lobster in the pot and boiling it. It's gradual.

Michael Aron: If the Princetons can't agree to merge; who is going to agree to do it voluntarily?

Brendan T. Byrne: Well, it's a big hang-up in Princeton. It is more an emotional issue in Princeton although I think there's a difference in how much you pay in taxes in the borough and a township. And I think the borough wants to stay the home of Princeton University. But you have that kind of problem in a number of donut communities. For Morris Township, surrounds Morristown. There's no real hope for immediate but they can share services.

Michael Aron: Can you see a Governor of New Jersey in the not too distant future mandating town mergers?

Brendan T. Byrne: In the immediate future? No.

Michael Aron: The lobster pot isn't that hot?

Brendan T. Byrne: You know, if everybody has to-- you can only pick a certain number of fights when you're governor. And those of us who realize that, did better than those who pick a lot of fights and walk away from them.

Michael Aron: I think that's a good note to end this session on.