

MUNICIPAL CLERKS' ASSOCIATION OF NEW JERSEY
 APRIL 30, 2009 ADVISORY BOARD MINUTES
 EDUCATION CONFERENCE - TROPICANA HOTEL, ATLANTIC CITY, NJ

President Moreland led the group in the Pledge of Alliance and asked for a moment of silence to follow.

ROLL CALL EXECUTIVE BOARD

Members	Present	Absent
President Joan Moreland	X	
1 st Vice President Vincent Buttiglieri	X	
2 nd Vice President Joanne M Kwasniewski	X	
Treasurer Andrew J. Pavlica	X	
Secretary Nancy L. Saffos	X	
Immediate Past President Heather Mailander	X	
Administrative Consultant L. Manuel Hirshblond	X	
Administrative Consultant Trainee Joel Popkin	X	
Legal Counsel Richard Lustgarten	X	

ROLL CALL OF ADVISORY MEMBERS

County	Advisory Board Member	Present	Absent
Atlantic	Gail Macera	X	
Bergen	Nancy Hatten	X	
Burlington	Patricia Hunt	X	
Camden	Deanna Speck	X	
Cape May	Wanda Gaglione	X	
Cumberland	Susan Robostello	X	
Essex	Harold Weiner	X	
Gloucester	Patricia Frontino	X	
Hudson	Robert Byrne		X
Hunterdon	Cecilia Covino	X	
Mercer	Sharon Young	X	
Middlesex	John Mitch	X	
Monmouth	Barbara Bascom	X	
Morris	Susan Caljean	X	
Ocean	Bette Mastropasqua	X	
Passaic	Jane Warren-Williams	X	
Salem	Maureen Abdill	X	
Somerset	Sharon Brienza	X	
Sussex	Vita Thompson		X
Union	Kathleen Wisniewski	X	
Warren	Teresa DeMont		X

Quorum was met.

Approval of Minutes

On a motion by Bette Mastropasqua, seconded by Harold Weiner and carried unanimously by voice vote, the minutes from the January 23, 2009 Advisory Board Meeting were approved.

**Treasurer's Report –
Drew Pavlica, Treasurer**

Treasurer Pavlica distributed the 2009 Budget Summary along with reports current to April 24, 2009, which included the following: Membership Summary Report, Checking Account Reconciliation Report and Checking-Savings Accounts Reconciliation Summary.

Treasurer Pavlica reported the following balances:

Checking & Savings (Includes \$12,534.88 in scholarship account)	\$105,765.56
Raffle Account	239.13
Certificate of Deposit	110,000.00
Certificate of Deposit	30,692.98
Legal Defense Fund	<u>118,570.52</u>
Total	\$365,268.19
2013 IIMC Conference Account	\$ 2,000.00

With regards to the 2013 IIMC Conference Account, Treasurer Pavlica noted that he and Nancy Saffos are the current MCANJ Executive Board Members who will still be on the board in 2013, serving as Immediate Past President and President respectively, the Executive Board has approved that them as the the two required signatories for that account.

He reported that the 2009 Approved Budget was \$140,560.00; Revenues to date were \$134,476.65; and Expenditures to date were \$53,262.37. He added that while it appears that we have a lot of money the bill for the Education Conference was still to be paid and asked that be taken into consideration.

On a motion by Bette Mastropasqua, seconded by Barbara Bascom and carried unanimously by voice vote, the Treasurer's Report was approved.

Treasurer Pavlica reported on membership that 473 municipalities had paid their dues amounting to approximately 84%. He stated that considering these trying economic times, the board was curious as to how the membership numbers of this year compared to last year's. A comparison revealed that, at this same time, last year we were at approximately 80%.

Treasurer Pavlica reported the membership breakdown as of April 21, 2009 was as follows:

Municipal Clerks	462
Deputy Municipal Clerks	243
Acting Municipal Clerks	14
Assistant Municipal Clerks	16
County Clerks	4
Deputy County Clerks	3
Clerks to Freeholder Board	3
Affiliate Members	<u>15</u>
Total	760

Treasurer Pavlica said that he had New Jersey pins for anyone who was planning on attending the Chicago IIMC Conference.

Secretary's Report – Nancy L. Saffos

Secretary Saffos reported that the deadline for nominations for Clerk of the Year is July 1, 2009 and the deadline for application for candidacy for Secretary to the MCANJ Executive Board is July 21, 2009. She asked that all applications and nominations be directed to her.

2nd Vice President's Report – Joanne Kwasniewski

2nd Vice President Kwasniewski reported, that with regards to the 2009 League of Municipalities Conference, MCANJ will have a block of rooms available at the Tropicana Hotel, some of which will be available in the Havana Tower and some in the rest of the hotel. She stated that the application for rooms would be in the next issue of the Quill. She stated that she would be ordering the Breakfast Meeting tickets and expected to have them at the June Advisory Board Meeting to give to the County Advisory Board Representatives, so that they could then distribute to the members in their respective counties

1st Vice President's Report – Vincent Buttiglieri

1st Vice President Buttiglieri reported that in preparation for the League Conference the first meeting of our Education Sub-Committee was held to discuss the education sessions to be offered in November. A conference call would be held in the next week or so to finalize the sessions and he would report on that at our June Advisory Board Meeting. He thanked the Sub-Committee for their good suggestions and hard work saying that he believed it would be a very good program.

1st Vice President Buttiglieri announced that the 2010 Municipal Clerks' Education Conference will be held March 22 through March 25, 2010 at the Taj Mahal in Atlantic City. He said for anyone who wished to come early and settle in before the conference the hotel has guaranteed the conference rates for March 21, 2010.

He thanked everyone who helped with the scanning of attendees to the different sessions held during this education conference recognizing that there were some issues but everything seems to be worked out.

He stated that forms would be in the July Quill for anyone who wished to volunteer to serve on any committees for 2010 saying that we need more people to get involved noting that it is fun and rewarding to be part of the different committees. He explained that a lot of the committees hold conference calls, which makes it easier for those who have a difficult time getting away from their office. He encouraged everyone to get involved, which will keep our association going strong.

Immediate Past President 's Report – Heather Mailander

Immediate Past President Mailander reported that at the end of March she attended, on behalf of MCANJ, an OPRA seminar, held at Bergen Community College. She said that over 300 people were in attendance and we, as clerks were outnumbered by media and gag flies! She said that the good news was she believed the message that, as a rule clerks do try to cooperate with and do their best to work together with requestors to provide information as expeditiously as possible.

President's Report – Joan Moreland

President Moreland reiterated 1st Vice President Buttiglieri's statement regarding volunteering saying that it is a most rewarding experience and it takes a lot of work to pull together the programs and events that our organization offers to its members.

President Moreland reported that on March 13, 2009 she attended the first Women In Government Awards and had been presented with a plaque. She said that she enjoyed a wonderful day and was proud to represent MCANJ.

President Moreland said the Desk Reference would be available on our website shortly.

Legal Counsel - Richard Lustgarten, Esq.

Attorney Lustgarten spoke on the issue of Furloughs and began by saying that we may all have to share the misery of this tough economy.

Attorney Lustgarten stated that when a recession begins people lose their jobs; tax revenues go down; the state can't balance its budget; state aid to municipalities is then cut back; and the local elected officials are then faced with choices. Those choices being: How much can taxes be raised? And can services, expected by the public, be delivered while expenses are being cut? Furloughs are a serious issue and a stop gap between being fully employed and being laid off. He said the furlough approach is a sort of compromise between the issues of being able to deliver the services and not lay people off or fire people and is done as a result of looking at the municipal budget and then making a determination of how to cut expenses on an interim basis. The legal aspects of this are complex in that both the federal and the state constitutions indicate that government should not impair contracts and when you have tenure of office and labor contracts it's a really difficult legal issue to talk about laying people off and without violating the sanctity of contracts. He continued saying that, long ago although in another context, Justice Jackson, of the U.S. Supreme Court, said that government doesn't entered into a suicide tax. In other words you don't look at your statutes, resolutions, ordinances and codes in such a restrictive way that would effectively kill the purpose of having government in the first place. Attorney Lustgarten explained that, in his opinion, this means the courts are going to give great flexibility to the actions taken by the different levels of government. He said the actions of a municipality are presumed to be valid unless they violate a specific statute or a particular context of the constitution or the flexible standard of being arbitrary and capricious and the courts will not second guess the governmental decision. The arbitrary and capricious standard

sounds good but it really means that cases are determined literally on a case by case basis unless there is a clear violation of a well established principle or law. One of the things that the courts are bound to look at is how the furlough concept is spread in a particular community. Conceptually, a municipality could say that everyone in Department A will be furloughed and leave everyone else alone. That may sound arbitrary and capricious, however you need to look at each individual department and consider what the statutory requirements of each department are. As an example, according to the statute clerks are charged with non-delegatable responsibilities and duties of the clerk, which is not to say that a clerk cannot have someone help them with the physical task of doing the actual work, but does mean that the clerk is ultimately responsible for the completion. He said that he has heard anecdotally throughout the state that towns are taking job functions away from the Municipal Clerk and reassigning them to other employees, which then turns into reducing the clerk's hours because they are not doing the same jobs. He said that in his opinion that approach is challengable because there is a bottom line beyond which you cannot take the clerk's hours away because it inhibits the clerk's ability to fully function and perform their statutory responsibilities.

Attorney Lustgarten suggested that all clerks should begin immediately to outline their duties and what they do every single day and through the course of the week. Clerks should keep track of the hours it takes to perform their statutory responsibilities and be careful to be very thorough, so that if the issue is raised by their municipality, they would be able to inform the governing body that they cannot reduce the hours of the clerk to such an extent that the statutory duties cannot be completed. He suggested that a log be kept of all work that is delegated to subordinates that ultimately comes back to the clerk for reports and/or approvals and is the clerk's responsibility.

Attorney Lustgarten said in his view, if a clerk were to be furloughed, the issue in a review is going to be how does a municipality close the gap in its municipal budget and have they disproportionately targeted a particular department in a municipality. Specifically, are they targeting the Municipal Clerk's department? He continued saying, in his opinion, if a municipality generally spreads the misery throughout the departments, with the exception of the emergency divisions, EMS, police etc., the courts will uphold those types of approaches and will not substitute their judgment for the wisdom of the local elected officials and therefore will not interfere. The courts follow the economy and in this time of economic crisis, we will not get a lot of relief from the courts unless of course it could be made clear that the actions of a municipality are so egregious and the clerks' office has been clearly disproportionately impacted, as compared to other departments.

Attorney Lustgarten said there is another issue that has nothing to do with economics and that is retaliation. He said that the reality is that some towns will use the economic crisis to put pressure on municipal clerks or other employees that they would like to retire or just leave. That is something that is so heinous that every clerk has to document what goes on and fight that. If there is a true economic issue that requires towns to take those steps we all have to live with that, however if it's a retaliatory situation he said that he does not believe that the courts would show countenance. The bottom line is that like with everything clerks must document everything, so that an objective analysis can be done to determine, if need be, how many hours are required to thoroughly fulfill the statutory duties of the clerk and is the clerk being treated differently than any other department. He said the last thing we as individual clerks or as an association would want is to challenge a municipality, not have all the facts and documentation and then lose the challenge. That would have a chilling effect on all clerks.

Attorney Lustgarten ended saying that he believes that over the next months we will hear some terrible things, however furloughs are better than lay offs or terminations.

Constitution & By-Laws –
Harold Weiner - No report.

Education Committee –

Allan Susen - Thanked Diane Pflugfelder for all of the hard work she did to make this conference a success. He noted that she was the one who worked with IIMC headquarters to make sure that we did get the CMC and MMC credits. HE also thanked Pam from Rutgers who worked with the committee to maximize the credits available to CMC and MMC candidates. Because we had Pam involved and she signed off on this IIMC agreed to give one point for every 2 hours of instruction where their norm has been one point for every six hours.

Allan announced that the committee for the 2010 IIMC Region II Conference would be meeting at the conclusion of the conference this afternoon and asked that all members of the committee attend.

Chris Wilder – 2013 IIMC Conference hosted by MCANJ

Chris stated that arrangements have been made for MCANJ to have a booth at the IIMC Conference in May and invited anyone attending to stop by the booth. She said that there would be two door prizes, which were 3 nights stays at the Taj Mahal donated by them and the Atlantic City Visitors' Center had also donated various items to be used as "giveaways."

Chris reported that the 2013 IIMC and 2013 MCANJ Education Conferences would be merged resulting in both NJ continuing education units and IIMC credits to be given for attendance. She asked if anyone had the names of interesting speakers they should contact either her or Allan with that information and any other suggestions they might have. She provided the e-mail address of acin2013@aol.com as the appropriate one to direct any inquiries and or information relating to the 2013 conference to.

Education Conference –

Joel Popkin – reported that this conference was very successful and thanked all of the volunteers for their hard work.

Elaine Kennedy – asked that everyone complete the evaluation sheets.

Mini-Conference (Central) –

Sharon Young reported that there was a mini conference held the first week in March at the West Hampton campus of Burlington County College. There was a representative from Legalized Games of Chance to discuss raffles and bingo. There was a representative from the Government Records Council to discuss OPRA and Pat Hunt, Vice Chair of the committee did a presentation on how to prepare legal advertisements.

Mini Conference (South) -

Debbie Pine reported that there was a mini conference on March 13, 2009, where 20 people were in attendance and credits were given in licensing, finance and records. She also reported that they are currently preparing for the next mini conference to be held on September 11, 2009.

Mini Conference (North)

Diane Pflugfelder reported that there would be a mini conference in Harmony Township, Warren County on May 12, 2009. Credit would be given in finance and elections and the fee is \$10.00.

Professional Development - No report.

Elections -

Jane Williams Warren reported that the committee is working to determine what problems clerks are experiencing, and asked that clerks report any problems directly to either her or Barbara Bascom, and they would bring the issues to the committee, so that they can work to be helpful to clerks.

Barabra Bascom reported that she testified at a Senate Hearing regarding the feasibilities of uniform rules and regulations for board workers. Barbara pointed out that rules and regulation already exist and uniform training is what is so badly needed for the board workers. She said that rather than look at the manual the board workers panic calling the Municipal Clerk when they should be calling the county; calling the county when they should be calling the Municipal Clerk.. it is clear that better training is needed.

Fund Raising –

Kathy Wisniewski reported that they had made \$2,400.00 at this conference so far and thanked the 17 counties who participated in the silent auction saying it would close at 11:15 a.m.

Information Technology/Web Page –

Bette Mastropasqua reported that there would be a lot more information going up on our website. The Desk Reference would be available next week and would not be password restricted, so that everyone could have access to it.

Legal Defense Fund – No Report

Legislative Review –

Elaine Kennedy reported that schools are being required to be closed if they have a polling place due to the concern of children being at risk.

Laws Affecting Municipal Clerks –

Sharon Young reported that the committee has met and they are tracking movement/changes and posting at the beginning of the month the information relating to any changes of the month prior

Manual Review Committee –

Joel Popkin reported that Lori hurt her leg, so their last meeting had to be cancelled. He said that they had set up a calendar with the goal being that the review would be done by October to be able to get the Study Guide ready for new students and have it available for the January classes. He said the Desk Reference would also be updated.

Membership North - No report.

Membership Central - No report.

Membership South - No report.

Peer Alliance – North - No report.

Peer Alliance – Central - No report.

Peer Alliance – South –

LaShawn Barber reported that a letter was sent to all new clerks welcoming them and offering support. County Presidents were also asked to notify the committee of new clerks as well.

Past Presidents’ Council – No report.

Public Relations/Booth –

Cecilia Covina reported a great job on booth and thanked Elaine Kennedy who supplied flowers for the booth.

Quill –

Jim Doherty reported that there is plenty of money in the budget and in fact only 30% had been spent so far. He requested that the line item for the photographer be increased due to an increase in the costs.

Records –

John Mitch reported that it is discouraging that there are clerks that continue to be violating the 7 day compliance requirement of OPRA and as a result are being cited.

Resolutions – No report

Scholarship - No report.

Region II –

Jane Williams-Warren introduced Carol Jacobs one of the 2 Region II Directors, who thanked President Moreland for the invitation to attend this conference and for the accommodations provided to her. Jane reported that there are 800+ delegates registered for the IIMC Conference in Chicago. She thanked President Moreland, the Board and Conference Committee for an excellent Education Conference.

Records Management – No report

OTHER BUSINESS - None

County Reports

Atlantic - No report

Bergen –

Nancy Hatten reported that at their April 2010 Meeting there was a representative from the Census Bureau and discussion of the 2010 Census for the North East Region.

Burlington -

Patricia Hunt reported that they held their reorganization meeting in March.

Camden -.

Deanna Speck reported that they met on March 27, 2009 and ceus in finance and ethics were given.

Cape May –

Wanda Gaglione reported that they will be meeting the first week in May and there would be a Tri-County meeting in September. She said that they continue to encourage membership in our state association.

Cumberland –

Susan Robostello reported that they had a lunch meeting in February. Susan Jacobucci, Director of DLGS was the speaker and 2 ceus were given in ethics. She said that their next meeting was to be held at the NJ Motor Sports Park and 1 ceu in finance and 1 ceu in professional development would be given.

Essex – No report.

Gloucester –

Pat Frontino reported that their lunch meeting on March 31, 2009 a representative from DEP was present to discuss Site Remediation. Their next meeting will be May 28, 2009 and the Mayors were invited to listen to Elaine Kennedy, the speaker who will be discussing the role of the clerk.

Hudson - No report.

Hunterdon –No report.

Mercer-

Sharon Young reported that they had a meeting last week and ceus in professional development and finance were given. The next meeting is to be sometime in June or July.

Middlesex –

John Mitch reported that at their last meeting Tumbling Dice did a program for them and ceus were given for licensing.

Monmouth –

Karen Siano reported that they have a new website, which is mcac.us and they are getting it together. Se said they sent a letter to the Freeholders regarding problems they experience with provisional ballots.

Morris – Susan Caljean reported that they will be having their next meeting on May 8, 2009 2 ceus in Elections will be given.

Ocean –

Bette Mastropasqua reported that their new president was Julie Kaiser. She also said that Susan Jacobucci had expressed to her that she was disappointed that she was not invited to this education conference.

Passaic –

Nancy W. reported that their next meeting would be on May 8, 2009 and ceus for Elections had been applied for.

Salem –

Maureen Abdill reported that the BOE will be coming to their next meeting. She also reported that they will be offering scholarships to high school students this year. She thanked the association for offering Registrar sessions at this conference.

Somerset – No Report

Sussex - No report

Union –

Doreen Cali reported that she is the president and they would be having a seminar on public agency compliance in the near future.

Warren - No report.

President Moreland announced that the next advisory Board meeting would be held on June 26, 2009 at the Crowne Plaza Hotel.

ADJOURNMENT

On a motion by 1st Vice President Buttiglieri seconded by Immediate Past President Mailander and carried unanimously by voice vote, the meeting was adjourned at 9:20 a.m.

Respectfully Submitted:

Nancy L. Saffos
Secretary