

MUNICIPAL CLERKS' ASSOCIATION OF NEW JERSEY, INC.

PRESIDENT'S MESSAGE by Heather Mailander, 2008 President



Spring is a time of renewal after the cold winter months. We look forward to seeing the flowers bloom, the leaves come back on the trees, and the return of warmer weather. During this time of renewal, I hope that you are taking the time to renew your commitment to education by attending MCANJ's Annual Education conference. The theme of the conference is "Education is the Key to Success" and it will be held April 21-24, 2008 at the Tropicana Hotel in Atlantic City. The Conference Committee has worked diligently to provide the Association and its members with a well rounded, wonderful experience. There are courses being offered in all categories for renewal of the RMC designation, and it will also be a great learning experience for those who have not yet earned their RMC. In addition, there will be a nationally known speaker, Dr. Susan Dellinger, who will speak on the personality types of people we encounter in both our personal and professional lives. Understanding these various personality types will assist us as we interact with others on a daily basis.

In addition to the important education sessions, the updated desk reference disks will be handed out to all members of the Association at the conference. Take the time to network, share experiences, and meet new Municipal Clerks during the conference, as this is one of the most valuable parts of the conference experience. I know that you will leave the Conference with new information, and will be updated on important aspects pertaining to the profession of the Municipal Clerk.

I was pleased to represent MCANJ at the IIMC Region II conference in Portsmouth, Virginia in January. Despite encountering some snowy weather on the trip down and back, it was a very worthwhile experience. The topics discussed included the increase of gang activities in municipalities and methods used by the police departments to deal with them; internet fraud; identity theft; and issues associated with illegal immigrants. The trip was made complete with two stops at Jimmy's Roadside Grill located on Route 13 on the border of Delaware and Maryland, where they serve real down home country cooking and scrumptious homemade desserts.

We have all experienced running our first Presidential Primary Election. I think that most of us have come away from this experience with the thought that both poll workers and voters need to be better educated about Primary Elections. This includes why a voter must declare a party or be affiliated with the Republicans or Democrats and the fact that voters may not change their party affiliations on Primary Election Day. By partnering with our County Election Officials and the media, I believe that we can accomplish these goals before the next Presidential Primary Election in 2012.

On April 10th, Immediate Past President, Barbara Hawk and First Vice President, Joan Moreland, attended the New Jersey Conference of Mayors annual conference. They spoke with many Mayors at MCANJ's booth, and also participated on a panel discussion. I thank them for representing the Association at this event, because as we continue to educate our governing bodies and our Mayors about the jobs that we do, we will improve their understanding of the important role that we play in municipal government.

As you know, we have obtained our 501c3 designation as a non-profit organization with an educational purpose. We are waiting for the State to issue the Association a raffles identification number so that we can hold raffles as fund raisers for educational opportunities and scholarships in the future.

Continued on page 8

Jim Doherty, Editor
973.875.7192 e-mail: administrator@wantagetwp-nj.org

PAST EDITORS:

J. Ford Flagg, 1954-1959 John R. Zellwenger, 1960-1970
Joseph E. Bennett, 1971-1973 Harry C. Kates, 1974-1982
Janet L. Lynds, 1983-1993
Patricia Hullfish and Patricia Shuss, Co-Editors, 1994-1995
Patricia C. Shuss, 1996-2000 Nancy Hatten, 2001-2005

Contributing Editors:

Advertising: L. Manuel Hirshblond, Toms River 732.349.1348
People: Sharon Brienza, Branchburg Twp., 908.526.1300

MUNICIPAL CLERKS' ASSOCIATION OF NEW JERSEY, INC.
EXECUTIVE BOARD 2007

President: Heather A. Mailander, Ridgewood Village
E-mail: hmailander@ridgewoodnj.net
First Vice President: Joan Moreland, Haddon Heights Borough
E-mail: jmoreland@haddonheightsboro.org
Second Vice President: Vincent Buttiglieri, South Plainfield Borough
E-mail: vbuttiglieri@southplainfieldnj.com
Treasurer: Joanne M. Kwasniewski, Fair Lawn Borough
E-mail: muncclerk@fairlawn.org
Secretary: Drew Pavlica, Garfield City
E-mail: garfieldclerk@optonline.net
Immediate Past President: Barbara M. Hawk, Laurel Springs Borough
E-mail: barbarahawk@comcast.net
Administrative Consultant: L. Manuel Hirshblond
Legal Counsel: Thomas A. Segreto

PAST PRESIDENTS*EX OFFICIO MEMBERS

1974*Joseph V. Valenti	1995*Christina N. Wilder
1975*Alfred A. Reda	1996*Joseph C. Favaro
1977*Otto M. Bock	1997*Elizabeth H. Kiss
1978*Norma B. Sisco	1998*Lynn Stanzlaus
1981*L. Manuel Hirshblond	1999*Bernadette Dubuss
1983*James F. O'Keefe	2000*Nancy Hatten
1985*Elizabeth G. Nolan	2001*Sharon L. Brienza
1987*Lewis N. Thompson	2002*Bernadette Standowski
1988*Elaine Wallace	2003*Allan Susen
1991*Mildred C. Bird	2004*Joel Popkin
1992*Barbara A. Camp	2005*Jane Williams-Warren
1993*John J. Galvin	2006*Elaine B. Kennedy
1994*Kathleen A. Thorpe	2007*Barbara M. Hawk

ADVISORY BOARD MEMBERS

Atlantic:	Carol A. Raph, Northfield City
Bergen:	Nancy Hatten, Tenaflly Borough
Burlington:	Patricia Hunt, Moorestown Township
Camden:	Nancy Saffos, Cherry Hill Township
Cape May:	Theresa Tighe, Sea Isle City
Cumberland:	Susan G. Robostello, Millville City
Essex:	Linda Wanat, Montclair Township
Gloucester:	Debora Pine, Elk Township
Hudson:	Robert Byrne, Jersey City
Hunterdon:	Cecilia Covino, Town of Clinton
Mercer:	Sharon Young, West Windsor Township
Middlesex:	John Mitch, Woodbridge Township
Monmouth:	Barbara L. Bascom, Upper Freehold Township
Morris:	Sheila Seifert, Rockaway Township
Ocean:	Bette Mastropasqua, Beachwood Borough
Passaic:	Jane Williams-Warren, Paterson City
Salem:	Maureen Abdill, Pilesgrove Township
Somerset:	Ann Marie McCarthy, Franklin Township
Sussex:	Lorraine Stark, Hopatcong Borough
Union:	Kathleen Wisniewski, Springfield Township
Warren:	Teresa DeMont, Belvidere Town

MEMBERSHIP HAS ITS ADVANTAGES:

A message from the MCANJ Membership Committee

If you are enjoying this issue of the Quill, and would like to continue receiving future issues in the mail ...

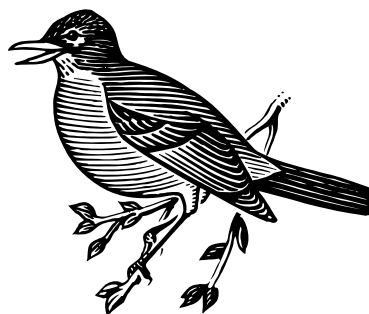
MAKE SURE YOUR MCANJ 2008 DUES ARE PAID!

The 2008 Executive Board is continuing the practice of tying in the mailing list of the *Quill* with the dues list for 2008 MCANJ membership. So, if you have previously been receiving an issue of the Quill, and find that you are not receiving any more issues in 2008, check to make sure that your MCANJ membership dues are current and up to date.

Membership in the Legal Defense Fund also requires that your dues be paid and current.

Don't get left behind—

Make Sure MCANJ 2008 Dues are Paid!



**HAPPY
SPRING!**

LEGAL DEFENSE FUND REMINDER

Applications and renewal applications were included with your annual dues membership. If you did not receive one or misplaced it, you can download an application from the MCANJ website (www.njclerks.org).

Please mail the completed application with your **PERSONAL CHECK** payable to MCANJ – LDF to:

L. Manuel Hirshblond, Administrative Consultant
11 Boxwood Terrace
Toms River, NJ 08755

The Legal Defense Fund recently approved the payment of \$1,687.50 to a Municipal Clerk who had several issues with the Mayor of her municipality as she was getting ready to retire.

As of February 27, 2008, there are a total of 187 members which includes 13 new members this year.

If you have any questions or would like additional information, please feel free to contact me at 908-526-1300, ext. 103.

Sharon L. Brienza, Township of Branchburg
LDF Committee Chair

2008 SCHOLARSHIP APPLICATION

The Municipal Clerks' Association of New Jersey will be offering scholarships for the 2008 education year. Municipal Clerks, Deputies and Assistants continuing their education in pursuit of RMC, CMC and MMC certifications are eligible. Candidates for all scholarships **MUST** be members of the Municipal Clerks' Association of New Jersey. CMC and MMC Scholarship applicants must be tenured Municipal Clerks. Scholarships shall be awarded at the Annual Meeting of the Municipal Clerks' Association of New Jersey on Wednesday, November 19, 2008 during the League of Municipalities Conference in Atlantic City:

Four (4) RMC Scholarships

One (1) Peter H. Maclearie CMC Scholarship (Includes registration and 1 night's hotel accommodation)

One (1) MMC Scholarship (Includes registration and 1 night's hotel accommodation)

Completed applications should be mailed directly to:

MCANJ SCHOLARSHIP COMMITTEE

c/o Bonnie Leonetti, RMC/CMC

Long Beach Township

6805 Long Beach Boulevard

Brant Beach, NJ 08008-3661

APPLICATION DEADLINE IS SEPTEMBER 1, 2008

You are encouraged to take advantage of this scholarship program offered to you by your Association.

Please complete this application page (or a photocopy of it) and submit it as instructed.

Should you have any questions, please contact Bonnie Leonetti at 609-361-1000, ext. 218.

MCANJ 2008 SCHOLARSHIP APPLICATION FORM

Name _____ Title _____

Municipality _____

Address _____

Date of Appointment as Municipal Clerk _____ Deputy/Assistant _____

Check One: MCANJ Dues are paid by municipality MCANJ Dues are paid by member

I am applying for the:

RMC Scholarship – cost of one (1) course

CMC Scholarship [tenure date _____] – for tuition to CMC program by Rutgers University and one (1) night's hotel accommodation.

MMC Scholarship [tenure date _____] – for tuition to MMC program by Rutgers University and one (1) night's hotel accommodation.

List RMC, CMC and MMC educational courses taken and indicate whether the municipality or you paid for the course.

Reminder: All applicants must be members of the Municipal Clerks' Association of NJ, Inc.

Applicants for the CMC and MMC Scholarships must be tenured.

Use a separate sheet of paper for a short statement as to why you feel this scholarship should be awarded to you and attach it to your application.

Signature of Applicant _____ Date _____

APPLICATION FOR CANDIDACY: MCANJ EXECUTIVE BOARD

Article VI Section 1.A. of the Constitution and Bylaws of the Municipal Clerks' Association of New Jersey, Inc., specifies "Anyone seeking to be a candidate must file with the Secretary not later than 120 days prior to the Annual Meeting. No additional applications shall be accepted after this date". Article VI Section 1.C. specifies the criteria for eligibility to seek office: "All candidates shall have tenure of office, shall have experience and training for that office, shall have received the degree of Registered Municipal Clerk (RMC), and shall be actively employed as a Municipal Clerk". For anyone seeking a position on the Executive Board for 2009 (with the exception of the office of President), the following application must be filed by July 22, 2008 in order to be eligible for consideration by the membership at the Annual Meeting to be held in the Royal Swan Ballroom at the Tropicana Hotel in Atlantic City on November 19, 2008. Check one:

1st Vice President 2nd Vice President Treasurer Secretary

Name _____

Address _____

Municipality Employed by _____

Position _____

*Date of Original Appointment _____

*Date of Reappointment _____

*RMC Certificate Number _____ Date Issued _____

I, _____, hereby certify that I am actively employed by _____ as a Municipal Clerk and am qualified to submit my _____ (Municipality)

name as a candidate for the office of _____ of the MCANJ for 2009.

(Signature)

(Date)

* Attach certified copies of Resolutions of Appointment and RMC Certificate.

(Current members of the Executive Board seeking successive office are exempt from re-filing these supporting documents.)

✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂ ✂



**APPLICATIONS MUST BE RECEIVED BY JULY 22,
2008 AND SHOULD BE MAILED TO:**

Drew Pavlica, MCANJ Secretary,
Municipal Clerk, City of Garfield
111 Outwater Lane, Garfield, NJ 07026

PEOPLE PAGE

by Sharon Brienza

HOLIDAY HAPPINESS

JAMES A. HALEY VETERAN'S HOSPITAL

Bette Matropasqua's brother, Father Edward Lamp, is an Army Chaplain at the James A. Haley Veteran's Hospital in Tampa, Florida which is a 327 bed major facility providing medical care to service men and women who were, and continue to be, seriously wounded in Iraq and Afghanistan. Father Lamp told Bette there would be approximately 35 military personnel who would not be able to leave the facility for the holidays due to the nature of their injuries or the distance of their families. Bette sprung into action and e-mailed her family and MCANJ friends with a request for items these service people could use. Within days, Bette received packages from all over the State with CDs and DVDs, journals, games, packaged food and several Christmas cards. In a letter from Carrie Haug, Polytrauma Recreation Therapist at the hospital thanking everyone for their thoughtfulness in remembering the American Heroes during the holiday season, she stated, "I wish I could have bottled up all of the joy you brought to their hearts when they received each card and gift of music CD's and games." So many Municipal Clerks sent Bette packages for distribution, space constraints limit me from listing everyone, but you all know who you are. Great job, Bette for coordinating this effort and what a wonderful feeling we all got doing something for those who do so much for our country.

CAMDEN COUNTY

At their Annual Christmas Dinner Meeting held at Lucien's Tavern in Berlin, the Camden County Municipal Clerks' Association gave Immediate Past President Barbara Hawk a standing ovation for her efforts as President of the Municipal Clerks Association of New Jersey, Inc. Barbara turned the reins over to Heather Mailander of Ridgewood Village. **Good luck to Heather from Camden County!** Former Municipal Clerk Dorothy Carlson issued the Oath of Office to the new officers of the Camden County Municipal Clerks Association during their annual holiday dinner meeting. Dorothy who is now 90+ is still active and doing well



President Jamie Eggers, Berlin Township; Vice President Sylvia Van-Nockay, Lawnside; Treasurer Terry Shannon, Barrington

WARREN COUNTY

The Warren County Municipal Clerks Association reorganized with the following officers:

President: Theresa A De Mont, Belvidere Town
Vice President: Kelly Smith, Harmony Township
Treasurer: Kathleen Reinalda, White Township
Secretary: Lisa Patton, Knowlton Township

SOMERSET COUNTY

The Somerset County Municipal Clerks Association held their Annual Toy Drive during their Holiday Luncheon where several bags of toys were donated to the Marines *Toys for Tots* campaign in Somerset County.



CONDOLENCES

Helen M. Reidy, retired Municipal Clerk of Scotch Plains (Union County) passed away on December 18, 2007. Helen went to work in the Clerk's Office in Scotch Plains in 1947, was elected Township Clerk in 1959 and served as Township Clerk until her retirement in 1987. She was a longtime member of the Republican Club in Scotch Plains and was known as the "biggest vote getter in town." She had also sold war bonds during World War II. She is survived by several cousins and many other relatives and friends.

William H. Hotaling, former Borough Clerk of Cresskill for 25 years passed away on January 29, 2008. William was a former president of the Bergen County Municipal Clerks Association. Memorial donations may be sent to Old North Reformed Church in Dumont, NJ or to the Warwick Conference Center, Hoyt Road, Warwick, NY 10990. The Bergen County Municipal Clerks Association will be making a donation.

GET WELL WISHES

Get well wishes go out to retired Borough Clerk Linda Hendershot (Washington Township, Warren County) who recently had surgery and is on her way to a full recovery.

PEOPLE PAGE, Continued

by Sharon Brienza

MIDDLESEX COUNTY

The Middlesex County Municipal Clerks Association held their annual "After Holiday Party" on Friday, January 11 at the Chateau in East Brunswick. Jimmy Bond Entertainment had everyone participating in "teamwork" games and party goers showed their physical prowess doing the limbo. MCANJ President Heather Mailander, Treasurer Joanne Kwasniewski and Secretary Drew Pavlica were present to cheer on 2nd Vice President Vinny Buttiglieri as he made it under the limbo bar (picture below.) Unfortunately, space constraints limit the number of pictures I can include in this article and I have received a few threats and offers of money not to publish certain ones!



Pictured below: Immediate Past President Elaine Jasko gives the Oath of Office to incoming officers of the Middlesex County Municipal Clerks' Association during their "After Holiday" party on January 11: President Barbara Nyitrai, South Brunswick; Vice President Vinny Buttiglieri, South Plainfield; Secretary John Mitch, Woodbridge; Member at Large Nanette Perry, East Brunswick.



TRANSITIONS

The above pictures of the Middlesex County officers will have changed with Vinny Buttiglieri leaving his position in South Plainfield and moving on to Township of Ocean (Monmouth County) as Township Clerk.

Kelly O'Donnell, former Senior Assessing Clerk in the Tenafly Assessor's Office has been appointed as Acting Borough Clerk in Park Ridge.

Good luck to both of you in your new positions.



ON A LIGHTER NOTE...



Pictured above is Sharon Brienza's nephew, Justin, whose band "Lunar Electric" was invited to play at a recent CD Release party at the infamous Stone Pony in Asbury Park. This writer had a huge sense of déjà vu since this was one of my hangouts in the good ole' days! Ahhh...the memories of a less complicated world!

PEOPLE PAGE, Continued

by Sharon Brienza

CONGRATULATIONS: LIFETIME ACHIEVEMENT Laddie Wyatt, City Clerk of Plainfield (Union County) was honored as a "Woman of Excellence" in the category of "Lifetime Achievement" from the Union County Commission on the Status of Women. The awards dinner was held on March 28 at the Westwood in Garwood. Laddie's expertise and community service made her a perfect selection for this prestigious award. Congratulations, Laddie!

RETIREMENTS:

After 32 years of public service, Karen A. Bacon, Township Clerk of Galloway (Atlantic County) retired on February 1, 2008. Karen was appointed Township Clerk in September 1991 and has served as President and Secretary of the Municipal Clerks' Association of Atlantic County. She will be enjoying her retirement with her husband, Pete, children David and Jennifer and her four grandchildren.

Debbie Smith, Ocean Township (Ocean County) retired as of February 29, 2008, after more than 35 years with the Township, 13 of those years as Municipal Clerk. Debbie and her husband are having a new home built in Catawissa, PA (near Mystic Mountain) where they will be relocating. Debbie says she enjoys her work and moving from Ocean County will "create a big void" in her life.

After 26 years of municipal service all of which were for the same municipality, Doris L. Lewis has retired from Andover Borough, Sussex County. Mayor John Morgan reports that when Doris first started for this small Borough, she worked out of the basement of her home. She will be sincerely missed by the Borough and the residents.

Patricia McCreery, Audubon Park retired after 40 years as Municipal. Pat served the Camden County Municipal Clerks' Association as President and in other positions.

Joan Schneebele, Pine Hill Borough announced her retirement as of December 31, 2007. Joan also served as President to the Camden County Municipal Clerks' Association other positions on the board.

Both Patricia and Joan have earned the respect of the Camden County Municipal Clerks who knew they stood for integrity, honesty and served their residents with pride.

We have also learned of the following retirees, however, no further information was available at press time:

Marge Smith, West Orange; Nancy O'Hara, South Orange; Richard Moran, Clifton; Al Seaman, South River; Patricia Hullfish, Plainsboro.

Our best wishes for happy and healthy retirements to all!

QScend ADVERTISEMENT

PRESIDENT’S MESSAGE, Continued
By Heather Mailander, MCANJ President

Continued From Page 1

Please be sure to check out MCANJ’s updated and improved website at www.njclerks.org which will provide even more information to our members. The education programs being offered by Rutgers, the NJ State League of Municipalities, the County Municipal Clerk Associations, and the Mini-Conferences being held in the North, Central, and Southern parts of the state are listed. This will make it easier for members to find seminars for the continuing education credits that they may need. Past issues of The Quill, as well as a listing of Advisory Board and Executive Board members are also available on the website. The “What’s New” section of the website is a quick look at upcoming events and important information for our members.

I have been contacted by several Municipal Clerks who are having difficulties in their municipalities with their governing bodies. Unfortunately, some of them are not members of the Legal Defense Fund (LDF). I urge you to join the LDF, which is a small investment to make in order to protect yourself in your professional life. The initial application form as well as the renewal form can be found on the MCANJ website.

If you have not yet joined the Association, and need an application form, please contact our Treasurer, Joanne Kwasniewski, at munclerk@fairlawn.org and she will provide you with one.

I want to thank those of you who have volunteered to serve on various Committees and as Advisory Board members. This Association is your Association, and it is only because of the many hours put in by our volunteer Committee and Board members that we continue to be the great Association that we are.

Please let me know about any Municipal Clerks who are retiring, so that we can provide them with a MCANJ Gold Card. Also contact me if you have suggestions or recommendations in making the MCANJ a better association for its members. My phone number is (201) 670-5500 ext. 201, and my email address is: hmailander@ridgewoodnj.net.

Enjoy this season of warmth, sunshine, and renewal, as you continue to pursue your personal and professional dreams.

Heather Mailander, MCANJ President

SPOTLIGHT ON: CUMBERLAND COUNTY
21 stories of our Garden State; 21 stories to say “We’re Great!”

Located in the heart of the Northeast corridor of the USA, Cumberland County is situated along the Delaware Bay and conveniently located two hours from New York City and Baltimore, forty five minutes from Philadelphia and Atlantic City. Cumberland County was founded in January 1748 and occupies over 500 square miles of land in the south central part of New Jersey with over 40 miles of Delaware Bay coastline. According to 2006 estimates from the U.S. Census Bureau over 154,000 people call Cumberland County home. It is comprised of 3 Cities, 10 Townships and 1 Borough. Cumberland County’s economy was developed around four principal industries: glass making, food processing, textiles and maritime trades. As early as the 19th century, NJ was one of the 4 leading oyster producing States in the Nation. Port Norris became known as the “Oyster Capital of the World”. It was said that there were more millionaires per square mile in the Port Norris area than anywhere else in the Nation. By the late 1800’s there were over 300 oyster boats operating on the Delaware Bay employing approximately 1500 people. The Glass industry also had a significant presence in all three cities until the 1970’s. Today, Cumberland County enjoys a strong agricultural base with targeted industries that include Health Care, Construction, Hospitality/Tourism and Advanced Manufacturing.

All information is taken from the Official Website of Cumberland County,
<http://www.co.cumberland.nj.us>

Brown’s River Ad

Rice Notices: Who gets them

By: Thomas A. Segreto, MCANJ Legal Counsel

Under the Open Public Meetings Act N.J.S.A. 10:4-6 et seq. (OPMA), there are circumstances in which it is appropriate to exclude the public from discussions. One in particular is N.J.S.A.10:4-12(b)8 which provides:

(8) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.

The case of Rice v. Union County Regional High School Bd. of Ed., 155 NJ Super. 64 (AD 1977) cert. denied 76 N.J. 238, (1977) resulted in the requirement of Rice notices. The Rice case addressed circumstances involving employees. There the court held that notice must be served upon the employee if the public body's intent is to discuss the employee. The employee would then have the opportunity to decide whether he wants the meeting to be in public, instead of a closed Executive Session. The exact language the court used was "The request for a public hearing is a personal decision on whether the individual desires his or her private personnel matters to be discussed in public." (emphasis added)

Another case which interprets N.J.S.A. 10:4-12(b)8 is Jamison v Morris School Dist. Bd. of Educ., 198 N.J. Super. 411, (App. Div. 1985) . In Jamison v. Morris Sch. Dist. Bd. Of Educ. 198 N.J. Super. 411, 416 (App. Div. 1985). The Court said, at 415, "N.J.S.A. 10:4-12(b)(8) vouchsafes two rights to a public employee who may be adversely affected by a personnel action or decision of his employer which are:

- (1) a right to privacy that is to a non public discussion at a closed meeting; and
- (2) a right to a public discussion at an open meeting upon his request in writing."

A question arises as to whether a Rice notice is required for personnel actions not involving employees, but appointees. What is clear is that while Rice addresses employee circumstances, it does not limit its applicability to employees. The Supreme Court in South Jersey Pub. Co. Inc. v. New Jersey Expressing Authority, 124 N.J. 478 (1991) held that exceptions under OPMA are to be strictly construed. Accardi v. Mayor and Council of City of North Wildwood, 145 NJ Super 532 (L. 1976) held that the exceptions to OPMA are to be strictly construed so that the stated broad public policy can be achieved of openness and disclosure at meetings of public bodies. With these cases in mind, it is clear that we must strictly construe the exceptions. Accordingly, the strict meaning of the exception is not limited to employees only.

At this particular point, many of you are reading this article with wide eyes and disbelief as to the implications of the analysis set forth herein. Let me temper the analysis in this article by the implications of practical reality and the law pertaining to OPMA. First, as a matter of practical implication, the exclusion under OPMA is regarding discussions, not actions. The act of appointing and/or confirming an appointment is never done in closed session. Acts are always done in open session. If the appointing authority simply makes an appointment and confirms it without discussion, a Rice notice may not be required. Even if one were required, if there was only one appointee for a particular position, the only person who would have standing to bring suit for an alleged violation of OPMA under the personnel exemption would be the appointee. Clearly, the appointee would not bring suit challenging his/her own appointment as being voidable. Additionally, an allegation of a violation must be brought within 45 days of the act sought to be challenged. An action in lieu of prerogative writs would need to be filed and even in such an event, the action is not deemed "void", but "voidable".

Circumstances in which the issuance of a Rice notice may apply are those in which there is a discussion of an actual or anticipated personnel action, as is more fully set forth in the personnel exemption. If a public officer and/or employee (neither of which terms are defined by OPMA) have a right to be notified and an opportunity to be heard, clearly a Rice notice is required. For example, if "Public Officer X" is a term-appointed officer and the governing body wishes to remove that officer during the term, clearly the governing body would need to provide a Rice notice because the employee would have a reasonable expectation that he/she may continue in the office during the term, unless there is a specific reservation that the officer serves at the pleasure of the appointing authority.

Circumstances in which the issuance of a Rice notice may apply are those in which there is a discussion of an actual or anticipated personnel action

Continued on Page 10

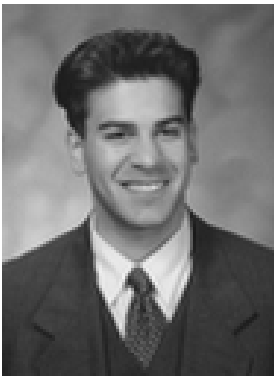
Rice Notices: Who gets them (continued)

By: *Thomas A. Segreto, MCANJ Legal Counsel*

Continued from Page 9

While OPMA does not define “public officer” and/or “public employee”, the New Jersey Local Government Ethics Law is instructive as to the definition of a local government employee and/or local government officer. N.J.S.A. 40A:9-22.3 (f) & (g) provide as follows:

- f. "Local government employee" means any person, whether compensated or not, whether part-time or full-time, employed by or serving on a local government agency who is not a local government officer, but shall not mean any employee of a school district;
- g. "Local government officer" means any person whether compensated or not, whether part-time or full-time: (1) elected to any office of a local government agency; (2) serving on a local government agency which has the authority to enact ordinances, approve development applications or grant zoning variances; (3) who is a member of an independent municipal, county or regional authority; or (4) who is a managerial executive or confidential employee of a local government agency, as defined in section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3), but shall not mean any employee of a school district or member of a school board; (emphasis added)



It is my opinion that a court may very well use these definitions as an expression of the state of the law of the State of New Jersey with regard to municipalities. Obviously, any OPMA issue and/or personnel issue in a public body context should be referred to the counsel for the public body on a case by case basis. Each public body has a comfort level with the potential for litigation and the implications associated with their actions. In the end, each public body must use its best judgment and, in good faith, endeavor to follow the spirit and intent of the law.

Thomas Segreto is a Senior Associate in the law firm of Scarinci & Hollenbeck, LLC. Tom handles a wide variety of litigation matters, including civil rights litigation, liability claims, contract disputes and matters involving civil service, discrimination and the New Jersey Tort Claims Act. Mr. Segreto currently serves as General Counsel to the Municipal Clerks Association of New Jersey, Inc. In addition to providing advice and counsel on operating issues, he frequently provides training on the Open Public Records Act and Open Public Meetings Act, as well as other local ordinances and laws. (Biography of Thomas Segreto adapted with permission from the website of Scarinci & Hollenbeck, LLC (<http://www.njlegalink.com/Attorneys/Segreto.htm>))

GENERAL
CODE
PUBLISHERS
ADVERTISEMENT

MUNICIPAL CLERK OF THE YEAR

A County Association or an individual Clerk may nominate a candidate for Municipal Clerk of the Year. The previous honorees are those individuals who have made positive contributions to our profession for the benefit of all of us. The Association invites you to submit the name of a Municipal Clerk who has had an impact on our profession and who should be considered for this prestigious honor.

MUNICIPAL CLERK OF THE YEAR NOMINATION FORM

(please type)

All nominees must be members of the Municipal Clerks' Association of NJ, Inc., currently employed as Municipal Clerks and tenured in their positions. Current members of the Executive Board and former recipients of the award are not eligible. Qualifications must include activities within the MCANJ and may include related community and volunteer work. The selection of the annual "Municipal Clerk of the Year" is made by the Executive Board and announced at the Association's Annual Meeting during the League of Municipalities Conference in November in Atlantic City.

Nominee: _____
Appointment Date _____

Municipality _____

Address _____

County _____

Qualifications of Nominee:

Attach statement in support of Nominee's candidacy (maximum 500 words)

Nomination made by _____

(Name of County Organization or Individual)

Address _____

Contact Person _____

Address _____ Phone No. _____

Deadline for submission: July 1, 2008

Submit to: Drew Pavlica, MCANJ Secretary,
Municipal Clerk, City of Garfield
111 Outwater Lane, Garfield, NJ 07026

THIS ISSUE OF THE QUILL IS A ROCKIN' GOOD TIME! SEE THE PEOPLE PAGES ON PAGES 5, 6 AND 7!



John Mitch, Cathy Anello and the Middlesex County Clerks bring the house down at their Annual “After Holiday” Party

DEADLINES FOR NEWS ITEMS: The deadline for the July issue is June 4, 2008. Please send People Page news to Sharon Brienza, Municipal Clerk, Branchburg Borough, 1077 US Highway 202 North, Branchburg, NJ 08876. Questions or comments regarding this or any issue of the *Quill* should be directed to the Editor, Jim Doherty, Township of Wantage, 888 Route 23, Wantage, NJ 07461 or by calling 973-875-7192 or via email to: jim@wantagewp-nj.org. Articles for submission should be prepared in Microsoft Word, using Times New Roman 10-point font, and sent as an email attachment to jim@wantagewp-nj.org by the deadline specified.

the *Quill*
Editor - Jim Doherty
11 Boxwood Terrace
Toms River, NJ 08755

NON PROFIT ORG.
U.S. POSTAGE PAID
BERGENFIELD, NJ
PERMIT NO. 447