

MUNICIPAL CLERKS' ASSOCIATION OF NEW JERSEY, INC.

PRESIDENT'S MESSAGE by Joanne Kwasniewski, 2011 President



I am sure you are as tired as I am of this winter weather. I cannot wait for spring and to leave the snow behind.

It has been a busy first quarter for MCANJ. New Jersey once again hosted the IIMC Region II Conference meeting in January at the Trump Taj Mahal, Atlantic City and it was a resounding success. The focus was on Ethics and the two speakers were amazing. It seems that it is not only New Jersey that has ethical dilemmas facing our politicians. As we learned through an interactive session, the big questions are easy. It is the small issues that are the difficult ones. Not everything is black and white which often makes it difficult to choose the ethical path. Everyone agrees that it is unethical to take a bribe, but using your PBA card to avoid a ticket wasn't so cut and dried. It was a great conference.

Proposed legislation has been coming out of Trenton at a pretty fast pace. Senator Weinberg released a substitute bill S-1351 regarding the Open Public Meetings Act (OPMA) and S-1352 regarding OPRA. I was contacted by the NJ League of Municipalities and provided them with our concerns on the OPRA bill. I also sent Senator Weinberg a copy of the letter detailing our concerns. The concerns I enumerated are too lengthy to include here but I particularly stressed our dismay at the shrinking of the time to respond to OPRA requests. I was also dismayed that many of the items Past-President Buttiglieri, MCANJ Legal Counsel Lustgarten and I raised at our

meeting with Senator Weinberg last year were not addressed in this substitute bill. I sent Senator Weinberg a two-page email with MCANJ's concerns on the OPMA bill which among other things changes adequate notice to three days and prohibits discussing any item that is not listed on the agenda for which notice was given three business days prior to the meeting. If the public think it takes too long to get anything accomplished in government now, this bill will only make it worse.

S-923, which may even be signed by Governor Christie by the time you are reading this, grants the Director of the Division of Elections the authority to modify and supplement existing elections processes to accommodate municipal levy cap referendums. S-2718 establishes certain criteria for public employee health care benefits plan and requires premium percentage based employee contributions. The contributions are supposed to be based on premiums and not salary but the percentage of the premium to be paid is based on salary.

Everyone needs to be vigilant concerning these bills as they will have a profound effect on all of us. I will continue working with NJSLOM as they too express their concerns on these bills. The League has requested a meeting with the sponsors of S-1351 and S-1352. In addition, they have raised technical concerns with the Governor's Council Office. Please reach out to your legislators and express your concerns.

I appeared on a panel at the recent NJSLOM's program "Executive Leadership Training for Mayors and Council Presidents" presenting practical guidance regarding meetings and agendas. Treasurer John Mitch and 2nd Vice-President Nancy Saffos were presenters at the Seminar for Newly Elected Officials. The more that our elected officials learn about what we really do and how we can help them, the better it is going to be for all us.

Registration forms were mailed for the 2011 Education Conference which is scheduled for April 4-7. The Committee has done a great job putting together an excellent conference. Please join us.

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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

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MUNICIPAL CLERKS' ASSOCIATION OF NEW JERSEY, INC.

EXECUTIVE BOARD 2011

President: Joanne M. Kwasniewski, Fair Lawn Borough

E-mail: munclerk@fairlawn.org

First Vice President: Drew Pavlica, Garfield City

E-mail: garfieldclerk@optonline.net

Second Vice President: Nancy L. Saffos, Cherry Hill Township

E-mail: NSaffos@chtownship.com

Treasurer: John Mitch, Woodbridge Township

E-mail: john.mitch@twp.woodbridge.nj.us

Secretary: Keith Kazmark, Elmwood Park Borough

E-mail: kkazmark@elmwoodparknj.us

Immediate Past President: Vincent Buttiglieri, Ocean Township

E-mail: vbuttiglieri@oceantwp.org

Executive Director: Joel Popkin

E-mail: joelpopkin@optonline.net

Legal Counsel: Richard A. Lustgarten

PAST PRESIDENTS * EX OFFICIO MEMBERS

1974*Joseph V. Valenti

1998*Lynn Stanzlaus

1975*Alfred A. Reda

1999*Bernadette Dubuss

1977*Otto M. Bock

2000*Nancy Hatten

1981*L. Manuel Hirshblond

2001*Sharon L. Brienza

1985*Elizabeth G. Nolan

2002*Bernadette Standowski

1987*Lewis N. Thompson

2003*Allan Susen

1988*Elaine Wallace

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

1995*Christina N. Wilder

2008*Heather Mailander

1996*Joseph C. Favaro

2009*Joan Moreland

1997*Elizabeth H. Kiss

2010*Vincent Buttiglieri

ADVISORY BOARD MEMBERS

Atlantic: Kimberley Hodsdon, Estelle Manor City

Bergen: Heather Mailander, Ridgewood Village

Burlington: Patricia L. Hunt, Moorestown Township

Camden: Deanna Bennett, Haddonfield Borough

Cape May: Lisa Stefankiewicz, Stone Harbor Borough

Cumberland: Susan Robestello, Millville City

Essex: Linda Wanat, Montclair Township

Gloucester: Dina Zawadski, Deptford Township

Hudson: Robert Byrnes, Jersey City

Hunterdon: Cecilia Covino, Clinton Town

Mercer: Eileen Gore, Hamilton Township

Middlesex: Barbara Nyitrai, South Brunswick Township

Monmouth: Dawn McDonald, Interlaken Borough

Morris: Elizabeth Osborne, Madison Borough

Ocean: Bette Mastropasqua, Beachwood Borough

Passaic: Jane Williams-Warren, Paterson City

Salem: Cynthia Dalessio, Woodstown Borough

Somerset: Sharon Brienza, Branchburg Township

Sussex: James Doherty, Wantage Township

Union: Jean Kuc, Rahway City

Warren: Kelley Smith, Harmony Township

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SCHOLARSHIP APPLICATION

Municipal Clerks, Deputies and Assistants continuing their education in pursuit of RMC, CMC and MMC certifications are eligible for a Scholarship. 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 16, 2011 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 Karen Hughes, RMC

Westwood Borough

101 Washington Avenue

Westwood, NJ 07675

APPLICATION DEADLINE IS SEPTEMBER 1, 2011

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 Karen Hughes at 201-664-7100. ext 101

MCANJ 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 2012 (with the exception of the office of President), the following application must be filed by July 19, 2011 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 16, 2011. 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 2012.

(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.)

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**APPLICATIONS MUST BE RECEIVED BY
JULY 19, 2011 AND SHOULD BE MAILED TO:**

**Keith Kazmark, RMC/CMC
Elmwood Park Municipal Building
182 Market Street
Elmwood Park, NJ 07407**

Phone: 201-796-1457 Ext. 202

MUNICIPAL CLERKS

WE MAKE IT HAPPEN!

MONDAY, APRIL 4, 2011

1:00 p.m. – 6:00 p.m. Early Bird Registration – Convention Center Floor
3:00 p.m. – 4:30 p.m. The Financial Times, with Thomas Neff, Director of Division of Local Government Services
5:00 p.m. – 7:00 p.m. President's Welcome Reception – Signature Club

TUESDAY, APRIL 5, 2011

7:30 a.m. Registration – Convention Center Floor
7:30 a.m. – 8:30 a.m. Breakfast – Visit with Vendors
8:45 a.m. – 9:15 a.m. Welcome – Joanne Kwasniewski, President, MCANJ, Fair Lawn Borough; Honorable Christopher Christie, Governor; Lorenzo Langford, Mayor, Atlantic City
9:15 a.m. – 10:45 a.m. General Session: Scott "Q" Marcus, THINspirational Speaker and Recovering Perfectionist
10:45 a.m. – 11:15 a.m. Break - Visit with Vendors
11:15 a.m. – 12:15 p.m. Under the Gold Dome - Legislative Update with William Kearns, Esq., Legal Counsel, N.J. League of Municipalities
Lori Buckelew, Legal Analyst, N.J. League of Municipalities
12:15 p.m. – 1:30 p.m. LUNCH – Visit with Vendors
1:30 p.m. – 2:45 p.m. Breakout Sessions
a. Becoming a Happy "Imprefectionist" with Scott "Q" Marcus
b. Shaken, Not Stirred with David N. Bregenzer, Jr., Counsel to the Director and Joann Frascella, Executive Assistant, NJ Division of ABC
c. Finance Potpourri with Joseph Valenti
d. Annual Recital of the Vitals with Elsie Walters, Deputy Registrar, State of New Jersey
2:45 p.m. – 3:15 p.m. Break - Visit with Vendors
3:15 p.m. – 4:30 p.m. Breakout Sessions Repeated
4:30 p.m. – 5:30 p.m. Social Adjustment Time; Hors D'oeuvres & Cash Bar; Vendors Prize Drawing – Winners must be present
Dinner on your own, enjoy the many venues of the Taj Mahal and Atlantic City.

WEDNESDAY, APRIL 6, 2011

7:30 a.m. – 8:30 a.m. Registration – Breakfast
8:00 a.m. Silent Auction Opens
8:45 a.m. – 9:00 a.m. Announcements
9:00 a.m. – 10:30 a.m. Electronic Communications with Karen A. Perry, Records Analyst, DARM; Catherine Starghill, Esq., Executive Director, GRC; Richard Lustgarten, Esq., Legal Counsel, MCANJ
10:30 a.m. – 11:00 a.m. Break – Visit Silent Auction
11:00 a.m. – 12:15 p.m. Identity Theft and Public Corruption with Margaret A. Mahoney, Esq., Assistant U.S. Attorney, District of New Jersey; Judith H. Germano, Esq., Assistant U.S. Attorney, District of New Jersey
12:15 p.m. – 1:30 p.m. LUNCH – Visit Silent Auction
1:30 p.m. – 2:45 p.m. Breakout Sessions
a. Disaster Recovery with Joanne Rajoppi, Union County Clerk and Virginia DeMaria, Municipal Clerk, Rochelle Park Township
b. Elections by Comparison with Patricia J. Kolb, Warren County Clerk and Rita Marie Fulginiti, Cape May County Clerk
c. Survival Tactics for Municipal Clerks by Daniel J. Kaminski, Certification Unit, Division of Local Government Services
2:45 p.m. – 3:15 p.m. Break – Visit Silent Auction
3:15 p.m. – 4:30 p.m. Breakout Sessions Repeated
6:30 p.m. – 7:30 p.m. Cocktail Reception
7:30 p.m. – 9:30 p.m. Banquet Dinner; Joey Novick, Comedian "Is This An Ethical Dinner?"

THURSDAY, APRIL 7, 2011

8:00 a.m. Registration – Visit Silent Auction
8:00 a.m. – 9:30 a.m. Advisory Board Meeting – Breakfast Buffet
9:30 a.m. – 11:00 a.m. "Think Before You Speak or React" with Esther Nevaraz, Community Relations Manager, NJ Division on Civil Rights
11:00 a.m. **Silent Auction Closes - Pick Up Your Items**

PEOPLE PAGE

by Sharon Brienza



REGION II

New Jersey again hosted this year's Region II Conference which was held January 18-20 in Atlantic City. The 80+ participants enjoyed the Taj Mahal and the programs offered. Phil Campbell (Prince William County, VA) and Jackie Henderson (Alexandria, VA) arranged for the two speakers who received such great evaluations that the 2013 IIMC Committee is seriously considering them for the 2013 Annual IIMC Conference. Cudos to Christina Wilder who did a phenomenal job organizing and coordinating the conference...again!

TRANSITIONS

Anna Godfrey has replaced Mary Ann O'Neil in Washington Township and Diane Pflugfelder replaced Willa Reilly in Liberty Township.

Amy L. Antonides was appointed the Municipal Clerk of North Hanover Township in Burlington County, and Susan Nelson was appointed Municipal Clerk of Vernon Township in Sussex County.

Good luck in your new positions!

Noralie LaFevre, retired Municipal Clerk from Milford (1989-2004) was sworn in to a three-year seat on Milford's Borough Council. She has now joined the company of other Municipal Clerks who have gone on to serve their community in an elected capacity. Talk about a transition!

CONGRATULATIONS

Lisette Aportela-Hernandez, Municipal Clerk for the Borough of Tenafly, gave birth to a new daughter, Evangeline, on February 2nd. Congratulations to Lisette, her husband Victor, and sons Oscar and Hayden on the new addition to the family!

Susan Caljean, Municipal Clerk of Chatham Borough, has earned the prestigious Certified Municipal Clerk designation from the IIMC. Congratulations Susan!

RETIREMENTS

Congratulations to Warren County Municipal Clerks Mary Ann O'Neil of Washington Township and Willa Reilly of Liberty Township on their recent retirements.

We all wish you the best of luck and happiness in your new ventures – whatever they may be!

GET WELL WISHES

Franklin Borough (Sussex County) Clerk Patricia Leasure suffered a heart attack in mid-February. She is home (and could be back to work by the time you receive this issue of the Quill) and reportedly sounds good on the telephone. Anyone wishing to send a card, Pat's address at home is: 468 Stanhope Road, Sparta, NJ 07871.

Somerset County News

The following were elected officers of the Somerset County Municipal Clerks' Association at during their holiday luncheon on December 16, 2010:

Gregory Bonin (Millstone Borough), President
Kevin Sluka (Somerville Borough), Vice President
Ann Marie McCarthy (Franklin Township), Secretary
Hector Herrera (Bridgewater Township), Treasurer

They also held their 15th Annual Toy Drive along with their 3rd Annual Food Drive. Many Municipal Clerks collected from their municipal employees as well, making this year's toy/food drives extremely successful.

Morris County News

The Morris County Municipal Clerks' Association have selected the following officers for 2011:

Sheila Seifert (Rockaway Borough), President
Susan Caljean (Chatham Borough), Vice President
Sheila Williams (Florham Park Borough), Treasurer
Christina Whitaker (Mountain Lakes Borough), Recording Secretary
Greg LaConte (Chatham Township), Corresponding Secretary

Burlington County News

The following were elected officers of the Burlington County Municipal Clerks' Association at the meeting of February 10, 2011:

Kim-Marie White, President (Eastampton Township)
Amy Cosnoski, Vice President (Pemberton Township)
Marion Karp, Secretary (Westampton Township)
Kathy Hoffman, Treasurer (Mount Holly Township)

Sussex County News

The Sussex County Municipal Clerks' Association have selected the following officers for 2011:

Doris Flynn (Byram Township), President
Kathleen Armstrong (Hampton Township), Vice President
Patricia Leasure (Franklin Borough), Treasurer
Anna Rose Fedish (Lafayette Township) Secretary

CONDOLENCES

The entire MCANJ family extends our deepest sympathy to Mary Kriston (Rutherford) on the recent loss of her daughter and to Rosemary Adams (Atlantic City) on the recent loss of her son. Please know you are both in hearts and prayers.

PEOPLE PAGE

by Sharon Brienza

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JUST FOR THE FUN OF IT

Karen Hughes, Borough Clerk of Westwood dressed up for the annual "Home for the Holidays" parade in Westwood. Karen says, "I was working on reviewing the municipal code book at the time, so this is proof that recodification can make a bear out of a Clerk!"



Richard Cuttrel, Township Clerk of Neptune, has an interesting hobby and one that has been keeping him quite busy this winter. Richard moonlights as a local weather forecaster. A self-professed "Weather Channel junkie," Rich attended the Rutgers University meteorology program. He started forecasting to help fellow municipal employees prepare for storms. That eventually led to his website <http://tristatestormwatch.com>. The website currently has 1,700 subscribers and I suspect more once this article is circulated among the MCANJ family.

PRESIDENT'S MESSAGE

by Joanne Kwasniewski, 2011 President

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April 15th is the deadline for joining or renewing your membership in the Legal Defense Fund. Please send in your application. Don't make the mistake of thinking "it cannot happen to me." In this climate of uncertainty, it just may. The investment is small - \$75.00 to join and \$25.00 a year to renew.

As you know, Jane Williams-Warren is finishing her term as IIMC Region II Director. Immediate Past President Vincent Buttiglieri (pictured at right) announced his candidacy for Region II Director. Since there is another candidate from one of the other States in the Region, an election is being held. If you are a member of the IIMC, you have received the ballot. Please make sure that you fill out the ballot and return it by April 15, 2011. It is extremely important that New Jersey has a Director as we prepare to host the IIMC 2013 Conference. We need a voice on the Board of Directors of the IIMC. I can think of no better person to fill the position. Send in your ballot. Every vote is critical.



Finally, don't forget to celebrate Municipal Clerks' Week May 1-7, 2011. You deserve it!

See the link below to visit the IIMC Website, for further information about Municipal Clerks' Week:

<http://www.iimc.com/index.aspx?nid=156>

MCANJ, INC. MEMBERSHIP SUMMARY As of March 4, 2011

| <u>CATEGORY</u> | <u>TOTAL</u> |
|----------------------------|--------------|
| MUNICIPAL CLERKS | 356 |
| DEPUTYMUNICIPAL CLERKS | 159 |
| ACTING MUNICIPAL CLERKS | 3 |
| ASSISTANT MUNICIPAL CLERKS | 14 |
| COUNTY CLERKS | 5 |
| DEPUTY COUNTY CLERKS | 0 |
| CLERK TO FREEHOLDER BOARD | 2 |
| <u>AFFILIATE MEMBERS</u> | <u>12</u> |
| GRAND TOTAL | 551 |



Submitted by John Mitch,
MCANJ Treasurer

| County | Total # of Municipalities | Total # of Municipalities Paid | % Paid |
|--------------|---------------------------|--------------------------------|---------------|
| Atlantic | 23 | 15 | 65.22% |
| Bergen | 70 | 53 | 75.71% |
| Burlington | 40 | 23 | 57.50% |
| Camden | 37 | 18 | 48.65% |
| Cape May | 16 | 10 | 62.50% |
| Cumberland | 14 | 8 | 57.14% |
| Essex | 22 | 10 | 45.45% |
| Gloucester | 24 | 19 | 79.17% |
| Hudson | 12 | 4 | 33.33% |
| Hunterdon | 26 | 20 | 76.92% |
| Mercer | 13 | 7 | 53.85% |
| Middlesex | 25 | 15 | 60.00% |
| Monmouth | 53 | 36 | 67.92% |
| Morris | 39 | 28 | 71.79% |
| Ocean | 33 | 25 | 75.76% |
| Passaic | 16 | 12 | 75.00% |
| Salem | 15 | 9 | 60.00% |
| Somerset | 21 | 14 | 66.67% |
| Sussex | 24 | 15 | 62.50% |
| Union | 21 | 12 | 57.14% |
| Warren | 22 | 15 | 68.18% |
| TOTAL | 566 | 211 | 37.28% |

GOOD NEWS, GOOD NEWS AND LET'S WAIT AND SEE...

by Richard Lustgarten, MCANJ Legal Counsel



The good news is a letter opinion from August 2006 prepared by the Legislative Counsel to the Joint Legislative Committee on public employee benefits reform, good news on a recent GRC decision relating to a generalized OPRA request, and the “wait and see” relates to S. 1351 which proposes amendments to OPMA.

First the retirement benefits memo.

Years and years ago, I first learned in law school that there were constitutional prohibitions against the government interfering with contractual obligations. In the current debate relating to the Governor’s insistence that public employees bear the brunt of pension reform and health insurance contributions, the above concept was somewhat lost in the shuffle. Many months ago, there was a brief newspaper article on this subject relating to New York public employees, but the issue really never appeared to catch fire.

In the August 2006 memo, a legal opinion was requested as to whether the Legislature could reduce retirement benefits that were provided for public employees pursuant to statutes establishing various State administered retirement systems (You may have already received a copy of this opinion). The opinion recites the United States Constitution Contract Clause provision that “no State shall.....pass any.....law impairing the obligation of contracts...” The analog provision in the New Jersey Constitution is essentially saying the same thing.

The law seems to be settled that pensions for public employees serve a public purpose and are not really a gratuity given by the sovereign pursuant to the sovereign’s generosity. Essentially the law has evolved to the point that pension rights are to be protected on the theory that a State’s promise of pension benefits represents an offer and when accepted by the employees is a protected right. New Jersey has treated this right statutorily by designating it as “non-forfeitable” relating to “vested members” of the various retirement systems.

The effective statutory date that sets forth these principles is January 5, 1997. Essentially, the opinion states, that after that date, vested employees cannot have their contractual rights altered. The opinion correctly states the three prong test to determine whether legislation has unconstitutionally impaired a contract. The first thing to decide is whether the legislation substantially impairs the contractual relationship. If so, does it have a significant and legitimate public purpose and finally is it based on reasonable conditions and reasonably related to appropriate governmental objectives?

In one of the cases cited in the opinion, the Court said that a State statute which impairs a financial obligation undertaken by the State may be constitutional if it is reasonable and necessary to serve an important public purpose, but the extent of the impairment is a relevant factor in determining its reasonableness. In the cited case, the Court concluded that if a State could reduce its financial obligations whenever it wanted to spend the money for what it regarded as an important public purpose, the Contract Clause would provide no protection at all. Legislative counsel determined that applying those standards to legislation that has the effect of reducing pension benefits for those whose rights are non-forfeitable and have attached, it is apparent that the State would be impermissibly impairing the obligation of a contract to which it is a party.

Legislative counsel’s ultimate conclusion was that a law that has the effect of detrimentally altering the retirement benefit of an active member or of a retired member would be unconstitutional and violates both the Federal and State constitution proscription against impairment of the obligation of contracts.

This opinion is certainly not good news for the Governor and the cases cited in the opinion (which is almost five years old at this point), appears to be “good law”. However, before we conclusively rejoice that the cases cited in the opinion will be the prevailing authority in the current economic climate, we must be cautioned by what a U.S. Supreme Court Justice once said in another setting that “The Constitution should not be construed as a suicide pact.”

“I would be remiss if I didn’t have a comment on the general economic climate, the assault on public employees and the general state of all of our cosmic worries and anticipations. I subscribe to the view once told to me that when viewing the glass as either half empty or half full, it’s not whether you’re an optimist or pessimist, but rather how thirsty you are. For those of you who have time to contemplate things, think about that.”

- MCANJ Legal Counsel
Richard Lustgarten

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GOOD NEWS, GOOD NEWS AND LET'S WAIT AND SEE...

by Richard Lustgarten, MCANJ Legal Counsel

Continued From Page 8

The outstanding question today, of course, is whether given the economic hardships and the failure to properly fund the pension system, does a proposed change in contractual terms serve a legitimate public purpose and reasonably related to appropriate governmental objectives which in the end, is to preserve the very system itself?

We may have an inkling on the State Supreme Court's thinking when it decides the Abbott School Funding cases where the Court is faced with the issue of the constitutional mandate to provide a thorough and efficient education for New Jersey students with the State arguing that there currently just isn't enough money to provide the level of funding that may be required. If the Court decides that the constitutional mandate trumps the funding problems, it would seem that the same reasoning would preserve the integrity of the pension obligations. If however, the Supreme Court determines that the State Constitution should not be interpreted as a "suicide pact" and the lack of available money trumps the constitutional mandate for a thorough and efficient education, this reasoning may carry over to the detriment of public employees.

The second "good" is a case that was recently decided by the GRC in favor of a very respected Municipal Clerk. The case is Leto v. Borough of Franklin Lakes, Complaint #2009-11.

The OPRA request in this case, I am sure, occurs virtually on a daily basis throughout the State. The OPRA request was to view all complaints regarding services or personnel of the Borough for approximately two (2) years and a request to view all inspections of the duties and responsibilities of any elected or appointed official in any department of the Borough for a similar time frame including inspections and reports and dates given to the Council.

The Municipal Clerk advised the requestor that the request was overly broad and unclear and requested clarification. The requestor was uncooperative and therefore no additional specificity was supplied and the request was denied.

After reciting the general statutory mandate of OPRA, the GRC once again confirmed that OPRA is not intended as a research tool that individuals may use to force government officials to identify and siphon useful information. Rather OPRA simply operates to make identifiable government records readily accessible for inspection, copy or examination.

The GRC cited appropriate Appellate Division authority that opined that OPRA does not countenance open-ended searches of an agency's files.

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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 2011 DUES ARE PAID!** The 2011 Executive Board is continuing the practice of tying in the mailing list of the *Quill* with the dues list for 2011 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 2011, 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 2011 Dues are Paid!



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:

Joel Popkin, Administrative Consultant
13 Fair Oaks Lane, Ocean, NJ 07712

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

**UNION COUNTY MUNICIPAL
CLERKS' ASSOCIATION
SEMINAR**

DATE: FRIDAY, MAY 20, 2011
TIME: 9:30AM – 2:45PM
COST: \$30.00

LOCATION: TRAILSIDE NATURE & SCIENCE CENTER,
 452 NEW PROVIDENCE ROAD,
 MOUNTAINSIDE, NJ

PROGRAM:

8:30 – 9:30 COFFEE & REGISTRATION

**9:30 – 10:30 THE HONORABLE JOANNE RAJOPPI,
 UNION COUNTY CLERK
 ETHICS FOR MUNICIPAL CLERKS.
 1 CEU IN ETHICS APPROVED**

**10:45 – 11:45 JOANN FRASCELLA, EXECUTIVE ASSISTANT, LICENSING, DIVISION OF ABC
 LICENSING, PERMITTING & SPECIAL RULINGS. 1 CEU IN LICENSING HAS BEEN APPROVED**

11:45 – 12:30 LUNCH

**12:30 – 1:30 THE HONORABLE JOSEPH CRYAN, ASSEMBLYMAN, 20TH LEGISLATIVE DISTRICT
 LEGISLATIVE UPDATE, STATE BUDGET OVERVIEW. 1 CEU IN PROFESSIONAL DEVELOPMENT
 HAS BEEN APPROVED**

**1:45 – 2:45 DENNIS S. KOBITZ, ADMINISTRATOR, UNION COUNTY BOARD OF ELECTIONS
 ELECTIONS UPDATE: COURT DECISIONS, PENDING LEGISLATION, SVRS
 1 CEU IN ELECTIONS HAS BEEN APPROVED**

Kindly return this portion together with payment / Purchase Order to:

Claire Gray, Municipal Clerk, Town of Westfield
 c/o Union County Municipal Clerks' Association
 425 E. Broad Street, Westfield, New Jersey 07090

Name / Title: _____

Municipality: _____

Address: _____

Town / Zip: _____

Phone / Fax / Email: _____

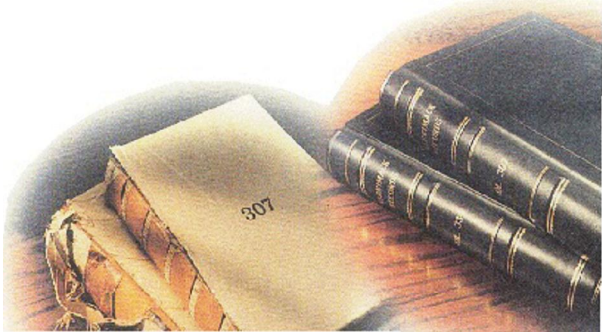
Make your check or Purchase Order payable to the Union County Municipal Clerks' Association

Please RSVP by Friday, May 13, 2011

Should you have any questions, please contact
 Nicole DiRado, CMC, MPA, Clerk of the Union County Freeholder Board
 Email: Ndirado@ucnj.org * Phone: 908-527-4140

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MUNICIPAL CLERK OF THE YEAR

A County Association or an individual Clerk may nominate a candidate for Municipal Clerk of the Year. 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. _____

Submit to: Keith Kazmark, RMC/CMC
Elmwood Park Municipal Building
182 Market Street
Elmwood Park, NJ 07407

Deadline for submission: July 1, 2011

MCANJ Mini Conference

HOSTED BY SANDYSTON TOWNSHIP

OPRA, OPMA, & LOCAL PUBLIC CONTRACTS LAW UPDATE

DATE: JUNE 3, 2011

TIME: 8:30 AM TO 3:00 PM

LOCATION: SANDYSTON MUNICIPAL BUILDING, 133 Route 645, Sandyston, NJ

FEE: \$10.00 for Members of the Municipal Clerks Association of New Jersey \$15.00 for All Others
Make checks payable to: Sussex County Municipal Clerks Association

8:30 – 9:00 am: Sign-in; Coffee and Bagels; Distribution of Conference Materials
9:00 – 9:50 am: LOCAL PUBLIC CONTRACTS LAW UPDATE
9:50 – 10:00 am: Coffee and Restroom Break
10:00 – 10:50 am: OPEN PUBLIC MEETINGS ACT UPDATE
10:50 – 11:45 am: Lunch Break. Sandwiches and soda will be provided
11:45 – 12 Noon: Afternoon Sign-In; Distribution of Afternoon Conference Materials
Noon – 3:00 pm: OPEN PUBLIC RECORDS ACT UPDATE

THIS COURSE HAS BEEN APPROVED FOR CONTINUING EDUCATION CREDIT BY THE NJDCA AS FOLLOWS:

MUNICIPAL CLERK – 3 CONTACT HOURS, RECORDS; 2 CONTACT HOURS, PROFESSIONAL DEVELOPMENT
MUNICIPAL FINANCE OFFICER – 3 CONTACT HOURS, ANCILLARY SUBJECTS (OPRA Session)
MUNICIPAL TAX COLLECTOR – 3 CONTACT HOURS, GENERAL/SECONDARY (OPRA Session)
PUBLIC WORKS MANAGER – 3 CONTACT HOURS, GOVERNMENT (OPRA Session)

GUEST SPEAKERS:

CATHERINE STARGHILL, Executive Director of the New Jersey Government Records Council
MICHAEL GAROFALO, Esq., of Laddey Clark & Ryan Law Offices
RICHARD STEIN, Esq., of Laddey Clark & Ryan Law Offices

SEATING AVAILABLE ON A FIRST COME – FIRST SERVED BASIS, WITH PREFERENCE GIVEN TO THOSE WHO PRE-REGISTER. YOU MAY PRE-REGISTER VIA E-MAIL AT: clerk@sandystontownship.com
Or Via Fax Transmission using the form below at: (973) 948-0783
Or Via Regular Mail, to Amy Lobban, Sandyston Municipal Clerk, 133 Route 645, Sandyston, NJ 07826

FREE PHOTO ID CARD FOR MCANJ MEMBERS WHO REGISTER FOR THIS MINI-CONFERENCE!

When You Register For This Mini-Conference, Send Your Photo via E-Mail To: jimclerk12345@yahoo.com
together with your Name, Title, Municipality, and the name of your County's Municipal Clerks Association. We will create a complimentary Photo ID Card for you, which will be available when you sign in on the day of the Mini-Conference!

REGISTRATION FORM: SUSSEX COUNTY MUNICIPAL CLERKS' ASSOCIATION PRESENTS:

MCANJ MINI CONFERENCE: OPRA, OPMA & LOCAL PUBLIC CONTRACTS UPDATE HOSTED BY SANDYSTON TOWNSHIP

NAME: _____ Title/Position: _____

ADDRESS: _____

MUNICIPALITY OR EMPLOYER: _____ Telephone: _____

E-MAIL: _____

YES! I will attend the Mini-Conference at the Sandyston Municipal Building

- I WILL MAIL MY CHECK IN THE AMOUNT OF \$ _____**
Make checks payable to: Sussex County Municipal Clerks Association.
Mail to: Amy Lobban, Sandyston Municipal Clerk, 133 Route 645, Sandyston, NJ 07826
- I WILL PAY AT THE DOOR**

GOOD NEWS, GOOD NEWS AND LET'S WAIT AND SEE...

by Richard Lustgarten, MCANJ Legal Counsel

Continued From Page 9

Citing other Appellate authority, the GRC reiterated that a proper request under OPRA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents. The very specific conclusion of the GRC citing the relevant judicial authority is simply stated as follows: Because the complainant's request for the records relevant to the complaint failed to seek specific identifiable government records, the complainant's request was overly broad and was therefore invalid under OPRA and the custodian did not unlawfully deny the complainant access to said records. I recommend that you obtain a copy of the Leto opinion and keep it as a handy reference in the event you receive an overbroad request.

The "wait and see": S-1351 is in the legislative pipeline and relates to amendments to OPMA. It adds to the definition of public body to include independent authorities, redevelopment entities, improvement authorities and quasi governmental agencies.

The bill also indicates that if a public body has established an internet site, announcements should be posted on it relating to public meetings. There are several problematic sections of the bill. One of them relates to the agenda. It indicates that the agenda shall set forth a brief description of the items to be discussed and the approximate dollar amounts of any contracts to be discussed or acted upon. This section is not terribly onerous but it goes on to indicate that a public body shall not act or discuss a matter that is not listed on the agenda for which notice was given three (3) business days prior to the meeting unless the exceptions of N.J.S.A. 10:4-9 exist. That section relates to matters of urgency and importance which could not reasonably have been foreseen.

Effectively this section would prohibit "add-ons" subsequent to the agenda notice unless they fall into the emergent category. We all know that there are always add-ons that need to be taken care of but that do not necessarily rise to the level of an emergency. If the law passes, extreme due diligence will be required to make sure that everything gets on the agenda that needs to.

The bill also has a section that prevents private communication between members of the public body during a public meeting. This would preclude cell phones, texting or similar technologies for communication. Presumably this section is to prevent private communications by public body members on issues before them or even from receiving input from the "outside" on a particular issue. While it is quite understandable that these private communications prevent the public from fully understanding what is going on, one would think that there would be pre-meeting communications on certain topics anyway. Ya think?

Additionally how do you figure out whether the cell phone use relates to a public issue rather than the current baseball scores or checking to see if your kids got out of gymnastics?

The bill also codifies notice requirements which have been judicially required under "Rice".

Another major issue in the bill is the requirement that if the public body possesses sound recording devices, the meeting shall be so recorded and be made available to the public either within two (2) weeks of the meeting or at least three (3) days before the next regularly scheduled meeting, whichever is sooner.

MCANJ has submitted comments to the proponents of S-1351. We will have to wait and see what its final version is.

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HAROLD WIENER NAMED 2010 MUNICIPAL CLERK OF THE YEAR



Harold Wiener, this year's Clerk of the Year recipient, has been a professional in municipal government for thirty years, and has held the position of Municipal Clerk for over two decades.

Harold's career in government began in the same town in which he was raised and educated, and within a year of his employment, Harold was a transcriber of minutes for the Municipal Clerk's Office.

Harold received both the Registered Municipal Clerk designation and a Masters Degree in 1986; and after working for years in the Clerk's Office, was appointed the Municipal Clerk of his hometown, Irvington, in 1987.

Harold has served his County Association in various leadership positions, including Secretary, Treasurer and President.

Additionally, Harold has served, and continues to serve, MCANJ on many Committees, including Professional Development, Peer Alliance for Learning, Laws Affecting Municipal Clerks, Records, Legal Defense Fund, and Constitution and By Laws.

This year's recipient has also served, for years, as an Advisory Board Representative and Alternate Advisory Board Representative.

Harold has served on the Education Committee; he has served as an Instructor for Rutgers University on behalf of the Registered Municipal Clerks Certification Program; and he has been a speaker for numerous seminars and conferences.

Harold received the prestigious designations of Certified Municipal Clerk in 1991, and Master Municipal Clerk in 2006, from the International Institute of Municipal Clerks, further exemplifying his commitment to the educational ideals of the Municipal Clerk profession.

Our honoree has represented the Municipal Clerks Association of New Jersey before government sessions in Trenton, many times, on important issues affecting not only our profession, but local government as a whole.

Often quietly, and without fanfare, Harold frequently helps other Municipal Clerks, the Public, Elected Officials, and anyone in need, regardless of the time or effort it requires.

Harold is respected inside and outside his municipality, for his fairness, impartiality, supervisory ability, and judgment.

Our honoree continues to be a major supporter of his local Library and Lion's Club, as well as other deserving programs in his community. Harold enjoys fishing on his boat and being a devoted uncle to his nieces and nephews.

And, speaking of devotion, for the first twenty-plus years of his career as a Municipal Clerk, Harold never, ever, missed a meeting of the Mayor and Council ---- a span of over 1,000 meetings! What dedication!!!

Our most sincere congratulations are extended to the 2010 Municipal Clerk of the Year:

HAROLD E. WIENER
Township Clerk of Irvington

SPOTLIGHT ON: MIDDLESEX COUNTY

21 Stories of Our Garden State; 21 Stories to say "We're Great"

Middlesex County, also known as the "Heart" of New Jersey, is located squarely in the center of New Jersey and stretches from the Rahway River south to Mercer and Monmouth Counties, and from Raritan Bay on the Atlantic Ocean west to Somerset County. The county is 318 square miles in size, has 25 municipalities which includes the City of New Brunswick, the seat of Middlesex County Government and includes extensive industrial, office, and residential areas.

Serving approximately 100,000 primary and secondary school students are 175 public schools, five County vocational-technical schools, and over 70 parochial and private schools. Middlesex County College, a two year education center for academic and technical training, was one of the first in the State. Graduate level studies are available at Rutgers, The State University of New Jersey. Located in Middlesex County are five main Rutgers campuses; Rutgers College, Cook College, Douglas College, Kilmer Campus, and the Busch Campus, Home of New Jersey College of Medicine and Dentistry. Adjacent to Cook College is the New Jersey Agricultural Experiment Station, a nationally recognized research center The Forrestal Campus of Princeton University is located in Middlesex County, with Princeton University's main campus nearby.



Middlesex County has been one of the fastest growing counties in the State, having an estimated population increase between 1970 and 1990 of 87,967 persons. Population is projected to increase to nearly 796,000 by the year 2010.

As population grows so must housing as evidenced by a 45.7% increase in housing units since 1970, including new homes and apartments. As of 1990, the county estimates that it now has 250,174 housing units. This is an average of 784 units per square miles. Firms relocating to Middlesex County bring jobs and people and offer the progressive developer various opportunities.

Middlesex County has five major hospitals with a total bed space of 1,900. They include John F. Kennedy Medical Center, Robert Wood Johnson University Hospital, Raritan Bay Medical Center (Old Bridge), Raritan Bay Medical Center (Perth Amboy), and St. Peter's University Hospital.

The Middlesex County Department of Parks and Recreation operates 18 county parks encompassing 6,600 acres. Thirteen of these parks contain active recreational facilities and five others are conservation areas or are being held for future recreational development. The County has acquired over 5,000 acres of open space through the Open Space Trust Fund, and an active farmland preservation program has preserved 3,400 acres. The Middlesex County Improvement Authority operates three golfing facilities: The 36 hole Tamarack Golf Course in East Brunswick, the Meadows at Middlesex in Plainsboro, and the Raritan Landing Golf Course in Piscataway.

County parks offer a wide range of excellent facilities, such as East Jersey Olde Towne, a collection of restored, reconstructed and replica buildings from the 18th and 19th centuries in Johnson Park. Popular programs are also featured, including "Plays-in-the-Park" series at the Stephen J. Capestro Theater in Roosevelt Park. There are also numerous private recreational complexes in the County, including golf centers and courses.

Among the historic sites that dot the county are the Cornelius Low House, which is an outstanding example of Georgian architecture and serves as the County museum, and the Edison Memorial State Park built on the site of Thomas Alva Edison's Menlo Park Library.

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

The advertisement is a vertical rectangular graphic. On the left side, the word "Webinars" is written vertically in a large, white, serif font. To its right, the text "Visit us online or call to sign up for our" is in a smaller, white, sans-serif font, followed by the word "FREE" in a large, bold, white, sans-serif font. On the right side, the text "Document Management Solutions" is in a bold, black, sans-serif font, with "powered by Laserfiche®" in a smaller, italicized, black, sans-serif font below it. At the bottom right, the text "GENERAL CODE" is in a bold, black, sans-serif font. At the very bottom, the phone number "800-836-8834" and the website "www.generalcode.com" are in a white, sans-serif font. The background features a grayscale image of a computer mouse and keyboard with a grid pattern.

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- Page 8: MCANJ Attorney Article by Richard Lustgarten**
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DEADLINES FOR NEWS ITEMS: The deadline for the July issue is June 4, 2011. 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: administrator@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 by the deadline specified.

the *Quill*
Editor - Jim Doherty
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