

The background of the cover is a photograph of a paved road curving through a landscape at sunset. The sky is filled with golden and orange clouds, and the sun is low on the horizon, creating a strong glow. The road is in the foreground, leading towards the horizon. The overall mood is warm and scenic.

# **nj** municipalities

Official Publication of the New Jersey State League of Municipalities

December 2014

## **Road Ready**

Pavement protection can prevent potholes—  
and save money

A Look Inside

**Creating Sustainability**

**Attracting Businesses &  
Improving School Facilities**

**Sheltering at the Library**

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## **Our Energy Bill Got a Lot Smaller**

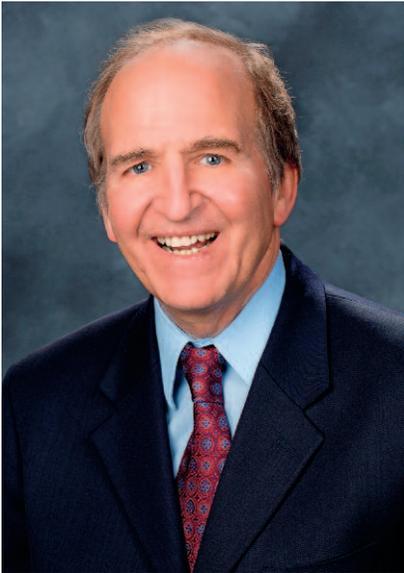
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Recover, restore, and rebuild after Hurricane Sandy. Visit [NJCleanEnergy.com/SANDY](http://NJCleanEnergy.com/SANDY) to learn about enhanced incentives for homeowners, government officials and business owners.





## Unfinished Business

**A**s the first half of the Legislature's two-year term draws to a close, we need to focus our attention on some unfinished bits of business that could be 'game changers' for you and your municipalities.

**Affordable Housing** With the Council on Affordable Housing's failure to adopt regulations and an appeal to the judiciary pending, New Jersey municipalities have no idea what they need to do to avoid the costs of litigation that could result in court ordered remedies.

What we also do not know is how, and if, the Legislature will, at long last, advance rational housing reforms. We hope to see action on initiatives that promote the provision of affordable housing, without imposing added burdens on municipal budgets.

**Public Employee Pensions and Benefits** With the publication of the final report of Governor Christie's Pension and Health Benefit Study Commission, the debate on further systemic reforms continues. We commend the Governor and the Commission for their attention to the problems underlying the state's funding crisis.

But we want to remind state policy-makers to appreciate the distinction between local commitments for local employees and retirees, and the commitments for those for whom the state is responsible. According to the experts, the local government Public Employees Retirement System (local PERS) and the local Police and Fire Retirement System (local PFRS) are actuarially sound. This is because municipalities and counties have made full employer contributions as required under the law for over a decade. Any further reforms should not address state government funding gaps by weakening the vitality of the local plans.

**Transportation Funding** Local officials know that investments in our rapidly deteriorating transportation infrastructure must be made. Failure to do so can compromise the safety of the public, the economic vitality of our communities and the security of our neighborhoods. We also know that the state's Transportation Trust Fund faces imminent insolvency.

In 2015, we will ask the Legislature to reauthorize the Transportation Trust Fund for the next 10 years, to increase Local Aid funding, and to increase the municipal share of Local Aid funding for all municipalities. 📌

“Some unfinished bits of legislative business could be ‘game changers’ for you and your municipalities.”



## 2014 Innovation in Governance Award Program

The New Jersey League of Municipalities continues to recognize Innovation in Governance through their annual awards program. The awards were presented as part of the Mayor Lunch and Executive Briefing Wednesday November 19 during the League of Municipalities Annual Conference in Atlantic City.

This award program was established to highlight exemplary local government programs that provide innovative and practical approaches to solving municipal problems and concerns. At the same time, we share these innovative approaches with municipal leaders throughout the state at the Annual New Jersey League of Municipalities Conference, and through the National League of Cities “Best Practices” database.

The 2014 judges included League Past Presidents Paul Matacera and Plainsboro Mayor Peter Cantu; and League Executive Director Bill Dressel.

The program was recently broadened to recognize any type of innovation undertaken by municipalities in the past two years. And the participants responded with a range of submissions that underscore the variety of challenges municipalities solve.

### Winners

- Highland Park . . . . . Park Partners Community Grant
- Princeton . . . . . The Princeton Consolidation

### Honorable Mention

- Howell Township . . . . . Town Hall Construction
- Morristown Town. . . . . Morristown Moving Forward:  
A Mobility & Community Form Plan
- Newark City. . . . . Mount Prospect Streetscape Improvements  
and Protected Bike Lane
- Roselle Borough . . . . . Community Stabilization by Managing  
and Monitoring Vacant and Abandoned  
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- Vernon Township . . . . . Video Conferencing 📺

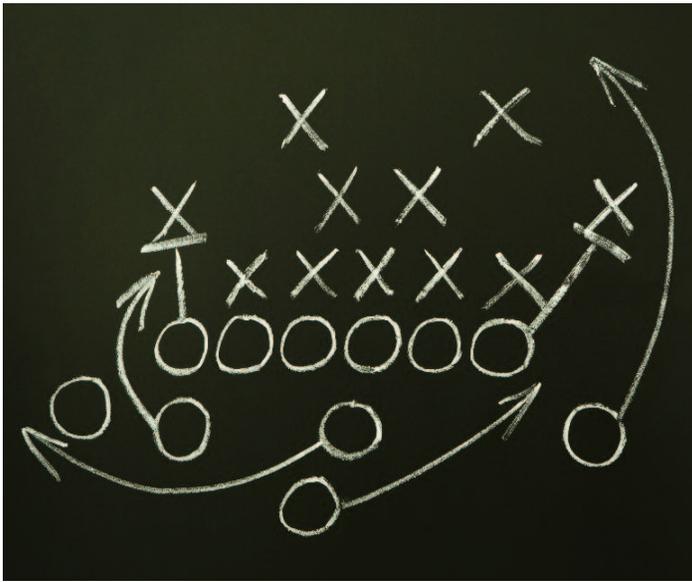
@ See full details at [njslom.org/hallfame.html](http://njslom.org/hallfame.html)

## Update on Raritan Valley Rail Line's One Seat Ride

Since the November 2014 publication of *Keeping the Train on Track*, by Fanwood Mayor Colleen Mahr, NJ TRANSIT officials announced their decision to postpone implementation of the one-seat service for the Raritan Valley Line on weekdays after 8 p.m. NJ TRANSIT officials said that a tight budget could not accommodate the extra \$600,000 in annual operating costs required for the direct evening trips.

Within a month of that announcement NJ TRANSIT declared that the after-8 PM one-seat ride will commence in January 2015.

According to Fanwood Mayor Colleen Mahr, “Although the delay is troubling, I am pleased that NJ TRANSIT made this a priority and found the funding so quickly. One expects there to be bumps in the road, but we still hold faith with NJ TRANSIT that they are committed to following through on the agreed timeline.” 📌



## Parking Fee Strategy

Rutgers University football fans who wish to park in Buccleuch Park during day games must now pay a fee to do so, following the approval of a resolution in the City of New Brunswick.

The resolution allows for a \$20 fee to be charged per car parked in Buccleuch Park during games that begin during the day.

Football game attendees who wish to park in one of the 480 spots available in Buccleuch Park will enter the park at two locations.

Free parking at a separate entrance will be maintained for the use of park visitors. Parking will be available on asphalted surfaces only and will not be permitted during night games.

The New Brunswick Parking Authority will staff the park on game days. Parking regulations will be enforced by the New Brunswick Police Department.

A committee was formed to examine the feasibility of this plan. This measure was taken due to the pressures of nearby paid parking areas, such as Johnson Park in Piscataway and several paid Rutgers University lots, causing an influx of game day attendees to Buccleuch Park in search of free parking.

Charging for the spaces would help to regulate some of that traffic and offset the cost of litter removal and park maintenance.

All money generated by Buccleuch Park football parking will be used on park-related matters.

Payment will be accepted via cash and credit card. RV's will not be permitted to park at any time. The rules of the park apply to all attendees and alcohol and open flame are not allowed. 🚫

@ For more information, please visit [cityofnewbrunswick.org](http://cityofnewbrunswick.org).

## Jersey City's Selfie Contest

Jersey City is inviting people to Instagram selfie's that show how they are enjoying the city. Possible prizes include a \$150 gift card to a Jersey City locally owned & based restaurant or local retail store and a Jersey City t-shirt and tote bag.



Entrants must:

- 1) Follow Jersey City's Instagram page: @JerseyCityNJ
- 2) Take an original selfie photo in front of a local place/landmark in Jersey City that inspires them 'to make Jersey City theirs' and include a brief caption that tells why the location inspires them.
- 3) Tag entry with @JerseyCityNJ and #JCMakeItYours

The contest also encourages people to take an additional selfie with a "Jersey City Make It Yours" ad in the background (on a billboard, in the PATH train, in a taxi cab, on the side of a bus, etc) and include the tags @JerseyCityNJ and #JCMakeItYours, to become eligible to win an additional \$100 gift card. 🚫

@ For full contest rules, please visit [jcmakeityours.com/rules](http://jcmakeityours.com/rules)

## Rebuilding on Sandy's Second Anniversary

Officials in Keansburg, New Jersey held a media conference on October 28 to launch a 29-hour home rebuild in Keansburg to commemorate the second anniversary of Superstorm Sandy and to raise awareness of the patience, strength and resiliency of the families that are still facing challenges.

Through an ongoing partnership between St. Bernard Project (SBP) and Farmers Insurance, volunteers will work 29 straight hours—from Tuesday October 28 to Wednesday, October 29—to help rebuild the damaged home of Hilton Dantas, a Keansburg resident.

“When Hurricane Sandy hit, we all came together to meet the challenges. Today we continue that commitment with fortitude,” said Keansburg Mayor Thomas Foley. “We are incredibly thankful for the St. Bernard Project and Farmers Insurance for recognizing our hard working community with their support.”



Photo Credit: Carrie B. Bonney — Farmers Insurance

To date, St. Bernard Project and their partners have rebuilt over 800 homes nationwide. The Project recruits and trains volunteers, provides skilled site managers and health services, and coordinates fundraising. 🐾



For more information about the Borough of Keansburg, visit [keansburgboro.com](http://keansburgboro.com).



## Fur Alert Helps Bring Pets Home

Berlin’s “Fur Alert” is like an Amber Alert for pets. Dog and cat owners in Berlin can report lost and found pets immediately to the Township Animal Control Officer via a form on the township’s website. The Animal Control Officer will then post this information directly on the township’s website. This service will make it easier to locate lost pets and relieve emotional stress felt by families. The township also anticipates savings, as a quick return of lost pets will help reduce shelter costs. 🐾



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## Bloomington's Vacant Property Ordinance

**B**loomington recently passed an ordinance governing the maintenance of vacant and abandoned properties. Vacant properties can become unattractive and fall into disrepair. As a result, staff must spend time seeking out the property's owner to fix the building's condition.

Based on a report published by the National Vacant Properties Campaign, the expense of vacant properties increases every year in which a property remains vacant. A vacant property produces minimal tax ratables, requires funding to provide nuisance abatement, can lead to an increase in crime and fire risks, and an overall decrease in neighborhood property values.

Bloomington requires owners of vacant buildings to file a registration within 30 days of a vacancy, and to refile each year for as long as the property remains unoccupied. Upon the request of the borough's Construction Official, access to the inside of the property must be provided for inspections if a complaint is received. The cost of this inspection is equivalent to the inspection required for a Continued Certificate of Occupancy. In addition, upon vacancy the property's owners are required to post a sign inside the property that lists the person responsible for day to day supervision. Owners are required to keep up with regular yard and exterior maintenance and to forward mail. 📌

## Pre-Black Friday Limits in Watchung

**P**re-Black Friday has become a retail trend over the last several years that does not show any signs of decelerating. As Black Friday promotions and kickoffs creep earlier and earlier, many retailers have decided to open during prime Thanksgiving dinner hours. In 2012 Watchung passed an ordinance to prohibit retailers from opening between the hours of 10pm and 12pm on Thanksgiving. Although the borough faced much opposition at the time of the ordinance's implementation, borough officials are confident that the employees of the retail stores appreciate the movement. The ordinance was passed to deter retailers from opening to the public on Thanksgiving night to preserve public safety, health and welfare, to mitigate adverse impacts of traffic, to deter overcrowding of retail stores and to prevent accidents and unsafe conditions. 📌



### Randolph Parks & Recreation

## Cancellation Alerts

**T**he Randolph Township Department of Parks & Recreation uses its website to post announcements related to field closings, activity cancellations and similar alerts. This information may also be obtained by calling the "Recreation Hotline" at 1.866.802.0837. 📌



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## Montclair's Main Street in the Top 10

The Montclair Center Business Improvement District, a nonprofit that works to bolster and promote the township's downtown district, has been named one of 10 semifinalists for the National Main Street Center's Great American Main Street Award (GAMSA) ([preservation-nation.org/main-street/about-main-street/](http://preservation-nation.org/main-street/about-main-street/)).

If Montclair wins the award, it'll be only the second New Jersey town to do so in the award's 18-year history.

"An award like this says that downtown Montclair is going places," said Luther Flurry, the executive director of Montclair BID.

If Montclair wins the award, it'll be only the second New Jersey town to do so in the award's 18-year history.

"It'd help us take one more step toward being the best downtown we can be." He also said he thought winning would be "a really cool thing" for the state, which hasn't had a winner since Westfield picked up the honor in 2004.

According to the National Main Street Center, GAMSAs are given to communities exemplifying the use of the "Main Street Approach to revitalize their downtown business districts. The approach focuses on local cultural, architectural, and business assets, as well as community pride, to bolster economic development.

"We have a jury of outside expert panelists who generally choose [ten semifinalists and from that] three winners each year from the pool of applicants," Steve Amraen, an associate manager at the National Main Street Center, said. "The number of applicants and where they are from really fluctuates, so winners really depend on the different applicant pool each year."

The Center plans to announce the 2015 winners at its annual conference happening in March.

The Montclair Center BID formed in 2002 with the aim of revitalizing its downtown. Though this award would be the first national recognition for the organization and the downtown area, it is no stranger to awards. Earlier this year, the ArtPride New Jersey Foundation named Montclair the JerseyArts.com favorite downtown arts district in the state, and last year the American Planning Association-New Jersey Chapter named Montclair a Great NJ Downtown. 📍

## Tobacco Purchasers Must Be 21

Englewood became the first municipality in New Jersey to limit the sale of tobacco and nicotine products to those 21 years of age and older in July. The city felt that raising the minimum age is in the best interest of its younger residents. The ordinance recognizes the dangers and health risks associated with teenage smoking (according to studies conducted by the United States Department of Health and the American Cancer Society). 📍

## Fort Lee Crosswalk Sting Operation



On October 31, Fort Lee held "Cops in the Crosswalk" to promote pedestrian safety to area drivers and residents. During the program a plain clothes officer legally crossed the street, while uniformed colleagues watched nearby. The uniformed officers issued summons to motorists who failed to yield. The police department hopes that holding this program will increase compliance with the motoring traffic rules, as motorists are required by state law to yield to pedestrians in crosswalks. In 2013, 42 pedestrians were struck by vehicles in the borough. Another goal of the department's October program was to prevent accidents on Halloween night. By increasing awareness the department hopes to decrease the number of accidents that involve pedestrians. 📍

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If your community has a unique program or story, write to Taran B. Samhammer c/o The League of Municipalities, 222 West State Street, Trenton, NJ 08608 or via email at [tsamhammer@NJSLOM.org](mailto:tsamhammer@NJSLOM.org).



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# Roadway Micro-Surfacing

Timely action can provide a bigger bang for your bucks

By Peter Rustin, Mayor, Tenafly  
& Roger Fyfe, Mayor, Montvale,  
Bergen County

keep up with repairs and replacement. Since most municipalities have a realistic limit to road program funding, they can't afford to continually perform full milling and paving on every street. There are just too many roadways and the process is too costly, so we decided to investigate alternatives to just filling potholes and sealing cracks. What we discovered was a procedure called micro-surfacing.

At first we were skeptical, because micro-surfacing (or micro-paving) seemed too good to be true. Our Borough Engineer, Maser Consulting's Andrew Hipolit, P.E., had worked with Summit DPW Superintendent Paul Cascais and also New Providence DPW Superintendent Jim Johnston to integrate micro-surfacing into their maintenance plans for about 10 years. We decided to try it in our towns, Tenafly and Montvale. After testing this product on a few roadways, we felt it was worthwhile. We've since used it on about 20 roadways between our two towns.

What is Micro-surfacing? Micro-surfacing is the process of applying a thin asphalt coating that adheres to the existing roadway surface. Unlike driveway sealer which has no thickness, micro-surfacing is emulsified asphalt with a ¼" lift, or thickness. Sealing the road in this manner helps prevent water and frost from penetrating through the pavement surface where freeze and thaw causes damage to the road. This process enables the road surface to withstand significant temperature variations.

Micro-surfacing can significantly forestall the need for milling and paving.

Once the condition of a roadway has deteriorated beyond 30 percent from its original surface condition it is no longer manageable and needs to be milled and paved or reconstructed. However the good news is that, if micro-surfacing can be performed before the road surface reaches that 30 percent benchmark, it can significantly forestall the need for milling and paving. Having the ability to apply a more cost effective method of saving the road surfaces, within the bounds of this percentage of degradation, provides an option we didn't have previously. Significantly reducing the need for milling and paving can save a community from issuing additional bonding and incurring more debt.

**Costs** Performing a full milling and re-paving process to an average suburban municipal roadway costs about \$250,000 and lasts between 10 and 20 years. Micro-surfacing the same



Roadway repair and maintenance is a never ending problem. Many roadways in the northern New Jersey counties are showing their age after nearly 100 years of use. And, as a result of our high traffic volume and harsh winters, the roadways are showing more deterioration than usual. All of these factors combined with rising costs, are making it more difficult to

## Roadway Micro-Surfacing



Micro-surface asphalt slurry being applied



Micro-surfacing application begins after roadway sweeping.



Micro-surfacing is the process of applying a thin asphalt coating that adheres to the existing roadway surface. Unlike driveway sealer which has no thickness, micro-surfacing is emulsified asphalt with a 1/4" lift, or thickness.

road costs about \$20,000 and lasts five to eight years. Being pro-active and adding micro-surfacing to your maintenance schedule (pothole repair and crack sealing), enables you to address as many streets as possible, and can buy you desperately needed time between more costly milling and paving.

The average cost of milling and paving roads costs about \$13/sq. yd. Micro-surfacing costs about \$3/sq. yard and includes patching potholes and sealing cracks. Think of it this way, you could micro-pave the same roads three times for about a quarter of the cost of one mill and pave, over the same period of time. With numbers like that, how can you not afford to take advantage?

Integrating this method into your roadway maintenance plan will help you to control costs.

**How to Proceed** Montvale DPW Superintendent, Rich Campanelli and the borough engineer performed a Pavement Management Study to evaluate the condition of every road. In Tenafly, Robert Culvert, the Director of Public Works and Parks Department and the Borough engineer performed the same kind of study for paving inspection and repair. In both boroughs, once the roadway conditions were identified, they determined which roads meet the criteria for micro-surfacing, other types of patching or full milling and paving and develop cost estimates for presentation to council. This evaluation and process can also be extended to public parking lots and walkways.

While micro-surfacing isn't an end-all fix to roadway maintenance, it can significantly extend the life of a road surface if applied at the right stage of deterioration. Integrating this method into your roadway maintenance plan will extend the life of your roads while helping you to control costs. 🍂

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# Potholes Are Preventable

Rutgers' Pavement Resource Program offers materials and management solutions to help preserve New Jersey's roads

By Carissa Sestito, Rutgers' Center for Advanced Infrastructure and Transportation (CAIT)

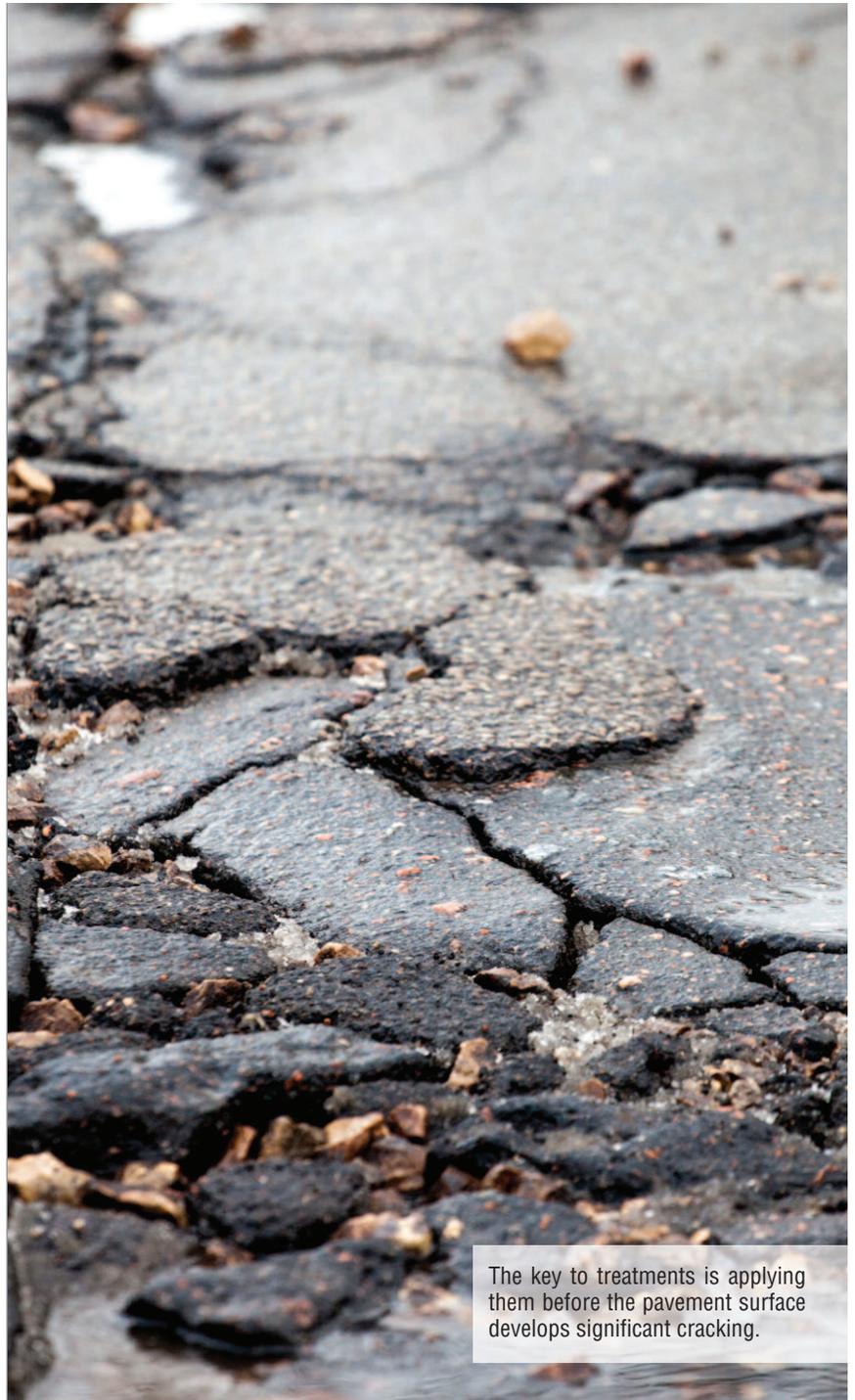
**O** rion. Maximus. Pax. Nika. New Jersey's 2014 winter storms sounded more like names from a Greek drama than a concentrated series of heavy snow events. And municipal leaders know that the story doesn't end once a storm moves out to sea. After the roads have been cleared of snow and ice, it's time to fix epic potholes.

Contrary to popular belief, the salt-brine deicing solution used in New Jersey does not play a significant role in the creation of potholes. The two main pavement-destroying culprits are actually water and ice.

**The Birth of a Pothole** In the winter, water from melted ice and snow seeps into cracks within and between the asphalt pavement layers. When the temperature drops, that water refreezes and expands beneath the surface. Pressure caused by this expansion eventually begins to separate and weaken asphalt layers and diminish their load-bearing capacity. As vehicles continue to pound the roadway, these weakened areas become larger and deeper.

When spring arrives, rising temperatures thaw and soften the ground, diminishing its ability to support the pavement structure. This loss of support causes asphalt layers already weakened by winter's freeze-thaw cycles to collapse, leaving the craters we're all familiar with.

**Preventing Weather Damage** The Pavement Resource Program (PRP) at Rutgers' Center for Advanced Infrastructure and Transportation (CAIT) researches advanced materials that improve roadway resilience and performance. PRP program Director Dr. Tom Bennert studies asphalt surfaces and preventative maintenance treatments



The key to treatments is applying them before the pavement surface develops significant cracking.

that mitigate the damaging effects of weather. Pavement preservation practices, developed with support from NJDOT, can seal pavements so water and contaminants can't infiltrate the spaces within and between the layers.

"We've created a number of pavement materials for NJDOT to help prevent weather damage. One of these is a High Performance Thin Overlay (HPTO) that is placed over a pavement surface. We've

deck and corroding steel rebars under the surface," Bennert said. "The state adheres to a strict pavement preservation treatment schedule, so you may notice that an area of pavement that just had some major work done on it is being worked on again every few months or so."

PRP senior pavement researcher Dr. Nick Vitillo says, "The key to treatments is applying them before the pavement surface develops significant cracking."

"Pavement preservation costs about 60 percent less than traditional rehabilitation methods if treatments are applied to roads that don't already have significant

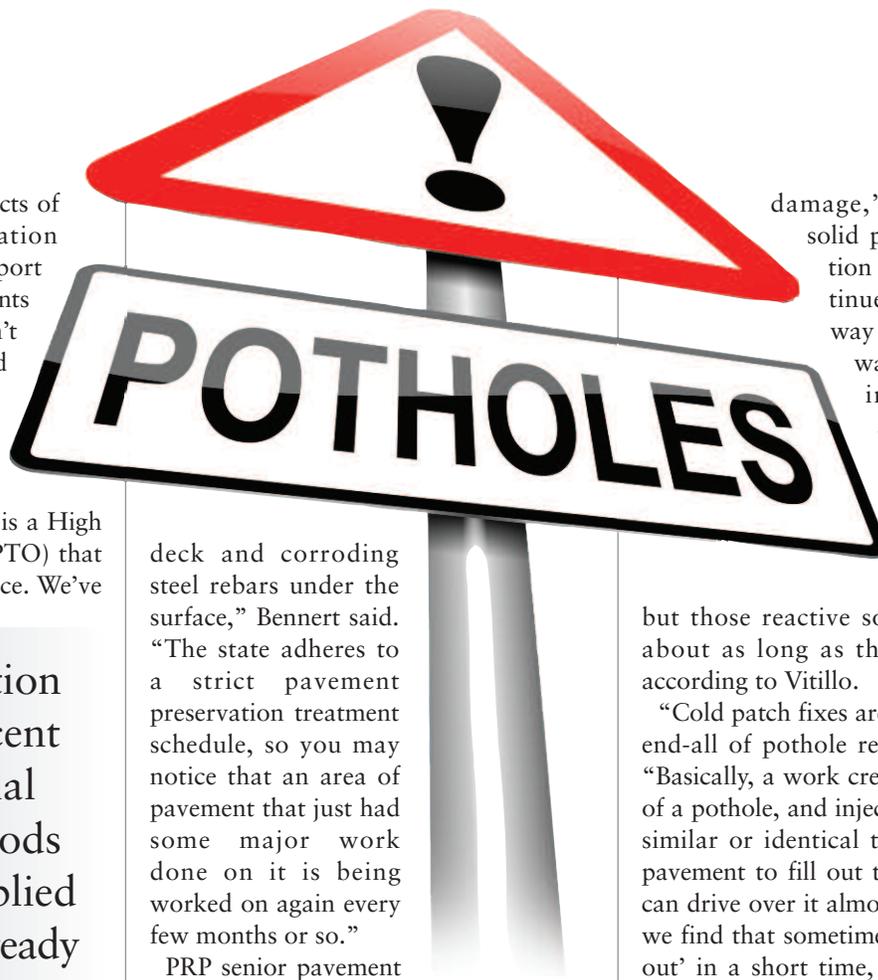
damage," Vitillo said. "A solid pavement preservation schedule will continue to seal the roadway surface, preventing water from penetrating the pavement structure."

Quick fixes—like cold-patch repairs—can even out roadway surfaces,

but those reactive solutions often last about as long as they take to apply, according to Vitillo.

"Cold patch fixes are not the be-all and end-all of pothole repair," Vitillo said. "Basically, a work crew will visit the site of a pothole, and inject an aggregate mix similar or identical to the surrounding pavement to fill out the pothole. Traffic can drive over it almost immediately, but we find that sometimes these mixes 'pop out' in a short time, requiring the pothole be refilled. It's a great temporary fix, but it's just that: temporary."

More permanent management solutions are essential to keeping New Jersey's roadways healthy and pothole-free. Part of that solution, Vitillo says, is understanding and categorizing roadway conditions in real-time.



Pavement preservation costs about 60 percent less than traditional rehabilitation methods if treatments are applied to roads that don't already have significant damage.

also created a protective material for bridge deck concrete, called Bridge Deck Waterproofing Surface Course (BDWSC), which NJDOT uses to prevent salt and water from getting into the

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**Pothole Maintenance Software** CAIT shares the pavement advancements it develops with NJDOT with municipal and county agencies. The center also works with local agencies on road materials and management. The pavement management system (PMS) developed by Vitillo's team under the direction of NJDOT, is a data analysis and

software package that categorizes pavement condition, repair schedules, and preservation and maintenance treatments and can be tailored to individual municipalities—like the PMS CAIT developed for Woodbridge, New Jersey.

Woodbridge engineer Scott Lee Thompson met with Vitillo and PRP pavement researcher Carl Rascoe to

conduct an inventory of 248 centerline miles of roadway within limits of the state's sixth largest city.

"I came to work in Woodbridge Township as the municipal engineer in January 2004. At that time, the number one complaint from residents was the condition of our roads," Thompson explained, adding that in 2006—under the direction of Mayor John E. McCormac—the township modified its "default" road restoration mechanism from total road reconstruction to less costly milling and paving repairs.

"We had been running the same basic road maintenance program for years and ... [the PMS has helped us make a] huge leap in prioritizing projects. We have a lot more information at our fingertips to make decisions, and we use that system to present more organized information on what we were doing with road maintenance to residents."

**Budgeting** Planning assistance is only one advantage of the PMS, Thompson said. It also has helped Woodbridge craft its roadway maintenance budgets by automatically identifying roadways in need of major repairs and those for which a little investment can go a long way.

"Through the PMS we have been able to stretch our road maintenance budget to improve many more roads in [Woodbridge]," Thompson said. "That, in and of itself, has helped to reduce the number of potholes. In the long run, it's going to be a huge boost for our road conditions overall."

CAIT is dedicated to conducting research and sharing technology with state and local agencies to improve New Jersey's roadways. CAIT's PRP team shares its knowledge and experience in training sessions, conferences, and technical meetings for municipal administrators and county officials, such as the New Jersey League of Municipalities, National Association of County Engineers, the Mid-Atlantic Quality Assurance Workshop, and the Rutgers Annual Asphalt Paving Conference. ♣

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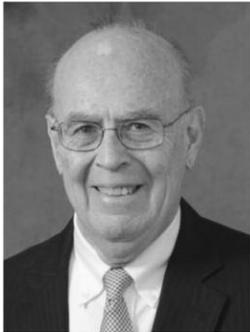
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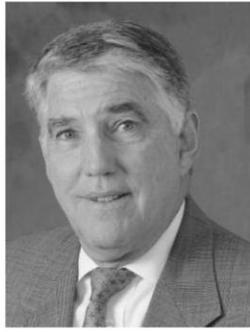
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# Replenish the Transportation Trust Fund

By Timothy C. McDonough, Mayor, Hope; Chair, NJLM Transportation Trust Fund Committee; NJLM Past President & Robert Jackson, Mayor; Montclair

Just last year, the American Society of Civil Engineers reported that 651 of the 6,554 bridges in New Jersey (9.9%) are considered structurally deficient and 1,717 (26.2%) are considered functionally obsolete. That report also estimated that driving on roads in need of repair costs New Jersey motorists \$3.476 billion a year in extra vehicle repairs and operating costs—\$601 per motorist. And well over half—66 percent—of our state’s roads were deemed to be in poor or mediocre condition.

The State Department of Transportation (DOT) reports that New Jersey’s municipalities are responsible for 64 percent (28,539 center line road miles) of our roads and the counties for another 22 percent (6,649 center line road miles). Local governments are responsible, as well, for 39 percent of our bridges. Local roadways and bridges carry about 55 percent of all traffic.

Failure to invest in these assets will compromise the safety of the public, the economic vitality of our communities and the security of our neighborhoods. Consequently, the League has been involved in transportation funding debates for several decades, particularly in support of Local Aid.

**Failure to invest in these assets will compromise the safety of the public, the economic vitality of our communities and the security of our neighborhoods.**

State assistance through NJ DOT’s Local Aid program helps fund critical improvements and relieves some of the property tax burden for residents. Annually, \$190 million from the Transportation Trust Fund is allocated to municipalities and counties for local transportation improvements. Approximately 100 county highway and bridge projects are funded each year, as well as hundreds of municipal road improvements, such as resurfacing, rehabilitation or reconstruction and signalization. Typically, more than 400 municipalities receive funding each year.

The Local Aid program also provides state and federal funds for special local projects to improve safety, for safe pedestrian and bike routes, for town centers, transit villages and other non-traditional transportation enhancements. The local aid funding

provided by the NJDOT and FHWA results in significant savings for counties and municipalities, and provides an alternative to the use of property taxes alone to improve local transportation. These projects, it must be noted, put people to work. This is always important to our state’s economic health; but never more so than now, as we continue to rise from the recession.

As we see it, the key funding challenges are to:

- reauthorize the Transportation Trust Fund to ensure adequate and reliable funding to meet state and local transportation infrastructure funding needs for the next 10 years;
- increase Local Aid funding to ensure adequate and reliable funding to meet all local transportation infrastructure needs; and
- boost the municipal share of Local Aid funding and ensure fair funding for all municipalities.

In the first year of the Transportation Trust Fund (FY 1985), Local Aid funding represented almost 22 percent of total Transportation capital funding. By FY 1997, Local Aid was down to 16 percent. By FY 2004, we were down to 12 percent. In FY 2013, Local Aid represented 15 percent of the total. Average Local Aid funding over the first 29 years was just under 15 percent.

The need for investments in local roads and bridges has not decreased since 1985. No one has suggested that it will decrease in the future. So we are calling for assurances that Local Aid will represent, at a minimum, 25 percent of annual Transportation Capital spending. And we will call for adjustments in funding to account for the effects of inflation.

But first, we need to focus on the initial challenge. The Transportation Trust Fund needs to be replenished, so it can meet state and local needs, now and in the future. For that reason, the League of Municipalities has joined the “Forward New Jersey” coalition. We are anxious to assist any and all efforts to revitalize the Transportation Trust Fund.

We welcome all efforts to prioritize New Jersey’s transportation funding, and to put our state’s economic future on solid footing. Without bold action on this matter, New Jersey cannot move forward. ♣

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*This article is based on testimony presented by Timothy C. McDonough, Mayor of Hope Township, League Past President and chair of the NJLM Transportation Trust Fund Review Committee and Robert Jackson, Mayor of Montclair before the Assembly Transportation and Independent Authorities Committee on September 24.*



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# Celebrating Sustainability

Careful planning will preserve West Windsor's quality of life for generations to come

By Shing-Fu Hsueh, Mayor, West Windsor



I'm proud to report that in West Windsor we have managed to preserve more than half our land for open space. Visitors to our 27-square-mile community of approximately 28,000 are greeted by expansive parklands, farms, greenbelts and well-landscaped homes and businesses. Our trees and community forests contribute to this impression. However, our focus on preserving open space is just one element of West Windsor's commitment to sustainability.

Sustainability, as described by the American Planning Association, is “the capability to equitably meet the vital human needs of the present without compromising the ability of future generations to meet their own needs by preserving and protecting the area’s ecosystems and natural resources. The concept of sustainability describes a condition in which human use of natural resources, required for the continuation of life, is in balance with nature’s ability to replenish them.” As elected officials we must emphasize sustainability in the decisions we make on behalf of the citizens of today—and the future. Once you begin to consider the role of government in this light, everything relates to sustainably, including issues like housing, health care and economic development.

**Emphasizing Sustainability** The West Windsor Sustainability Plan (WWSP) 2007 document, the basis of our Master Plan Sustainability Element, began within the township’s Environmental Commission. The township subsequently applied for a grant from the Association of New Jersey Environmental Commissions (ANJEC) to hire a consultant to assist in this endeavor. Numerous meetings of the Environmental Commission furthered the plan’s concept and content. The result was a draft framework of sustainable development (goals, objectives, indicators, targets, strategies and actions). In addition, a public outreach meeting was held on November 17, 2005 both to inform residents about the plan and to solicit their input on a draft framework.

The final WWSP 2007 was produced by Rutgers University, Edward J. Bloustein School of Planning and Public Policy, with funding from the Smart Future Grant Program, which is administered by the New Jersey Department of Community Affairs, Office of Smart Growth.

As elected officials we must emphasize sustainability in the decisions we make on behalf of the citizens of today—and the future.

The plan also supports initiatives that go beyond preserving open space and the environment, to include other measures of community well being. As defined in our Master Plan, an “environmentally



(Left to right) Assistant DEP Commissioner Rich Boornazian, West Windsor Mayor Shing-Fu Hsueh, and State Forester Lynn Fleming plant a tree at the Ron Rogers Arboretum in West Windsor in Celebration of the 65th Anniversary of State Arbor Day.

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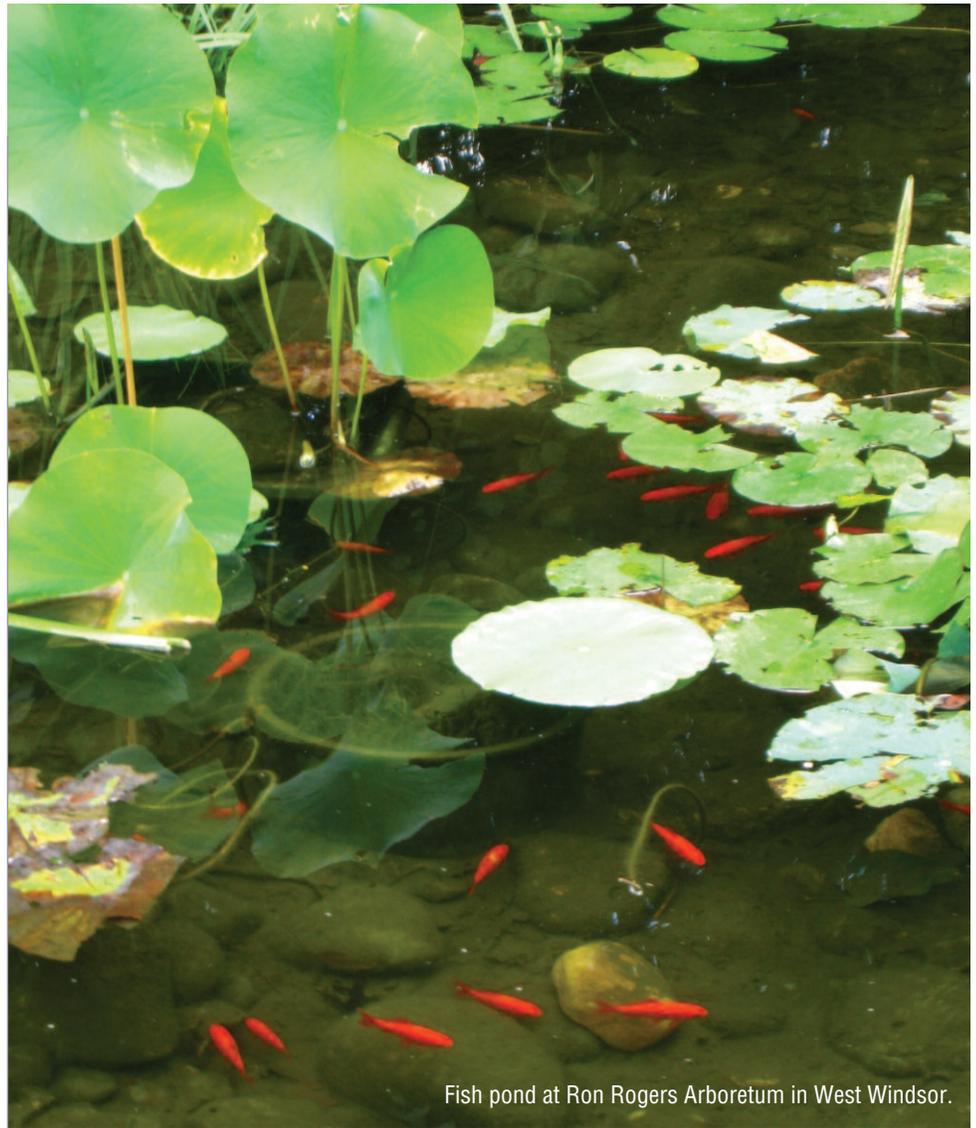
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## Celebrating Sustainability

sustainable community is one that manages and stewards its natural resources and environmental assets such that their value is preserved, restored and enhanced for the present and future generations and in which such stewardship complements the community's efforts to foster economic and social health."

Since our efforts began over a decade ago, West Windsor has accomplished several key sustainability goals, including the following.

- In 2002, we were recognized as the first Green Town USA in New Jersey, because of our comprehensive and progressive environmental programs. Green Town USA is a grass roots movement, which rewards local towns for their efforts at improving air and water quality in New Jersey. Criteria for Green Town were established by the Environmental Education Fund and NJ Environmental Lobby in cooperation with the Association of New Jersey Environmental Commissions.
- In 2004, the West Windsor Community Farmers Market began providing locally sourced and minimally packaged, healthy food; the market was voted #1 in New Jersey by American Farmland Trust's "Americas Favorite Farmers Market" in 2012.



Fish pond at Ron Rogers Arboretum in West Windsor.



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- We adopted a Bicycle/Pedestrian Safety Plan in 2004 to keep those who exercise and use environmentally friendly travel safe.
- In 2007, West Windsor received one of the few AAA bond ratings from Standard & Poor's for meeting sustainable financial goals.
- In 2008, the township reconstructed the Alexander Railroad Bridge.
- The Grovers Mill Pond (27 acres) clean-up was completed in 2009.
- An adaptive reuse of a small firehouse constructed in 1921 provided a home for visual and performing arts organizations at the West Windsor Arts Foundation, beginning in 2009.

As a result of many of these efforts, West Windsor received the highest level recognition (silver) from Sustainable Jersey in 2010 and 2013. We were also the first town in New Jersey recognized by

the League of American Bicyclists with a bronze level award as a Bicycle Friendly Community in 2011. In 2012, West Windsor was designated a “Transit Village” by the New Jersey Department of Transportation. In addition, our municipal website was named one of the best for ease of use and the third overall best website in a Monmouth University study of 540 New Jersey municipal websites. Effective websites promote sustainability by saving paper, trips to town hall and staffing resources, among other resources.

In addition to these accomplishments, West Windsor Township has employed numerous techniques with road and sidewalk projects. To better manage stormwater when adding bike lanes, sidewalks, roads and parking; we’ve used underground cisterns, porous cement, and porous asphalt. Recently, the West Windsor Parking Authority opened a 600-space parking lot on a former brownfield, the township’s compost property.

**Celebrating Our Accomplishments**  
This year, for the 65th anniversary of

Arbor Day in New Jersey, the Department of Environmental Protection and the New Jersey Community Forestry Council in collaboration with West Windsor celebrated by planting trees at the Ronald R. Rogers Arboretum. I took great pride in announcing that the National Arbor Day Foundation had named West Windsor for the 35th year, a Tree City USA—one of three municipalities being given this top honor in New Jersey. As a sustainable community, we’re committed to conservation and preservation to enhance our quality of life. ♻️

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# The Woodbridge Township Improvement PILOTs

Improving playing fields and other district amenities that can be enjoyed by all members of the community

By John E. McCormac, Mayor,  
Woodbridge Township



Woodbridge Mayor John McCormac talks with students during the groundbreaking for the first official cricket fields in the township at Avenel Middle School.

**T**he Township of Woodbridge and the Woodbridge Board of Education have entered into a joint venture to rebuild, renovate, or refurbish dozens of community facilities and multi-use athletic fields on school properties throughout the township. The project represents an unprecedented level of cooperation between a municipality and a school district in the State of New Jersey.

**The Woodbridge Township School District Facilities Improvement Project** Woodbridge has been aggressive in attracting new businesses to the township through the use of a tax incentive program called a “PILOT” (Payment In Lieu Of Taxes). A PILOT is an economic development tool that is employed to encourage development of blighted areas that would otherwise remain unproductive. These areas are also a burden on municipalities because they do not generate revenue

or economic benefit. Such areas can be unproductive due to contamination, access restrictions, soil characteristics or other physical constraints that render the property unusable without assistance from various levels of government. Redevelopment projects in Woodbridge are returning fallow land (commonly called brownfields) and dilapidated buildings to productive use, bringing hundreds of jobs and visitors and patrons to our local businesses.



Woodbridge Mayor John McCormac and Superintendent of Schools Dr. Robert Zega show the plans for a new stadium and field house at Woodbridge High School.

A total of \$16.84 million in two bond ordinances was dedicated to more than 40 community-related projects on school properties.

**How PILOTs Work** Under basic taxation, a typical Woodbridge home or business would have their tax bill divided four ways:

- less than 25 percent to the township;
- nearly 60 percent to the Board of Education;
- the rest split between Middlesex County and the local fire district.

Under a PILOT program, the tax bill is reduced by around 20 percent to attract the company to Woodbridge and the reduced payment is split (by statute) with 95 percent going to the township and 5 percent to the county.

Some would argue that PILOTs are unfair to the Board of Education; how-

ever, such a premise is inherently untrue. First, new warehouses and retail centers do not cause any burden whatsoever on the school system. It is residential development that generates additional school children. Second, the Board of Education is limited annually by a state mandated CAP on how much its annual budget can increase regardless of its

annual tax base—so an increase or decrease in the tax base does not impact the Board's spending capacity.

In Woodbridge, not only is the school district not hurt by PILOTs, they benefit because of our unique partnership with the Board of Education. Our township has long had a policy of sharing PILOT funds with our education partners. Beginning in 2006, we began attracting significantly more international, national and regional corporations and businesses to Woodbridge—in large part due to our business-friendly environment and strategic location.

**Revenue Sharing** We developed an unofficial policy of sharing 25 percent of PILOT revenue every year to meet the various needs of the school district. This revenue sharing could take two forms. Under the first option, we could simply take 25 percent of each year's PILOT revenue and write a check to the Board of Education and let them invest in their buildings and grounds (which would result in minimal improvements every year). The other option was to pass a Bond Ordinance to achieve a large-scale investment in the school district and to borrow the funds to make those expenditures using the annual 25 percent pay-



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## Woodbridge's Improvement Project

ment to pay debt service on the borrowing—this plan allows for many more significant projects to be accomplished on an accelerated time table.

After consultation with the school district as new projects came to fruition, the Township and district consistently chose the latter. And, as bond funding was used to make the investments, the township's annual contribution to pay debt service could only be for projects which have a community benefit. We are quite simply prohibited from paying for general improvements to district buildings and



In the last eight years, the township funded and built the turf football field at Woodbridge High School; a multi-purpose athletic track; tennis courts and field lights at Colonia High School; tennis courts and field lighting at John F. Kennedy Memorial High School.

grounds. The township's investment must benefit not only the school district but every resident of Woodbridge.

In the last eight years, the township funded and built the turf football field at Woodbridge High School; a multi-purpose athletic track; tennis courts and field lights at Colonia High School; tennis courts and field lighting at John F. Kennedy Memorial High School. These and many other projects were paid for with bond funding derived from revenue from industrial development PILOT agreements.

In October of 2013 and January of 2014, the township and school board expanded the School District Facilities Project program. A total of \$16.84 million in two bond ordinances was dedicated to more than 40 community-related projects on school properties. Multi-use turf football/soccer fields have been installed at Colonia and JFK High Schools, with turf baseball and softball fields on the drawing board for 2015. JFK High School secured a new girls Varsity softball field and can now host home games for the first time ever. Woodbridge High School added two new tennis courts, with the existing three courts resurfaced so the boys and girls tennis teams can host home matches for the first time in years. And, the JFK High School boys and girls track teams sport a new 8-lane running track and are able to host home track

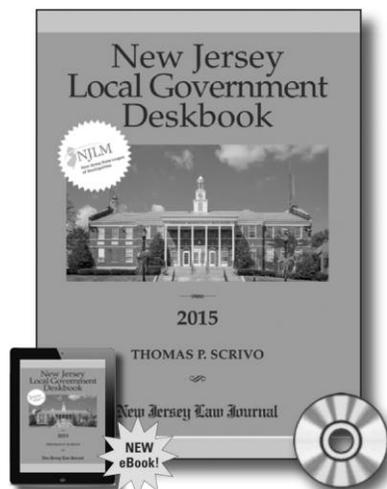
meets for the first time in six years.

Auditorium seating was installed at Woodbridge and JFK High Schools. Bleachers were installed at Woodbridge and Colonia High Schools. The Theatre at Woodbridge Middle School received new seating, a professional sound and acoustic system, making the theater a true performance venue for school and community theater groups. The last five elementary schools (of our 16 elementary schools) without playgrounds got new playgrounds. Basketball courts and walking tracks were installed at seven other elementary schools. New paving and the cleaned-up of the parking lots at JFK and Colonia High Schools was funded, as well as parking upgrades and improvements to Avenel Middle School's soccer and baseball fields. The first official cricket fields in the township round out the improvements at Avenel Middle School.

All of these projects and infrastructure improvements—along with several others still on the drawing board—will be funded via seven new township economic development projects which include:

- a new Amazon.com warehouse in Avenel;
- a second new warehouse in the Prologis complex in Port Reading to be followed by two more Prologis warehouses in the coming year;
- a new Preferred Freezer warehouse and distribution center under construction in Avenel;

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Twenty-five percent of the PILOT funds represent nearly \$2 million annually, which can easily support a total investment of over \$20 million—meaning that even more can be done for the school district on top of the \$16.84 million already dedicated.

- Arizona Iced Teas is constructing a new manufacturing facility in Fords; and,
- the CPV power plant will be on-line within 18 months on the Keasbey waterfront.

In total, these projects are expected to produce nearly \$7 million in PILOT revenue at the outset, and that figure will increase each year. Twenty-five percent of the PILOT funds represent nearly \$2 million annually, which can easily support a total investment of over \$20 million—meaning that even more can be done for the school district on top of the \$16.84 million already dedicated. The remaining 75 percent of the PILOT funds from these projects will be allocated to the township budget for tax stabilization and for township needs such as road paving, park upgrades, and municipal infrastructure improvements.

**What About Academics?** An oft-cited criticism of the plan has been that the academic needs of the school district overshadow the need for refurbished or new school infrastructure or sports-related facilities. First, the township cannot pay for academic items. Second, the township's commitment to pay for community facilities takes the requirement to do the improvements out of the annual school budget, thus leaving more money for academics, classroom expenditures and curriculum improvements.

**Community Curb Appeal** Another incredibly important consideration is the “curb appeal” that new and/or renovated facilities have on the image of our

school system and overall reputation. The first and most important question asked by families looking to settle in Woodbridge is... “How good is the school system?” If the school is unattractive with unmaintained grounds and a building that is in disrepair, they will drive right by and go to another community. If the school and the grounds look good and they see a new playground, basketball court, walking track, and paved parking lots and sidewalks, they will most likely take the next step to visit the school.

The Woodbridge school district, under the leadership of Dr. Robert Zega, has

had a resurgence, both physically and operationally. Our students are the talk of Middlesex County and of the State of New Jersey. Everyone asks how we did it, and now they know. The recipe for success is simple. Cooperation without egos and a realization that we are all here for the same reason—improving the quality of life for everyone in Woodbridge Township including our most precious resource—our children.

By using PILOTS to attract new businesses and to upgrade facilities that benefit both the school district and the community, we are making Woodbridge a better town for everyone. 🇯🇵



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# GOLD DOME

## Waiting in the Wings

By Ben Dworkin, Assistant Professor  
of Political Science (Adjunct);  
Director of the Rebovich Institute  
for NJ Politics at Rider University

**M**ultiple candidates, angling to be the next Governor, are waiting in the wings for Chris Christie's departure. Since it may come soon, given his presidential ambitions, the positioning among potential successors is aggressive, even at this early stage.

On the Republican side, one potential candidate is Jon Bramnick, the Republican leader in the state Assembly. He's smart, disciplined and popular in his caucus, which gives him a network of supporters across the state.

In a primary, a likely opponent will be Lt. Governor Kim Guadagno. Though many voters still don't know her, don't underestimate this former Assistant U.S. Attorney. As a woman, she'll be instantly distinguished from the other candidates.

If Christie leaves early, Guadagno would become the most powerful governor in the nation. It would also make it very tough—especially for a party that often faces a persistent and significant gender gap—for Republicans to discard a sitting female governor who was a loyal foot soldier for Christie.

Guadagno could also enhance her gubernatorial ambitions by finding solutions where Christie could not, perhaps on funding the state's pension system. She could show that “women govern differently than the state's old boy network.” This could make her a new favorite among moderate Republicans, independents and even conservative Democrats.

However—there is still plenty of time. Other potential nominees, such as past U.S. Senate candidates Tom Kean Jr. and Joseph Kyrillos, could emerge.

On the Democratic side, state Senate President Steve Sweeney is all but certain to run. This iron worker and union leader got into politics because his daughter has special needs. He might not have a college degree, but he does have a life story that could resonate well across the state.

A South Jerseyan with the key support of the influential business executive George Norcross III, Sweeney also enjoys the support of Democratic senators in other key counties. At this point, he's really the only Democrat running with any semblance of a statewide organization.

Sweeney's opponents will accuse him of being “Christie Lite”—too close to the Governor that lots of Democratic primary voters want to replace. In response, Sweeney will point to how he fought the Governor on Sandy aid, state Supreme Court nominees, and

ensuring state payments to the underfunded pension system.

Another probable candidate is the relatively new mayor of Jersey City, Steve Fulop. He's young, aggressive and was a successful Wall Street trader. After September 11, 2001, he joined the Marines and served overseas. Upon returning to Jersey City, he ran against the party machine for Council and eventually Mayor, and won every time.

Fulop's road map to Drumthwacket probably begins with a coalition between Hudson and Essex counties. As two of the three counties that traditionally deliver the bulk of the votes in a statewide Democratic primary (the other is Middlesex), winning there will usually ensure victory.

Unlike Sweeney, Fulop strongly backed Ras Baraka, Newark's new mayor, who may help him forge a successful coalition.

**Candidates are meeting with potential donors and political leaders, looking to build the relationships that will propel them to a primary victory. It's just a question of when the official race can begin.**

Finally, there is Philip Murphy, a former Goldman Sachs executive who has never held elected office before. Despite the obvious similarities, he is not Jon Corzine. Though he will likely spend his own significant resources, it won't be the open faucet that Corzine was.

Murphy served as ambassador to Germany in the Obama administration; and if there is going to be a “policy wonk” candidate in the Democratic gubernatorial primary, it will be Murphy. He's likely to set himself apart as the committed Democrat who is the outside “idea guy.”

Assemblyman John Wisniewski, currently co-chair of the legislative committee investigating Bridgegate is another possibility, as is former Governor and current state Senator Dick Codey, who remains popular.

All of these candidates are meeting with potential donors and other political leaders, looking to build the relationships that will propel them to a primary victory in their respective parties. It's just a question of when the official race can begin.

They might be waiting in the wings for Christie, but they are definitely not idle. ♣



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# League Officers for 2014-2015 Elected

**A** new slate of officers and Executive Board members were elected by mayors at the League's Annual Business Meeting on Thursday, November 20, 2014 in Atlantic City. Nominating Chair Janice S. Mironov, Mayor, East Windsor Township and League Immediate Past President presented the following report, which was unanimously adopted:

"A traditional and vitally important part of every League Conference is the nomination and election of officers and members of the League's Executive Board. Your Nominating Committee, pursuant to its Constitutional responsibility, presents for your consideration its nominations for the offices of President, 1st, 2nd and 3rd Vice President and 21 positions on the Executive Board."

"The Board must include members from municipalities located in each of our state's 21 counties. Another consideration is that, because of the diversity of population, growth patterns and other general factors, the Nominating Committee feels a balance of municipalities—urban, suburban and rural—is essential."

"Besides the balance, even though non-partisan in nature, we must maintain a balance between the major political parties represented on the Executive Board."

"The Nominating Committee also takes into consideration whether an individual nominated has demonstrated an interest in League affairs through active participation on League committees by support of the League policies and programs."

"As you see, the Nominating Committee concerns itself with many factors in making its selections. I'm pleased to say I feel the committee did consider all aspects in our endeavor to see the League continue with strong leadership."

The following are the officers and executive board members proposed and elected for 2014-2015:

## LEAGUE OFFICERS

- BRIAN WAHLER, President  
Mayor, Piscataway
- JOSEPH TEMPESTA, JR., 1st Vice President  
Mayor, West Caldwell
- ALBERT KELLY, 2nd Vice President  
Mayor, Bridgeton
- JAMES L. CASSELLA, 3rd Vice President  
Mayor, East Rutherford

## EXECUTIVE BOARD

- RAS BARAKA  
Mayor, Newark
- RANDY BROWN  
Mayor, Evesham
- WILLIAM J. CHEGWIDDEN  
Mayor, Wharton
- DANIEL N. CORANOTO  
Deputy Mayor, Hampton
- FRANK J. DRUETZLER  
Mayor, Morris Plains
- JONATHAN DUNLEAVY  
Mayor, Bloomingdale
- STEVEN FULOP  
Mayor, Jersey City
- SUSAN HOWARD  
Mayor, Monmouth Beach
- THOMAS F. KELAHER  
Mayor, Toms River
- JANICE KOVACH  
Mayor, Clinton Town
- LIZ LEMPERT  
Mayor, Princeton
- JO-ANN LIPTAK  
Mayor, Raritan Borough
- COLLEEN MAHR  
Mayor, Fanwood
- LEO McCABE  
Mayor, Glassboro
- GARY PASSANANTE  
Mayor, Somerdale
- JAMES PERRY  
Mayor, Hardwick
- ELLEN POMPPER  
Deputy Mayor, Lower Alloways Creek
- PAUL H. TOMASKO  
Mayor, Alpine
- JANET W. TUCCI  
Mayor, West Long Branch
- JESSE TWEEDLE, SR.  
Mayor, Pleasantville City
- SUZANNE M. WALTERS  
Mayor, Stone Harbor

# Piscataway Mayor Brian Wahler Elected League President

On Thursday, November 20, 2014, Mayor Brian Wahler of Piscataway Township was elected to serve as the new President of the New Jersey State League of Municipalities. Mayor Wahler, who had previously served as the League's 2nd Vice President, was elected during the Annual Business Meeting at the League's Conference in Atlantic City.

President Wahler has been the Mayor of Piscataway since 2000 and a Member of the League's Executive Board since 2006. He was first elected to the Township Council in 1992 and served as Vice President and President of the Council. He is currently a member of the Piscataway Planning Board and is on the Executive Committee of the American Parkinson Disease Association-NJ Chapter.

Under his leadership, Piscataway was chosen SPORTSTOWN NEW JERSEY, by Sports Illustrated Magazine and in 2008,

2010, and 2014, Piscataway was designated by MONEY Magazine as one of the 100 Best Places to Live in America. Mayor Wahler is a member of the United States Conference of Mayors (USCM) and served on their Transportation and Communication Committee, Homeland Security Task Force and in 2006 was appointed USCM Membership Chair.



In addition to serving on the Executive Board of the State League of Municipalities, he is currently Chair of the Telecommunications Committee and the Utilities Task Force. Mayor Wahler is also an active member of the League's Legislative Committee.

Mayor Wahler is a graduate of Rutgers, The State University.

Mayor Wahler and his wife Paulette have three children, Olivia, B.C. and Michael. ♣




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# Third Party Purchases

## Are They Tax Liens?

By Keith A. Bonchi, Esq., Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi & Gill



**E**ach year every municipality in the State of New Jersey is mandated by the Tax Sale Law to conduct a public tax sale for unpaid municipal liens. The most common type of municipal lien is unpaid taxes. The Tax Sale Law makes unpaid taxes a municipal lien on January 1 of each year.

The Tax Sale Law allows each municipality to set the rate of delinquency each year. Normally, at the reorganization meeting each year, a municipality will pass a resolution which sets forth the delinquent rate of interest which, in most municipalities, is 18 percent. Then, when a municipality holds its tax sale, one of the primary incentives to attract investors to its tax sale is the delinquency rate for unpaid taxes. While, many times, the actual tax sale certificate will be bid down to a low interest rate or zero percent, as long as the lien is in excess of \$1,500,

the subsequent taxes will accrue interest at the delinquency rate, which in most municipalities is 18 percent.

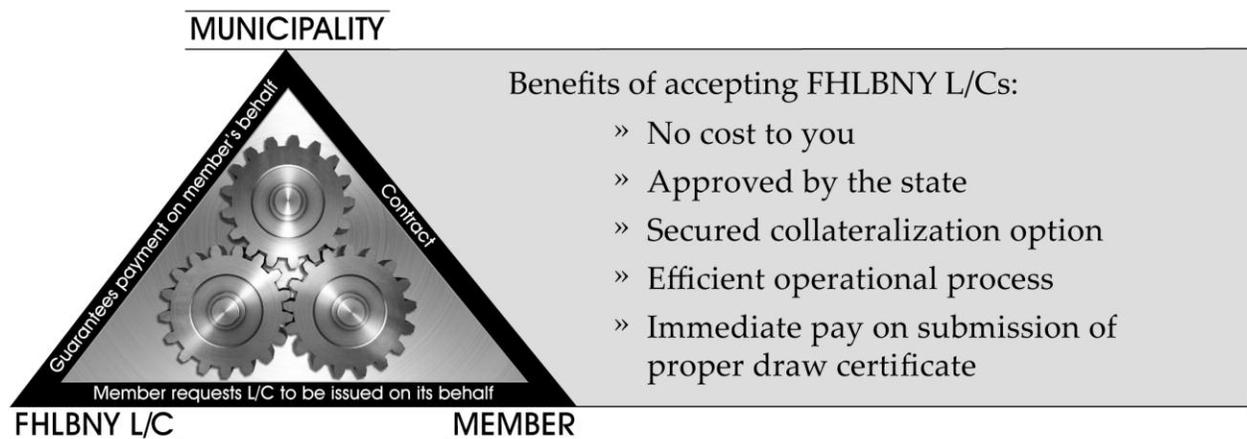
However, in 2010, a Bankruptcy Judge in Trenton ruled that since a third party investor who purchased the tax sale certificate had actually provided the unpaid taxes to the municipality, that investor did not actually hold a “tax lien.” As a result of the above, the Bankruptcy Judge concluded that he had the legal authority to reduce the statutory interest of 18 percent to market rate, which is referred to as a “cram down.” This could



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## Third Party Purchases

result in the interest rate being reduced from 18 percent to 4 to 5 percent. Since many of the large institutional investors borrow their money at this rate or higher and have internal costs, this decision was closely watched by municipalities and lien investors. It is important to note that the lien at issue was originally purchased for the sum of \$204,296.79 in Lawrence Township (Mercer).

On June 25, 2014, the New Jersey Supreme Court clearly held that “the purchaser of a tax sale certificate possesses a tax lien on the encumbered property.”

It was a lien on a 220,000 sq. ft. commercial office building. A third party investor who goes to a public tax sale

understands that there is a strong likelihood that the owner of the property may file bankruptcy to avoid a tax sale foreclosure. However, prior to the 2010 court decision known as *In re Princeton Office Park, L.P.*, 423 B.R. 795 (Bankr. D.N.J. 2010), it was assumed that a third party investor who owned a tax lien had express provisions under the United States Bankruptcy Code that did not allow a Bankruptcy Court Judge to reduce the statutory interest on a tax claim.

The Bankruptcy Court decision was affirmed by the United States District Court. An appeal was filed to the Third Circuit Court of Appeals. The Third Circuit petitioned the New Jersey Supreme Court to decide the state law issue of whether or not a lien holder actually held a “tax lien.”

On June 25, 2014, the New Jersey Supreme Court clearly held in *Princeton Office Park L.P. v. Plymouth Park Tax Services, LLC* \_\_\_ N.J. \_\_\_ (2014) that “the purchaser of a tax sale certificate possesses a tax lien on the encumbered property.” In a 5-2 decision, the state’s highest court agreed with the position of the amici, New Jersey State League of Municipalities, Tax Collectors and Treasurers Association of New Jersey, Township of Lawrence and Northeast

Regional Tax Collectors and Treasurers Association that the Tax Sale Law clearly indicates that a third party investor holds a tax lien. The high court followed the established principles of statutory construction and found that in five statutory provisions, the Legislature provided clear guidance that the third party investor did, in fact, hold a tax lien.

The New Jersey Supreme Court indicated that there were five statutory provisions within the Tax Sale Law that “offered substantial guidance on this issue.” Therefore, the high court simply applied the law as passed by the Legislature. The court indicated that the Tax Sale Law uses the terms “tax lien certificate” and “tax sale certificate” interchangeably. The Legislature was also focused on the 1994 amendment to N.J.S.A. 54:4-67 which expressly provides that a delinquency survives the sale of a tax sale certificate. The Legislature also focused on language of a 1997 amendment which simply enforced the intent of the Legislature.

The high court concluded in its decision that Plymouth Park Tax Services held a tax lien claim that was premised upon a literal interpretation of five separate provisions of the Tax Sale Law. The opinion concluded by indicating that should “the Legislature determine that a municipality’s issuance of a tax sale certificate does not convey a tax lien on the purchaser, it can amend the statute accordingly.”

The above decision by the New Jersey Supreme Court should preserve the statutory incentives to attract investors to tax sales. More specifically, a third party investor can buy a tax lien in New Jersey and not have the interest rate on delinquent taxes crammed down from 18 percent to 5 or 6 percent. This will preserve the incentive for investors to purchase large liens on large ratables, which in almost all cases will file a bankruptcy prior to a tax sale foreclosure being completed. The guarantee of the statutory interest will preserve the profitability of these types of investments and ensure that investors will continue to come to tax sales and enrich the municipal treasury. 

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# LEGISLATIVE UPDATE

By Michael F. Cerra, NJLM Director of Government Affairs;  
Lori Buckelew & Jon R. Moran, NJLM Senior Legislative Analysts  
& Edward Purcell, Esq., Staff Attorney-NJLM Associate Counsel

## S-264/A-1347



### Public Safety Workers' Compensation

Status: Second Reading, Senate; Assembly Labor Committee

The League, along with the Municipal Excess Liability Joint Insurance Fund, opposes S-264/A-1347, which concerns workers' compensation for public safety workers.

Specifically, this bill would create a rebuttable presumption that if, in the course of employment, a public safety worker is exposed to a carcinogen, pathogen, or psychological trauma, that any subsequent injury, disability, chronic or corollary illness or death is compensable under workers' compensation.

Clearly, we must ensure appropriate care of our first responders. They are the first line of defense for our citizens. However, we must also balance this with a responsibility to the taxpaying public. We believe current provisions strike the proper balance. The provisions of this bill will tip the scales and increase costs.

For example, under this bill to rebut the presumptions for compensability, municipalities will need to meet a new "clear and convincing proof" standard. That new standard will invite expensive litigation. Coupled with the bill's expansive presumptions for both paid and volunteer public safety workers, the bill will increase municipal exposure to claims, again increasing costs.

If changes in the law are needed, we would welcome the opportunity to discuss alternatives that would better ensure that opportunity, but which would significantly lessen the burden that S-264 would impose.—JRM

## A-3570



### Developer's Contributions to Affordable Housing

Status: Assembly Housing and Community Development Committee

A-3570 would amend the statutory guidelines for a developer's contribution to a municipality's affordable housing trust fund in order to receive certain tax abatements.

Specifically, this legislation amends N.J.S.A. 40A:12A-4.2a to modify the guidelines for the developer's contribution to the municipal affordable housing trust fund when qualifying for tax abatements. In doing so, A-3570 provides greater flexibility to the municipality to make this determination.

The current statutory framework dates back to 2003 and is clearly out-of-date. A-3570 will help local governments meet state imposed housing obligations while reducing any potential impact on property taxpayers. The League agrees that it is time to update these criteria.—MFC

## S-2454/A-3791



### Modernization and Local Mandate Relief

Status: Senate Community and Urban Affairs Committee;  
Assembly State and Local Government Committee

The intent of the "Division of Local Government Services Modernization and Local Mandate Relief Act of 2014" is to streamline the responsibilities of the Division of Local Government Services and local governments.

The bill would, in part:

1. Repeal the mandated annual canvass of dogs within the municipality.
2. Permit municipalities to bond for passenger cars including police cars.
3. Permit a municipality to satisfy the requirement of having a chief financial officer through the temporary appointment of a private firm.
4. Eliminate the requirement that counties and municipalities make their budgets available for public inspection at public libraries.
5. Increase the annual contribution municipalities are permitted to contribute to a fire district or volunteer fire company, from \$90,000 to \$150,000 a year.
6. Require a municipality to approve a guarantee of loans taken out by a redeveloper by an ordinance in the same manner as a bond ordinance.

7. Eliminate the requirement that a local government seek a waiver to sell an abandoned vehicle at a public auction more than 90 days after taking possession.
8. Expands services for competitive contracting, without DLGS approval.
9. For the definition of “local government officer” under the Local Government Ethics Law removes confidential and managerial employee. Managerial employee will be defined through rulemaking.
10. Transfer the responsibility for approving the investment in local unit bonds, and other obligations by other local units with a maturity date of no more than 397 days, from the Division of Investment to the DLGS.
11. Allow the Local Finance Board to adopt rules authorizing local authority bonded debt refundings.
12. Remove the requirement to apply to the Local Finance Board if the maturities or the amounts of the annual installments have been determined by the New Jersey Environment Infrastructure Trust for debts.
13. Provide that the Local Finance Board may only authorize fees charged for financings that are greater than 0.125 percent of the par value of bonds being issued by a two-thirds majority vote.
14. Authorize the Director of DLGS to establish a three-year review cycle of authority budgets.
15. Eliminate the Division’s review and approval of local authority’s annual budgets, excluding fire districts, with less than \$500,000 in total budgeted operating appropriations with limited exceptions.
16. Transfer the responsibility for reviewing and approving fire district service contracts and project financing for voter-approved projects from Local Finance Board to either the Division of Fire Safety or the municipality.

Many of the proposed amendments in the bill are issues that the League has raised before the Red Tape Review Commission, conference resolutions and other legislative initiatives.—LB

### A-3457/S-2341



#### Management of Local Personnel

Status: Assembly Law and Public Safety Committee; Senate Law and Public Safety Committee

The League of Municipalities opposes A-3457 and S-2341, which would interfere with local personnel management prerogatives regarding police employee performance evaluation. Specifically, the bill would prohibit local employers from any consideration of the number of arrests made and the number of citations issued, when evaluating a police officer’s performance of duties.

Current law appropriately prevents the volume of arrests and citations from being the sole consideration in police employee performance evaluations. Those provisions ensure against the imposition of quota requirements on law officers. These bills, however, would represent an excessive and inappropriate intrusion by the state into purely local personnel management matters.—JRM

### A-3692



#### Extends Center and Growth Center Designations

Status: Assembly Environment and Solid Waste Committee

The League of Municipalities supports A-3692, which would extend the expiration date of any area designated pursuant to the State Development and Redevelopment Plan as a designated center or a designated growth center in

an endorsed plan for three years.

Many center designations will expire either on December 31, 2014 or June 30, 2015.

The lingering effects of the 2008 recession have stymied many projects in these

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## Legislative Update

centers, which were designated as specific growth areas under the State Plan. A-3692 will allow these centers to qualify for certain state incentive programs for an additional three years.—MFC

### S-2364/S-2365



#### Surplus Military Equipment

This legislation would provide greater oversight on transfers of surplus military equipment to local law enforcement.

NJLM's Legislative Committee supports the bills that will provide greater deliberation on decisions to accept surplus military equipment for use by local law enforcement, through the Federal 1033 program. That program permits the Secretary of Defense to transfer, to state and local agencies, surplus military equipment, suitable for use by law enforcement in activities, including counterdrug and counterterrorism activities. The authority granted to the secretary has been delegated to the Defense Logistics Agency (DLA), which determines whether property is suitable for use by agencies in local law enforcement activities.

The Office of Emergency Management in the New Jersey State Police serves as State Coordinator for local law enforcement agencies that participate in the program. As the program currently operates, local law enforcement agencies must request enrollment through the State Coordinator and the DLA Law Enforcement Support Office. Once received, the local unit is responsible for all costs related to operation, maintenance and repair of the equipment, and for training local personnel in its use.

Increased oversight of the 1033 program will help to ensure that local law enforcement agencies obtain equipment necessary and appropriate for the execution of their responsibilities, and that it is used responsibly.

Specifically, S-2364 requires that an application for the enrollment of a county or municipal law enforcement agency in the 1033 program needs to be approved by a resolution adopted by a majority of the full membership of the governing body prior to submission of the application to the State Coordinator. This legislation also requires the actual acquisition of property through the 1033 program to be approved by a resolution adopted by the full membership of the governing body.

S-2365 (a companion to A-3754) requires the Attorney General to direct the Office of Emergency Management to review the 1033 program. Based on that review, the Attorney General is required to consult with the Superintendent of State Police, the Director of the Division of Criminal Justice, and the county prosecutors, to determine if applicable policies, procedures, and guidelines currently governing the program should be revised. The bill also requires that future transfers of surplus equipment to local law enforcement agencies be subject to approval by the Attorney General, who would be required to submit to the Governor and the Legislature annual reports detailing these transfers, as well as state suspensions from the program.—JRM

### A-3597



#### Compensation for Municipalities that Host Correctional Facilities

Status: Assembly State and Local Government Committee

The League's Legislative Committee supports A-3597, which would require the operator of a state or county prison, a secure juvenile detention facility, or a half-way house, to contribute a prison host benefit payment to the municipality hosting the facility.

New Jersey municipalities depend more on revenue derived from the property tax than municipalities in other states. According to the United States Census Bureau, in 2010, New Jersey property taxes accounted for about 98 percent of all locally collected revenues. The national average is about 75 percent.

Prison property is generally tax exempt, and many argue that prisons have an adverse impact on nearby property values. These results make it extremely difficult for municipalities hosting prisons to generate enough rev-

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enue to support local services. In the past, municipalities hosting state prison property have been given payments in lieu of taxes. It is currently impossible to calculate the amount of in-lieu tax payments offered to individual municipalities, due to the state's decision to lump these property tax relief funds together with several other such funds into a single line-item in the state's budget—the Consolidated Municipal Property Tax Relief Aid.

However, it is clear that municipal property tax relief funding was drastically reduced at the beginning of this decade, in order to allow New Jersey to balance its budget. It is also certain that, to date, those cuts have never been closed.

This bill will provide a solid measure of relief to the property taxpayers in these municipalities, and we support its passage.—JRM

may permit sampling by consumers of cider and meade produced on the licensed premises.

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stands to reason that Jersey Fresh meades and ciders will contribute to sustaining our farms and provide a boost to the state's economy. This bill is needed because there are no provisions, under the current legal framework, that would allow for this to be a profitable endeavor.—JRM

**A-3740/S-2461**



**Hard Cider and Meade Licensing**

Status: Assembly Agriculture and Natural Resources Committee; awaiting a Senate vote

The League's Legislative Committee supports the passage of A-3740/S-2461. This bill creates a cidery and meadery license, which would permit the fermentation of a maximum of 25,000 gallons of hard cider and 25,000 gallons of meade. The license would also permit the sale of those products to wholesalers and retailers in New Jersey and other states.

The bill, further, allows licensees to sell their products to consumers for consumption on the licensed premises, in connection with a tour, or to sell a consumer up to 15.5 fluid gallons (a half-keg) for consumption off the premises. Finally, licensees who have obtained an annual permit from the Director of Alcoholic Beverage Control



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# New Attorneys Join NJLM Legal Team

The League Executive Board has appointed John M. Scagnelli, Esq. and Carl R. Woodward, III to the NJLM Legal Team. Mr. Scagnelli will serve as Environmental Counsel and Mr. Woodward will serve as Associate Counsel.

“We are pleased to have these two outstanding municipal attorneys join our legal team,” said League Executive Director Bill Dressel. “It is by tapping into the advice of the best attorneys in the state that the League is able to respond to the legislative and judicial rulings that affect our members.”

Mr. Scagnelli and Mr. Woodward have extensive experience working with local communities on local, state and county issues.



Mr. Scagnelli is a partner at Scarinci Hollenbeck. He has been involved in municipal legal practice for many years and has worked with some of the largest municipalities and counties in New Jersey as well as for utility authorities, planning and zoning boards, economic development authorities and school boards. He's a graduate of Yale Law School.

Mr. Scagnelli's environmental work includes remediation projects and litigation relating to state environmental statues such as the New Jersey Industrial Site Recovery Act (ISRA); the New Jersey Spill Compensation and Control Act (Spill Act); and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). He has also served in several positions in the New Jersey Department of Environmental Protection.



Mr. Woodward is a partner at Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. His practice involves a broad range of matters in environmental, local government, zoning and planning, corporate and contract, criminal, insurance, administrative, real estate, condemnation, state and federal court litigation. He has served as an attorney in many New Jersey Municipalities. He has a Law Degree from Rutgers University.



## Thank You to Lewis Goldshore

The League's Executive Board would like to thank Lewis Goldshore for his years of service as NJLM's Environmental Counsel.

“Lou has been a great friend to the League for many years. In addition to legal advice, he has been a seminar speaker, presented testimony before the state Legislature and written for the League magazine.”

Mr. Goldshore served as League environmental council for over 20 years. He is an expert on how state and federal regulations affect municipal government. ♻️



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# Legal Team Supports League Efforts



This has been another busy year for the League's legal team. The League has been involved in a number of cases dealing with municipal issues ranging from the adoption of new COAH regulations, OPRA, the New Jersey Civil Rights Act, the Spill Act, and even the licensing of helistops.

The League has continued last year's fight to prevent the seizure of "non-committed" moneys from the Affordable Housing Trust Fund. To date, the state has not been able to seize any of these moneys, in large part due to our efforts. Our legal team has also been very involved in analyzing new COAH regulations, after the third round

regulations were invalidated by the State Supreme Court.

The League's General Counsel, William J. Kearns Jr., assisted the League in monitoring cases which have had an impact on municipalities and has shared his vast experience with our membership by conducting a number of training sessions during the year.

The League's Associate Counsel-Staff Attorney, Edward Purcell, argued before the State Supreme Court in March, on behalf of the League. The case, *Tumpson v. Farina*, had to do with a violation of the Faulkner Act's right to petition and whether that alleged violation of a statutory right would trigger the New Jersey Civil Rights Act, and consequently, make attorneys' fees recoverable for the plaintiff.

Finally, the legal team consults the legislative relations staff on bills introduced in the Senate and General Assembly. ❧

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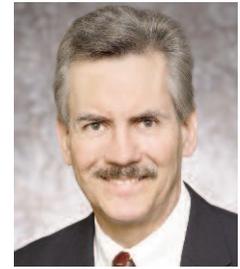
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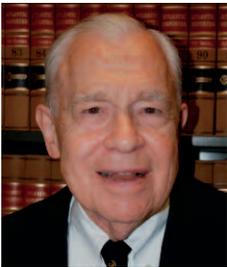
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# Sheltering in the Stacks

With the right plan in place, your library can be a lifesaver in times of need

By Michele Stricker, Associate Director, Library Support Services,  
New Jersey State Library



Adults shared space with children at the Princeton Public Library.

**W**hen disaster strikes, where do you go? After Hurricane Sandy wreaked havoc throughout the state in late October 2012, people went to their local libraries. The day after the storm passed, New Jersey libraries rallied, and were the places residents flocked to as they began to put their lives back together. Libraries, even those without power, were pressed into service as ad hoc Disaster Recovery Centers (DRCs), providing a respite from the storm for shattered communities.

**An Untapped Community Resource** According to the official FEMA definition, a Disaster Recovery Center is a readily accessible facility or mobile office where people can go for information about disaster assistance programs. DRC's must be prequalified by FEMA, and are often located in schools, malls, municipal facilities, and senior centers—any place that can accommodate crowds. Not every library can serve as a cer-

tified DRC since FEMA has limited financial and staffing resources. However, libraries have served as unofficial community DRC's during storms and other emergencies. Librarians have worked right alongside FEMA personnel, local officials and emergency responders, supporting their services and providing assistance throughout a disaster. It is a natural role they assume in the community without any official mandate.



Libraries all over NJ served as havens from the storm and stayed open for extended hours

well-equipped with internet, free Wi-Fi, email, fax, photocopiers, and land lines. After many a crisis, libraries have served as temporary headquarters for FEMA, government agencies, relief workers, and even the military. It's no wonder people flock to libraries after a disaster. Their services and resources are trusted by all, even by non-library users.

**Information Providers** According to the American Red Cross, the number one need after a disaster is for accurate information--exactly what librarians are trained to provide. They know how to deliver authoritative information on multiple platforms, both in-house and at a temporary location. Furthermore, the general public views librarians as trust

Incorporate libraries into your state and local preparedness exercise scenarios, and action plans.

Hurricane Sandy reminded municipal, county and state officials that libraries are valuable assets in disaster response, and serve as a rallying point by offering a welcoming refuge for displaced citizens. Located in every community, libraries are a natural gathering place for people after a disaster because of the many roles they play in the community. They are a safe haven, an information and technology hub, and serve as a headquarters for local volunteer organizations that distribute food, clothing and supplies. They have secure buildings, comfortable seating, flexible spaces, heat and air conditioning and rest room facilities. Their tech labs are

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## Sheltering in the Stacks

worthy, approachable, knowledgeable, and customer-service oriented. Many library staff live in the community and know their customers personally.

The New Jersey State Library stresses that librarians serve in the capacity of second responders, who support first responder such as firefighters, police, and medical personnel. We do not advocate that librarians rush in alongside emergency personnel. The objective of the second responder is to enable people meet their personal needs, so they can return to work. Libraries continue to play a role in local disaster recovery long after the disaster is “over.” Emergency teams withdraw once the crisis recedes. Government agencies pack-up and leave once forms are completed and aid distributed. But libraries are still assisting people affected by Sandy today, two years later.

### Social Media for Emergency Response

After Sandy, people inundated Facebook, Twitter, Instagram, and YouTube with information and images of storm damage. People used social media to connect, share, and collaborate on their disaster recovery efforts, and to keep up with local news and alerts. Largely because of Sandy, social



At the Burlington County Library's Evesham Branch, the number one emergency call made after Sandy was from people who needed to plug medical equipment in to stay alive.

media is now integrated into all emergency preparedness and communications efforts. The public will not wait

for official information from municipal officials and emergency management. They are actively posting what they know, and seeking what they don't. Websites and email will continue to be important resources for the public, but in a time of crisis, and the resulting communications noise, urgent messages need to be pushed out directly into the social media world. Social media is a tool particularly well-suited to librarians who are information professionals trained to recognize vetted sources, and early adapters of new technologies.

### Virtual Operations Support Teams (VOST)

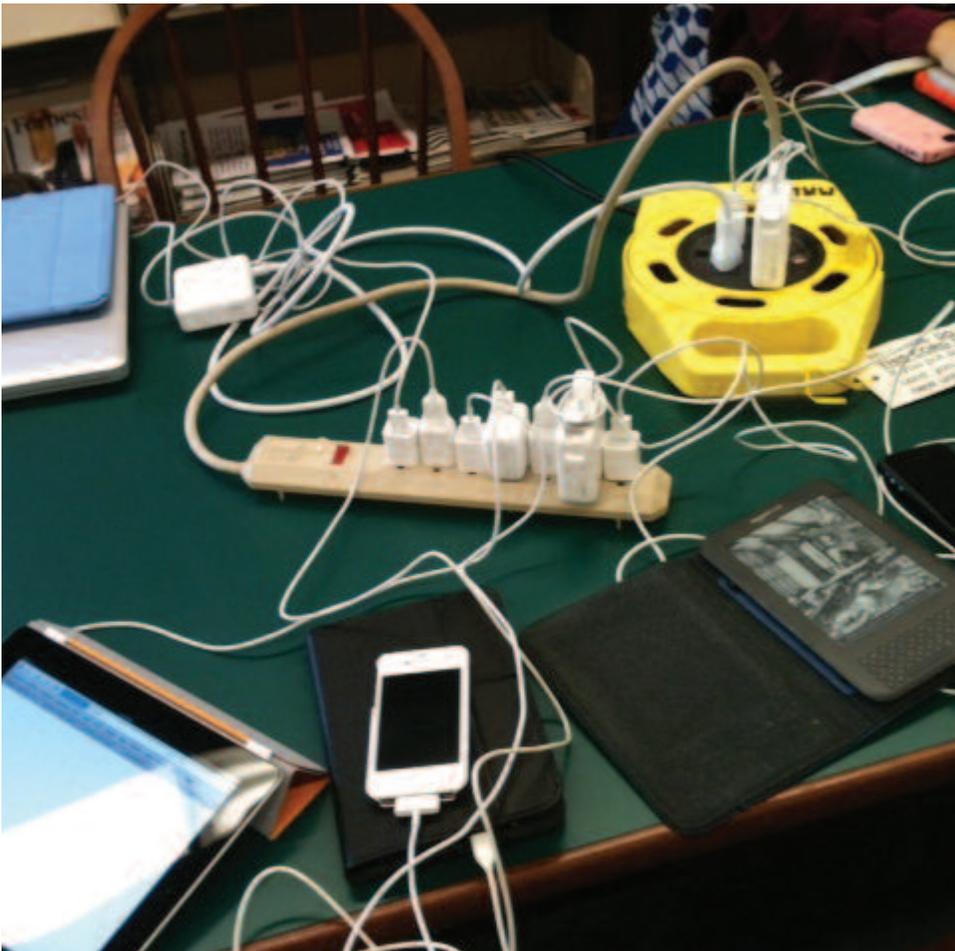
Let's strategize about a new partnership between local officials, emergency responders, and librarians. The Virtual Operation Support Team (VOST) is a relatively new concept in emergency response, and perfect for the librarians' skill set. Administered by trained volunteers who are recruited from within the community, VOST effectively makes use of social media tools to help get information to those officials and first respon-

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Every available aisle and corner was put to good use at the Maplewood Public Library.



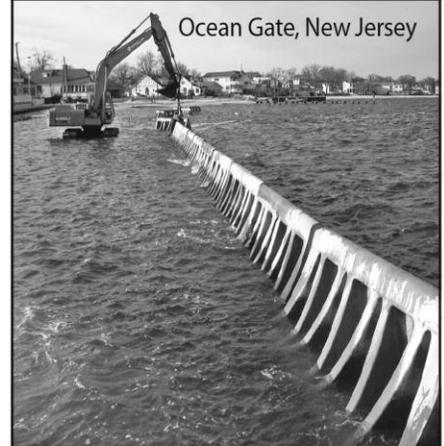
What to do when the power is out? The Lodi Public Library had lots of old fashioned board games to keep kids occupied.

## Sheltering in the Stacks

ders who might otherwise be inundated by the sheer volume of data generated during a disaster.

A VOST is activated locally, regionally or statewide to perform specific functions during a disaster, wherever emergency responders need extra support. The team leader reports directly to officials and emergency management within the affected area. An increasing number of emergency managers use social media to share updates and information, but few have the staff, resources, or the time to keep up with the constant and over-

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whelming flow of information during a disaster. Even small, local disasters can stretch the resources of an emergency response team, leaving the public with unanswered questions or incorrect information from unofficial sources. Consider establishing a VOST in your community. Professional training is available.

Largely because of Sandy, social media is now integrated into all emergency preparedness and communications efforts.



Neighbors came to the Middletown Public Library to warm up and help themselves to free coffee.

## The New Jersey League of Municipalities Presents:



### A Review of the New Farmland Assessment Guidelines Webinar

December 11, 2014  
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Location: Your Computer

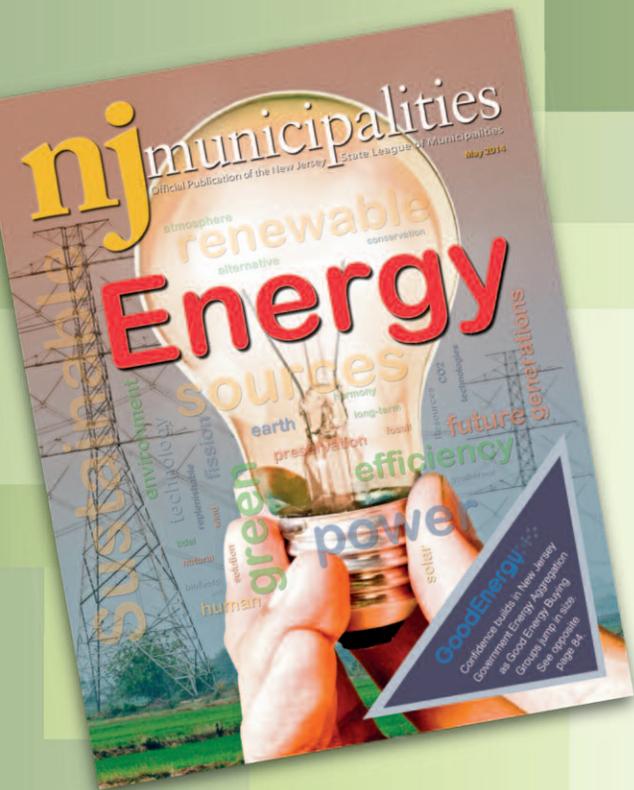
Recently, Chapter 43, Laws of 2013 amended the Farmland Assessment Act. Beginning in tax year 2015 the \$500 gross sales criterion for the first five acres is increased to \$1,000, except for lands under a Woodland Management Plan which remains \$500. This webinar will review this main change in the law, as well as many other farmland assessment changes that assessors, farmers, foresters and others should be aware of brought on by the passage of this law.

@ Visit [NJSLOM.org](http://NJSLOM.org) to learn more.

**What You Can Do** After Sandy, many local officials and emergency responders recognized the many contributions libraries made to their community's recovery, and are now ready to work with librarians to prepare for future emergencies.

If your local library is not aware of the importance of their role in disaster recovery, approach them to open a discussion. You can help educate librarians about risk assessment, mitigation, and preparedness planning. Incorporate libraries into your state and local preparedness exercise scenarios, and action plans. Start by establishing a primary point of contact at the library and give them a seat at the table at your planning meetings. Include them in briefings and updates. Realize that in order to sustain this partnership, training, outreach, and communication are part of an ongoing process.

Recognize the importance of getting your library open quickly after a disaster (restoring power, clearing debris, doing minor repairs), so that they can provide essential services to the community. Work on a plan together. The library has always been there for the community, but it can truly be a lifesaver to a community in need. ♣



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 Mayor Cyril Wekilsky, Town of Boonton

*"Through this magazine, and other communication vehicles of the New Jersey League of Municipalities, we are able to share the best practices on ways in which to provide direct benefits for our constituents. I have learned plenty on these pages—and much of what has been shared has been implemented in Roselle over the past year."*  
 Mayor Jamel Holley, Borough of Roselle

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## The Constitutionality of Juvenile Curfew Ordinances

By Edward Purcell, Esq.  
Staff Attorney-NJLM Associate Counsel

Juvenile curfew ordinances can be a valuable tool for municipal government. Recently, some municipalities have chosen to revoke their ordinances because of a legitimate concern that their ordinances may not meet constitutional muster. It is also our understanding that Mr. John Paff has been contacting municipalities regarding the constitutionality of their curfew ordinances.

Municipalities justifiably should be concerned with whether their juvenile curfew ordinances are sound. To that end, the League recommends that you have a conversation with your municipal attorney about this article and review your current municipal curfew ordinances.

New Jersey municipalities have the statutory authority to enact juvenile curfew ordinances pursuant to N.J.S.A. 40:48-2.52. Municipalities, however, must be careful in exercising this power because, as the United States Supreme Court has held, “minors [too] are vested with fundamental constitutional rights.” *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969). Indeed, some New Jersey courts have invalidated juvenile curfew ordinances that were found to violate the constitutional rights of juveniles and their parents. See *Betancourt v. Town of West New York*, 338 N.J. Super. 415 (Sup. Ct. App. Div. 2001). These cases can be very costly to municipalities. Violations of citizens’ constitutional rights trigger both the Federal and New Jersey Civil Rights Acts and municipalities may find themselves paying tens of thousands of dollars in attorneys’ fees to successful plaintiffs.

If juvenile curfew ordinances are to pass constitutional muster, they must avoid vagueness, with exceptions for constitutionally protected conduct, and can only exist in municipalities that can demonstrate a compelling interest in enacting them. These constitutional requirements will be laid out below.

**Constitutional Issues** Curfew ordinances are generally invalidated by courts for intruding on four areas of the U.S. Constitution.

The first area is the first amendment’s protection of speech, association and expression. While the constitution does not protect one’s right to “socialize,” it does protect the ability of an individual to express their beliefs or practice their faith. Therefore, a curfew ordinance which does not contain these exceptions would be invalid under the first amendment.

The second area is the ninth amendment’s protection of a parent’s fundamental right to raise children without undue interference from the government. This amendment has been construed by the courts to contain a right to privacy that protects family autonomy. New Jersey courts have also “recognized a parent’s interest in the companionship, care, custody and management of their children.” *Betancourt* at 421, citing *In re Guardianship Servs. Regulations*, 198 N.J. Super. 132 (1976).

**Municipal attorneys should be consulted at every stage, so that such an ordinance will pass constitutional muster.**

The third area is the 14th amendment’s protection of substantive due process and equal protection rights. A curfew ordinance may impact interstate travel, freedom of movement or other fundamental rights. A Federal District court has stated that, “the rights of locomotion, freedom of movement, to go where one pleases, and to use the public streets in a way that does not interfere with the personal liberty of others are basic values ‘implicit in the concept of ordered liberty’ protected by the due process clause of the fourteenth amendment’.” *Bykofsky v. Borough of Middletown*, 401 F. Supp. 1242 (U.S.D.C. M.D. P.A. 1975), quoting *United States v. Wheeler*, 254 U.S. 281, (1920). The equal protection challenge is sometimes asserted by juveniles who argue that a juvenile curfew creates an impermissible classification based on age.

Municipalities may overcome these substantive due process and equal protection challenges by demonstrating a compelling or “significant state interest... that is not present in the case of an adult.” See *Carey v. Population Services International*, 431 U.S. 678 (1977). This means that the local governing body must build a clear record, preferably with statistics, which demonstrates that there is a clear problem that can be alleviated by implementing a narrowly tailored juvenile curfew ordinance.

The Appellate Division adopted the compelling interest test for reviewing juvenile curfew ordinances. *Allen v. Bordentown* 216 N.J. Super. 557 (N.J. App. Div. 1987). In *Allen* the court struck down the city’s ordinance because “it was overbroad and lacked a compelling interest in the curfew restriction by restricting many things that should be encouraged and there-

fore denies equal protection.” Id. at 573. Therefore, building a record is important. It also may be a good idea to include sunset provisions that require the governing body to periodically reexamine and document the need for a juvenile curfew.

The fourth area is vagueness, which relates to due process and the fourth amendment. Because there is a penalty to violating a curfew, courts want to make sure citizens and police can understand these ordinances. As stated by the Appellate Division in *Allen*, “an ordinance containing language so imprecise that it cannot be understood by persons of ordinary intelligence does not give fair notice of the acts which it forbids or requires and therefore denies due process.” *Supra* at 562.

Curfew ordinances are determined to be constitutionally vague when: 1) a citizen must speculate as to what constitutes a violation of the ordinance; and 2)

where law enforcement officials are impermissibly delegated too much discretion as to what constitutes a violation of the ordinance.

Municipal attorneys should be consulted at every stage, so that such an ordinance will pass constitutional muster.

This is not a one size fits all process.

**Promoting Parent Awareness** Some juvenile curfew ordinances strive to promote parent awareness of their children’s whereabouts by penalizing parents who have knowledge that their children are in violation of a juvenile curfew ordinance but do not take steps to control their children. In *Allen*, the ordinance at issue included a rebuttable presumption, based on prior police notification that a child was in violation of the ordinance, that parents had knowledge of a present curfew violation and are, therefore, in violation of the juvenile curfew ordinance. The *Allen* court reviewed this rebuttable presumption language and

determined that it met the reasonable doubt and more-likely-than-not tests. *Supra*. at 577-78. Specifically, the court held that it is “more likely than not that parents, once notified of a curfew violation, will be sensitive to the fact their minor child is again outside the home in violation of the curfew.” Id. Consequently, under the law currently, rebuttable presumptions are acceptable tools which can be included in juvenile curfew ordinances to promote parent awareness of their children’s whereabouts.

I hope that this article provides you with some understanding of the issues at play regarding juvenile curfew ordinances. Please discuss these issues with your municipal attorney. It is important that your attorney ensure that your town’s juvenile curfew ordinance is constitutionally sound. ❧

*This column is for informational purposes only, and is not intended as legal advice.*



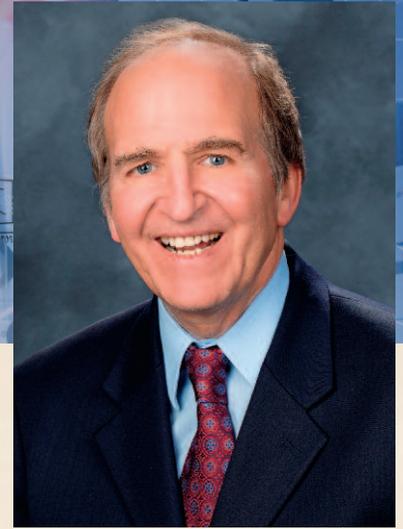
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# Annual Report of the Executive Director



William G. Dressel, Jr.

As we meet in Atlantic City, this year, our focus is on prosperity, and how partnerships are essential to produce and protect it. That was the focus of State leaders, back in 1776—the year that New Jersey attained independent statehood.

It was also the focus of the municipal leaders who founded the League of Municipalities in 1915. They established a partnership that has been sustained and strengthened by successive generations of local public servants—through war and peace, through depressions, recessions and recoveries, and through monumental social, cultural and technological changes that the founders could never have seen coming.

It takes courage to campaign for local office. It takes self-confidence. And it takes a lot of commitment. But it is when you take the oath of office that the real test begins. You can count on the support of your team of dedicated professionals—your municipal manager or administrator, your municipal clerk, your finance officer, municipal attorney and all the other department heads. Your predecessor in office or your colleagues in town or elsewhere in your county might be willing to help, as well. And, of course, the League of Municipalities was created as a resource you can use to better serve your fellow citizens.

Again this year, all 565 municipalities joined together as partners in the League of Municipalities. Together, you help to make municipal government in New Jersey the best it can possibly be.

Below is the annual report of the activities of your League of Municipalities for 2014.

**LEGAL ADVOCACY** The League Associate Counsel-Staff Attorney Ed Purcell and the League General Counsel William Kearns monitor court decisions that may affect municipalities and bring important decisions to the attention of municipal officials. Ed monitors proposed state regulations and prepares comments on those with municipal impact.

Additionally, the League offers a legal consultation service for municipal attorneys. The League's legal department is situated at the confluence of many important legal and policy areas and is an excellent resource for municipal attorneys. Our legal department cannot be a replacement for a town's municipal attorney. Rather, we are an excellent resource for sharing knowledge and providing guidance for the attorneys who counsel New Jersey's municipalities. If an elected official needs legal advice, that question should be directed to their municipal attorney. We invite any municipal attorney who requires guidance to contact the League's legal department for assistance.

This service does not offer "second opinions" or alternatives to elected officials, their municipal attorney who should be their primary source of legal advice. Under no circumstances will the NJLM legal service establish a client relationship with individual municipal officials or municipalities. Only municipal attorneys currently engaged with New Jersey municipalities may access this service.

Additionally, the League General Counsel and the Amicus Curiae Committee considers requests from municipalities or municipal attorneys for intervention in court cases on behalf of specific local governments in appropriate cases of broad municipal importance in cases pending in the Supreme Court or Appellate Division.

In the past year, the League's Associate Counsels have advocated for municipal interest in front of the Appellate Division and Supreme Court in a variety of cases.

In *Re: Failure of Council on Affordable Housing to Adopt Trust Fund Commitment Regulations* filed before the Appellate Division. This case deals with COAH's lack of guidance in defining the term "committed" under the Fair Housing Act and the ability of COAH to seize "uncommitted" affordable housing trust funds from municipalities. The League was able to have COAH's May 1, 2013 decision invalidated in part. The Court ordered COAH to follow a new process to assure due process for municipalities and other parties. Municipalities responded to COAH's letter in August of 2013. At this time the State has not taken any action to seize these funds. Jeff Surenian Esq. is representing the League in this case.

*Raritan Borough v. Gannet Newspapers* filed before the Appellate Division. The trial court issued its final determination against Raritan this spring. Raritan is appealing. This case involves: 1) whether a municipality must “create” a document out of data located on a digital server; and 2) if they must create such a document, whether a municipality can assess a special service fee for the formatting of digital documents. Ed Purcell Esq. is representing the League in this case.

*Tumpson v. Farina* was filed before the New Jersey Supreme Court. This case dealt with the New Jersey Civil Rights Act and whether or not a violation of a substantive right is actionable under this law. It also dealt with whether a facially deficient petition under the Faulkner Act must be filed by the clerk. The League was asked to participate as amicus on behalf of the City of Hoboken. Ed Purcell Esq. argued on behalf of the League at the end of March. The Supreme Court handed down a decision in July, determining that the facially deficient petitions must be filed under the Faulkner Act and that the New Jersey Civil Rights Act applies to violations of substantive rights.

*Timber Glen Phase III v. Hamilton Township* filed before the Appellate Division. This case deals with the ability of a municipality to license residential rental properties to ensure compliance with local health and safety regulations. At issue is the applicability of an amendment of the Licensing Act, P.L. 1997 c. 317, to the township’s ordinance. Ed Purcell Esq. is representing the League in this case.

*Morristown Associates v. Grant Oil Co.* filed before the State Supreme Court. This case deals with the applicability of the six year general statute of limitation to actions taken under the Spill Act. The Appellate Division had held that the statute of limitations applied. The League takes the position as amicus that this decision was incorrect and that the Spill Act should be exempted from the statute of limitations. Ed Purcell Esq. is representing the League in this case.

*Borough of Keyport v. I.U.O.E., Local 68* filed before the State Supreme Court. This case deals with whether temporary layoffs done pursuant to the Civil Service Act are required to be negotiated under the New Jersey Employer Employee Relations Act. The Appellate Division adopted the League’s position, that temporary layoffs are not negotiable. Ed Purcell Esq. is representing the League in this case.

*Verizon v. Hopewell* filed before the Tax Court. This case deals with the ability of Verizon to unilaterally cease paying the Business Personal Property Tax (BPPT) to a municipality when it determined that it no longer provides 51% of landline service to that municipality. This is an issue of extraordinary municipal import. Joel Shain Esq. is representing the League in this case.

*Princeton Office Park v. Plymouth Park Tax Services, LLC.* was filed before the State Supreme Court. This case dealt with a question certified by the Third Circuit Appellate Court, whether under New Jersey law a tax sale certificate purchaser holds a tax lien. The Court held that the purchaser of a tax sale certificate, does indeed under New Jersey law, also hold a tax lien. This was the position taken by the League. Keith Bonchi Esq. represented the League in this case.

**LEGISLATIVE ACTIVITIES** In a year when the news about the State’s budget kept getting worse and worse, it was not easy to get State policy makers to focus too much attention on municipal priorities. Added to that was one of the most severe winters in recent memory, while all were engaged in ongoing efforts to recover from SuperStorm Sandy. Throughout these challenges, we were involved in a number of important public policy campaigns. Here are a few.

Efforts to keep the Cap on Binding Arbitration Contract Awards alive were led by League President and Stone Harbor Mayor Suzanne Walters and by League Management Reform Committee Chair and Perth Amboy Mayor Wilda Diaz. Failure to extend the interest arbi-

tration cap would authorize arbitrators to impose excessive awards that would immediately threaten funding for all other municipal services. Such awards would force municipalities throughout the State to further reduce or even eliminate crucial services, personnel, and long-overdue infrastructure improvement projects in order to fund an arbitration award. On March 27, the Legislature approved a bill that would have provided a temporary extension, but which also included provisions that would have undermined the cap’s intent. Governor Christie conditionally vetoed the bill, and sent it back to the Legislature with his recommended changes. The Senate immediately accepted the Governor’s conditions, but the Assembly adjourned without taking action on the extension. After two and a half months of hearing from local officials, State policy makers arrived at a compromise that will protect municipal property taxpayers from arbitration awards that would jeopardize property taxpayers and municipal services.

The failure of the State to deliver workable Affordable Housing Rules highlighted a series of battles on housing, land use and economic redevelopment issues. Mayors also led efforts to find a stable source of funding for open space preservation. Bills to prohibit municipal registration of multi-family dwellings were debated. Efforts were made to extend the moratorium on affordable housing development fees. Bills to transfer municipal beach management powers to counties were introduced. Again on these, the articulate and timely action of well-informed local officials allowed the League to win allies, including community action and environmental activists not always in our camp.

In response to a League Resolution, we saw the passage of a bill to permit counties and municipalities to use snow removal reserve funds for clearance of debris following a declaration of emergency by the President or the Governor. We pushed for passage of a bill that would clarify the responsibility of certain telecommunications corporations to con-

continue to remit Business Personal Property Tax (BPPT) payments to municipalities. The League opposed bills that would have required the release of a bidders' list to potential contractors and another that would mandate video recordings of all traffic stops. Again, Mayors and other local officials willing to come to Trenton to testify on these matters made a world of difference for their colleagues all around our Garden State.

Our Governmental Affairs staff is always eager to hear from you, so that they can better serve you and your municipality. Please contact them with your questions, comments and ideas.

**FEDERAL ACTIVITIES** A host of local government issues arose in Washington over the past 12 months. We were involved in most. Two regulatory matters, two legislative initiatives and one ominous threat deserve special mention.

The Federal Communications Commission (FCC) proposed new Cell Tower Rules that could threaten local Land Use and Construction controls. The proposal could result in the adoption of new regulations that would expedite regulatory reviews by limiting the kinds of issues local governments can consider, and in some cases preempt any local government review of siting applications for collocation of wireless transmission devices.

These rules could allow the wireless industry to add on to existing towers, with little or no regard to local planning, zoning or building codes. It could also require unconditional local approval of industry plans to append wireless facilities to utility poles, light poles and road signs. The proposal had the potential to go as far as considering any structure capable of holding a wireless antenna (like a water tank, office building or even a single family home) to be a "wireless tower" and would apply the new FCC rules to all of these.

On behalf of the League and New Jersey municipalities, our Special Counsel, Joel Shain, Esq., submitted comments, urging the FCC to substantially amend the proposal, prior to adoption, in order

to protect the interests of local residents and governing bodies. League President, Mayor Suzanne Walters of Stone Harbor, and Third Vice President, Mayor Brian Wahler of Piscataway (who also serves as the Chair of our Telecommunications Policy Task Force) encouraged all New Jersey municipalities to contact the FCC on this matter.

Also on the regulatory front, President Walters and League Past President Chuck Chiarello (who also Chairs our Emergency Medical Services Task Force) led our efforts to clarify the Status of Volunteers under the Affordable Care Act. The concern arose due to the fact that the Internal Revenue Service (IRS) includes volunteer first responders in the definition of 'employee' that it uses for Income Tax (W-2 form) purposes. Unless the status of these volunteers, under the ACA, was to be clarified, their agencies or municipalities could possibly be required to provide them with health insurance or pay a penalty. Municipalities served by volunteer agencies cannot afford to offer expensive benefits. While many municipalities provide Length of Service Award Payments (LOSAPs) or other incentives to show appreciation to volunteers for their service, having to provide health insurance would be impossible.

We were gratified when the U.S. Department of Treasury issued a policy clarification, which concluded that, "... the forthcoming final regulations relating to employer shared responsibility generally will not require volunteer hours of bona fide volunteer firefighters and volunteer emergency medical personnel at governmental or tax-exempt organizations to be counted when determining full-time employees (or full-time equivalents)."

New Jersey municipalities, led by President Walters and First Vice President and Eatontown Mayor Gerry Tarantolo, turned to Congress, in order to gain relief from sky-rocketing flood insurance rates. In 2012, President Obama signed into law the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12). The new law was designed to make the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Pro-

gram (NFIP) more financially stable, by reflecting true flood risks in communities. Unanticipated consequences of the Act, including rapidly increasing flood insurance premiums in affected communities, became apparent in the aftermath of a series of natural disasters, including Hurricane Sandy.

In response to five- to ten-fold premium increases, at our Conference last November, League members approved New Jersey State League of Municipalities Conference Resolution No. 2013-11—a Resolution Recommending Amendments to the Biggert-Waters Flood Insurance Reform Act of 2012.

The relief bill was co-sponsored by our Senator Robert Menendez and by Senator Johnny Isakson of Georgia. We want to thank Senator Menendez and Senator Booker, as well as Congressmen Frelinghuysen, Holt, Lance, LoBiondo, Pallone, Pascrell, Payne, Runyan, Sires and Smith for their support. On Friday, March 21, President Obama signed into law H.R. 3370, The Homeowner Flood Insurance Affordability Act.

As you know, with certain narrow and rare exceptions, New Jersey municipalities do not levy sales taxes. But we do host Main Street merchants, who should not be put at a competitive disadvantage, when compared to the "virtual" merchants who hawk their wares in cyberspace. Merchants who maintain a physical presence in our communities not only pay property taxes, which are used to pave and police our roads, to build and staff our schools and libraries, to secure and preserve our parks and recreational facilities. They also employ our fellow citizens, who, in turn, pay income taxes, and who buy homes and pay their own property taxes. But that is just the start of what our hometown merchants contribute to the community. They contribute to local charities, sponsor youth sports teams and, in a thousand other ways, they give life to the communities that contribute to their prosperity.

That is why the New Jersey League has been a long time proponent of internet tax equity. One year ago, the Senate passed the Marketplace Fairness Act

(S.743), a bill which would level the sales tax playing field for online and “bricks and mortar” retailers by requiring internet merchants to collect sales taxes on online purchases. The Senate passed the bill 69-27 last year. It is estimated that the absence of this requirement costs \$23 billion in lost sales tax revenues for state and local governments, all across the Nation. To date, the House has not considered this legislation. We continue to push for favorable action on this initiative.

Once again, negotiations on Federal spending, the debt and the deficit could place in jeopardy programs and services of vital importance. In anticipation of the possibility that this could mean another round of base closings, Governor Christie has created the New Jersey Military Installation Growth and Development Task Force, which will be chaired by Lieutenant Governor Kim Guadagno.

New Jersey’s vital defense and national security facilities include Joint Base McGuire-Dix-Lakehurst, Picatinny Arsenal, the Naval Weapons Station Earle, the 177th Air National Guard Wing in Atlantic City, and the Cape May Coast Guard Training Center. Aside from their vital importance to our national interests, these facilities employ tens of thousands of New Jerseyans and contribute billions of dollars to our State’s economy. We thank League Past President and Mount Arlington Mayor Art Ondish and Second Vice President and West Caldwell Mayor Joe Tempesta for their leadership on military and veterans’ issues, in general, and on this matter, in particular.

Our thanks to the Federal Advocacy staff at the National League of Cities (NLC) for their efforts on behalf of all municipalities. They serve us well as our eyes, our ears and, often, our voices in our Nation’s Capital.

**BUREAU OF MUNICIPAL INFORMATION** The League offers an online information center to provide services and resources to assist our local government membership. You can find the Bureau at [njslom.org/bureau](http://njslom.org/bureau). The resources and services available through the Bureau

have been compiled to educate local governments and assist them in operating more efficiently. The online Bureau of Municipal Information received an overhaul this spring to improve its appearance and make it easier to navigate. Also redesigned were the Ordinance and Shared Service Agreement libraries, making them more user friendly and easier to search. The resources offered through the Bureau are continually being expanded and improved.

Included in the services offered is an Ordinance Consultation Service. All members can access this service for free via telephone or email by contacting Ed Purcell, the League’s Staff Attorney. Ed, who heads the Bureau, provides municipal officials and employees with knowledge and analysis, as well as sample ordinances. If you have an issue and you want an informal consultation with an attorney knowledgeable in municipal law, contact Ed Purcell at the League, extension 137, or at [epurcell@njslom.org](mailto:epurcell@njslom.org). This service provides a consultation and not legal advice. For legal advice your first call should be to your municipal attorney.

The Bureau continues to expand its offerings of publications available to members. Publications are updated regularly by the League’s Grants Coordinator, Taran Samhammer, and a full list is available at [njslom.org/Publications.html](http://njslom.org/Publications.html). In 2014 the League also reformatted the Quarterly Arbitration Reporter. This printed book was changed to a quarterly digital newsletter and includes not only summaries of the most recent awards published, but also information on pending related legislation, articles and arbitration trends.

The League’s Grant Resource Center continues to be an excellent online resource for grant research, featuring monthly articles and links to open grant opportunities. The Grant News & Information page is updated regularly and features up-to-the-minute grant news. Members may also utilize the League’s Grants Advisory Service, free of charge, to answer general grant questions and receive guidance from a professional consultant.

The Interlocal Advisory Center is an online ready-reference center for shared service agreements and joint consolidation, and includes links to sample shared service agreements, New Jersey’s interlocal statutes and various other references you may want to review during preparation and implementation of agreements in your municipality. Additionally, the center offers a consultation service with a contracted professional who has first-hand experience in consolidation agreements.

This year the League added a new resource center to its lineup for social media, a method for communicating with residents that has grown substantially in popularity. The Social Media Resource Center provides resources and information for municipalities wishing to start a presence on social media websites.

The above resource centers are coordinated by League Staff Member Taran Samhammer, Bureau Services and Research Coordinator for the Bureau of Municipal Information. Taran updates these research tools on a regular basis, and is available to assist communities in arranging for the utilization of our consultation services.

The League, in conjunction with the New Jersey Municipal Management Association, continues its successful Recruitment Advisory Service. This service does not make specific candidate recommendations or recruitments, but it provides information and reference materials, as well as a consultation with a retired manager to discuss the overall recruitment process and answer questions.

While the above is a sampling of what the Bureau of Municipal Information offers, in total the Bureau provides resources and information on over 20 topics. You may visit the Bureau website at [njslom.org/bureau](http://njslom.org/bureau).

**NEW JERSEY MUNICIPALITIES** *New Jersey Municipalities*, the League’s award winning magazine, underwent a major redesign in April. The new format is easier to access and more fun to read. The changes include the new NJ Now section which features news and helpful

information for the busy municipal official. In addition, each issue will include a special section, called NJ Focus, which will explore a specific municipal issue.

With over 7,000 readers and a vast pass-along readership, the magazine continues to be a vital source of information. Its monthly issues provide the news and information you need to govern in your local community. Members of the state and national legislatures also read the magazine to keep abreast of municipal issues.

In writing for the magazine, League members share their views and ideas with a wide range of managers and policymakers. I'm happy to report that for the sixth year in a row a record number of New Jersey mayors submitted articles.

In addition to your articles, New Jersey Municipalities includes a mix of articles by state commissioners and other experts, as well as informative columns, opinion pieces and advertising by some of the state's leading providers of products and services.

- Nine issues of *New Jersey Municipalities* were published in 2014.
- The number and quality of articles submitted continues to increase. This year the average page count was 91 pages. The magazine includes articles that feature large, small, rural and urban communities in all parts of the state. Our diverse offerings and increased use of shorter articles has made the magazine even more useful to busy leaders.
- We've expanded our use of color photographs and improved both cover and interior design. The changes make the publication more accessible and enjoyable.
- The New Jersey State League of Municipalities is dedicated to environmentally and socially responsible operations. We print on Sappi McCoy Gloss 100lb Text (cover) and Sappi Flo Gloss 70lb Text, industry leading environmentally responsible papers. McCoy and Flo contain 10 percent post consumer waste and FSC chain of custody certification.

As always, we welcome your calls, ideas and articles for our premier publication. Contact the magazine's Managing Editor Kyra Duran at (609) 695-3481 ext. 123 or [NJM@njslom.com](mailto:NJM@njslom.com) to contribute an article or to learn more.

### TRAINING AND IN-SERVICE PROGRAMS

New Jersey municipal leaders face tough challenges in providing good government and service to constituents and citizens. League Professional Development Programs provide elected officials as well as municipal and county personnel with a great resource. Every year the League holds a series of webinars and in person seminars by knowledgeable speakers on timely and key topics, providing up-to-date information to help solve problems and clarify legislation for better governance. The venues provide an environment conducive to providing a true learning experience.

The objective of the New Jersey State League of Municipalities is to present programs that broaden, deepen, and increase knowledge or skills of municipal personnel in various professions while collaborating with Affiliate Groups. Approved continuing education programs provide many municipal professionals the opportunity to renew their respective state licenses. The League has expanded its sponsorship agreements and works cohesively with numerous accreditation bodies representing 10 government licensees including New Jersey Continuing Legal Education (NJCLE) and Pennsylvania Continuing Legal Education (PACLE).

In 2013/2014, the League offered 26 professional development seminars and webinars, educating more than 2,000 attendees. Some of those programs were:

- Grant Funding
- Orientation for Newly Elected, Re-Elected, and Experienced Officials
- 22nd Annual Mayors' Legislative Day
- Budget Audits and Updates
- Family Medical Leave Act and ADA Compliance

- Review of the Open Public Records Act (OPRA)
- Mini One Day Conference
- Social Media
- Legal Issues Surrounding Social Media
- A Review of the New COAH Regulations
- User Friendly Budgets
- Labor Relations Primer
- A Review of the Affordable Healthcare Act(ACA)

Visit the League's website at [njslom.org/](http://njslom.org/) seminars for a listing of upcoming Professional Development Seminars. For additional information contact Danielle Holland-Htut, our Program Meetings Specialist, at (609) 695-3481 ext. 118 or by email at [dholland@njslom.com](mailto:dholland@njslom.com).

### LABOR RELATIONS ADVISORY SERVICE

The League's Labor Relations Advisory Service is conducted by the League's Labor Relations Counsel, Brian Kronick, and his colleague, Joseph Hannon of Genova Burns Giantomasi Webster LLC.

Brian Kronick and Joseph Hannon are available to respond to a broad range of public employer labor and employment law questions as a telephone or email service of the League. Inquiries to the League Labor Advisory Service over the years have included issues like the new interest arbitration reforms and the 2% cap on awards under the 45 day "rocket docket", furloughs and temporary layoffs, health benefit and pension reforms, and perennial problems municipalities face in police and fire and civilian collective negotiations, Public Employment Relations Commission unfair practices and representation matters, Shared Service issues, Civil Service issues, FMLA and NJFLA issues, FLSA and wage and hour issues, Americans with Disabilities Act issues, and Equal Employment Opportunity and New Jersey Law Against Discrimination issues. You may contact Brian at [bkronick@genovaburns.com](mailto:bkronick@genovaburns.com) or Joe at [jhannon@genovaburns.com](mailto:jhannon@genovaburns.com).

**ANNUAL CONFERENCE** For 99 years, local officials have gathered annually in the pursuit of good local government. The three-day Annual Conference remains a critical mainstay in the portfolio of services provided by the League. By serving 17,000 people, it is the single largest local government event in the United States. Offering hundreds of exhibits showing products and services to aid municipalities, it is a central point for learning what is out there to meet local governments' needs.

Pre-Registration, at just \$55, is the most affordable way for municipal officials to gain new solutions to both the perennial issues and the changing challenges. Some of the features of this year's conference will be:

- 92 League educational sessions and more than 50 additional sessions produced by affiliated municipal professional associations.
- Primers for newly elected governing body members.
- Sessions focused on ethics training.
- New technical skills and new technologies creating new efficiencies.
- Information on economic development; planning; management and leadership and understanding initiatives coming from State government
- Insurance training sessions that result in premium reductions for attendees
- The largest municipal exhibit hall in the country

The conference is also a chance to acknowledge local officials' dedication to public service and the work of their colleagues in municipal government across the state.

The 2014 Annual Conference provided all these opportunities while continuing to charge the lowest registration rate of any municipal league in the country.

#### **NJLM EDUCATIONAL FOUNDATION**

In 2013-2014 the League of Municipalities Educational Foundation once again held educational programs, supported

literacy efforts, secured grants and continued to publish its "Friends of Local Government" white paper series.

We published white papers on:

- "Expiring Affordability Controls—Maintaining Affordable Housing in our Municipalities" by David Kinsey, FAICP, PP and Edwin W. Schmierer, Esq.;
- "Municipal Lessons Learned From Superstorm Sandy" by Dr. Stephanie Hoopes Halpin, Ph.D from the School of Public Affairs and Administration, Rutgers-Newark;
- "New Legal Tools for Redevelopment" by Joseph J. Maraziti, Jr. Esq. and Stan Slachetka, PP AICIP; and
- "2014: The Unexpected Economic Soft Patch" by James W. Hughes Ph.D., Dean and Joseph Seneca, Ph. D, Bloustein School of Planning and Public Policy, Rutgers.

With substantial financial assistance from sponsors, the NJLM Educational Foundation hosted the following special educational events:

- "How to Restore Civility in Public Discourse";
- "Reinventing New Jersey's Obsolete Suburban Office Campus-The Local and Statewide Impacts";
- "Energy 101," a program that explained how electricity is generated and distributed and how aggregation works. It also discussed storm response and resiliency measures that municipalities can implement. In addition, there was information about programs and planning that benefits counties, municipalities and consumers.

For the fourth consecutive year, the Mayors Book Club, in partnership with the Richard Stockton College of New Jersey, Monmouth University, Atlantic City Electric, JCP&L, Investors Bank, and AT&T, was conducted with great success as a pilot program in Atlantic, Cape May and Cumberland Counties, including a kickoff in Woodbine with Mayor William Pikolycky and in Pleasantville with

Mayor Jesse Tweedle. This followed last year's program in Monmouth and Ocean Counties involving 300 students. On Monday, June 3, 2014 representatives of the League Educational Foundation, Monmouth University Education Department and staff of the Woodmere Elementary School praised students for completing over 1,500 books, which earned the school \$1,000 to be used for books. The highlight of the day's celebration was a pizza party hosted by Eatontown Mayor Gerald Tarantolo.

In 2014 the Foundation assumed the administration of the Michael A. Pane Memorial Fund. "The Fund awards annual honorarium to a local government professional (attorney, engineer, planner) who personifies outstanding ability, integrity, and ethics in his or her dealings with local governments."

The Educational Foundation continues to secure and administer grants in support of sustainability efforts. More than \$1 million in grants is being administered from such funders as Wal-Mart Corp, BPU and others.

**SUSTAINABLE JERSEY** Over the 2014 Fiscal Year, Sustainable Jersey made great progress towards our goal of a better tomorrow, one community at a time. Whether through community outreach and involvement or the successful development and launch of a number of new projects, FY 2014 can be deemed a success, by any measure.

The Municipal Certification Program  
A total of 139 towns are currently certified—our largest certification number yet—with a total of 22 silver certified communities. Over 5,000 sustainability actions have been completed and approved over the life of the program by municipalities across the state of New Jersey. At the close of the fiscal year, 412 municipalities (73%) were participating in the program and over 84% of the State's population lives in a registered or certified community. Over 300 Green Team volunteers, Mayors, municipal staff and business leaders joined in celebrating the 67 towns that achieved certification during our 5th Annual Sustain-

able Jersey Awards Luncheon at the New Jersey League of Municipalities Conference last November. This certification class included 24 new Bronze towns, and 29 towns that built upon their community success by recertifying at Bronze with the program. We commend the strong leadership and commitment of all certifying towns, specifically the 14 municipalities that achieved Silver certification this year. Certified towns represent a diverse range of municipalities, from urban, suburban and rural communities and to all income levels.

Trainings, Workshops and Technical Support: Helping municipalities continue to advance their sustainability efforts is key to making a collective impact across the state. Sustainable Jersey staff, via the [info@](mailto:info@) or our help line, responded to 2,143 requests for assistance. Recertifying towns were guided and mentored by program staff to support continued success. Sustainable Jersey also offered over 55 free workshops, webinars and training sessions on a wide range of topics which reached over 1,962 people. Efforts to “spread the word” by attending state and national conferences allowed program staff and partners to share our communities’ success stories. The success of our training programs would not be possible if not for the support provided by our State Agency partners, statewide organizations and nonprofits and the inspiring Green Team leaders who share their knowledge and expertise.

As of June 2014 a record breaking 110 towns applied for certification representing 54 new towns, 43 expiring towns applying for recertification and 13 non-expiring towns. We celebrated the efforts of these communities at our 2014 6th Annual Sustainable Jersey Awards luncheon at NJLM Annual Conference and can’t wait to announce even higher certification totals.

Program Updates: Our 22 volunteer supported taskforces continue to work on toolkits and actions to ensure that our program remains at the cutting edge of sustainability. The task forces take seriously their work to effectively trans-

late best practices into actionable steps municipalities feel confident in taking. In FY 2014, 14 new actions were introduced, ranging from Climate Adaptation Flooding Risk to Creative Placemaking, and Bicycle and Pedestrian Plans. “Sustainable Energy” is a critical practice area within the Sustainable Jersey program that was significantly expanded In FY2014 with the creation of an Energy Director position. The Energy Task Force identified a set of changes, updates, and new actions for the municipal certification program. The results of this effort will be implemented in early FY2015. The new actions focus on the areas of energy aggregation specifying the inclusion of renewable energy and electric vehicle adoption. In addition, consensus was reached on an initial slate of energy actions for the schools program. Work has accelerated on the multi-year building efficiency project funded by the US Department of Energy with Sustainable Jersey, NJ Institute of Technology, and NJ Clean Energy Program staff collaborating on the database development. Among the national cohort participating in this DOE program, the NJ team has received recognition for the strength of the data compilation and analysis efforts.

Grant Programs: Over \$615,000 in grant funding was awarded to NJ municipalities through various small grant programs. We offer special thanks and recognition to Walmart for reaching a \$1,000,000 Small Grants program funding milestone in 2014 by providing \$380,000 in funding for the first grant cycle. We also recognize PSEG Foundation for supporting a second Small Grants cycle which awarded \$200,000 to communities across the state. PSEG Foundation has provided over \$400,000 in grant program funding over the past 2 years. A \$35,000 mini-round funded by the New Jersey Department of Health supported 4 towns to implement policy and environmental changes to increase opportunities for physical activity. These three rounds supported 100 Green Team municipal projects around the state that ranged from \$2,000 capac-

ity building grants to high sustainability impact projects of \$20,000 such as food waste recycling to a town tax incentive program for water preservation.

### SUSTAINABLE JERSEY FOR SCHOOLS

Sustainable Jersey, in partnership with the New Jersey School Boards Association, announced the Sustainable Jersey for Schools initiative at the start of the fiscal year with a kick-off meeting at The College of New Jersey that brought together thought leaders, school related professionals, and school representatives to identify the most important issue areas in school sustainability. This meeting helped to guide the creation of 12 new, or expand the focus of current issue-based school specific task forces that have met regularly to develop actions for the launch of Sustainable Jersey for Schools at the NJSBA Workshop in October of 2015. Over 80 actions are in progress at the moment, and substantial work has been completed to develop this initiative. At the launch of Sustainable Jersey for Schools we will release a certification framework for the 2,492 public and charter schools and over 600 school districts that is modeled off the municipal certification program—complete with actions, trainings and (with expected funding) a small grants program. Special thanks are offered to the New Jersey School Boards Association, South Jersey Gas, NJM Insurance Group, and New Jersey Natural Gas for their “Founding” program sponsorship. The creation of this new certification program would not be possible without their financial support.

I would like to thank the support of our Sustainable Jersey Board of Trustees and Ex-Officio Members for their support throughout the past year. Current board members include: Pam Mount (Chairperson), Rick Dovey (Vice-Chairperson) Anne-Marie Peracchio (Secretary), Caroline Ehrlich (Treasurer), Jane Kenny (Executive Committee Member), Clinton Andrews, Ph.D., Roland Anglin, Ph.D., John Bulina, Anthony Cancro, Maureen Hassett, Mayor Edward Mahaney, Ed. D., Wanda Monahan,

Esq., Mayor Arthur Ondish, Mayor William Pikolycky, Eric Stiles, and Ex-Officio members William Dressel, Lawrence Feinsod Ed.D., Gary Finger, and Robert Marshall.

A special thanks goes out to former Trustees Scott McCartney, Ana Baptista, and Sylvia Petillo, for their commitment and service to Sustainable Jersey.

**LEAGUE COMMITTEES** The League's Trenton staff carries out a full agenda of activities in translating League policy objectives on many fronts, but policy itself is made by over 250 mayors, other elected officials and appointed officials who serve on numerous standing and ad hoc committees.

**The committees and committee chairs are:**

**Executive Board:** SUZANNE M. WALTERS, Mayor, Stone Harbor Borough; President, New Jersey State League of Municipalities; Chair

**Legislative Committee:** WILLIAM J. KEARNS, JR., ESQ., League General Counsel and KRISTINA HADINGER, ESQ., League Associate Counsel; Co-chairs

**Conference Resolutions Committee:** GERALD TARANTOLO, Mayor, Eatontown Borough; League First Vice President; Chair

**Nominating Committee:** JANICE S. MIRONOV, Mayor, East Windsor Township; Immediate Past President; Chair

**Pension Study Committee:** L. MASON NEELY, Finance Director, East Brunswick; Chair

**League Educational Foundation:** ARTHUR R. ONDISH, Mayor, Mount Arlington; League Past President, Chair

**Heavy Truck Task Force:** DAVID M. DELVECCHIO, Mayor, Lambertville; League Past President; Chair

**Emergency Management Task Force:** TIMOTHY C. MCDONOUGH, Mayor, Hope; League Past President; Chair

**Emergency Medical Services Task Force:** CHUCK CHIARELLO, Mayor, Buena Vista Township; League Past President; Chair

**Land Use Law Drafting Committee:** CLIFFORD GIBBONS, ESQ.; Chair

**League Economic Development Task Force:** M. JAMES MALEY, JR., Mayor, Collingswood; Chair

**League Legal Committee on Affordable Housing:** EDWARD BUZAK, ESQ.; Chair

**League School Tax Reform Committee:** GERALD TARANTOLO, Mayor, Eatontown; League First Vice President; Chair; GARY PASSANANTE, Mayor, Somerdale; Member, League Executive Board; Vice Chair

**Council on Affordable Housing Study Committee:** JANICE S. MIRONOV, Mayor, East Windsor Township; League Immediate Past President; Chair

**Impact Fee Study Committee:** EDWIN W. SCHMIERER, ESQ., League Assistant Council; Chair

**Telecommunications Study Committee:** BRIAN C. WAHLER, Mayor, Piscataway; League Third Vice President; Chair

**League Management Reform Committee:** WILDA DIAZ, Mayor, Perth Amboy; Chair

**League Statutory Funding Compliance Committee:** JANICE S. MIRONOV, Mayor, East Windsor; League Immediate Past President; Chair

**Community Development Block Grant Task Force:** J. CHRISTIAN BOLLWAGE, Mayor, Elizabeth; League Past President and ARTHUR R. ONDISH, Mayor, Mount Arlington; League Past President; Co-Chairs

**Civil Service Reform Study Committee:** TIMOTHY GORDON, Business Administrator, Milburn Township; Chair

**\*The following individuals represented the League on state-wide committees:**

ANTHONY CANCRO, Township Administrator, Springfield Township—

Sustainable Jersey Board of Trustees, Member

PHIL COCUZZA, Public Safety Director, Lambertville—Member, Police Training Commission

WILLIAM G. DRESSEL, JR., Executive Director, State League of Municipalities — New Jersey Health Care Quality Institute, Board Member; D.A.R.E. New Jersey, Board Member; New Jersey Sharing Network, Board of Trustees Member; Downtown New Jersey, Inc., Board Member; Friends of the State House, Trustee; Member, Family Readiness Council, New Jersey National Guard; Member, Employer Support of the National Guard; Sustainable Jersey Board of Trustees, Ex-Officio Member

CAROLINE EHRLICH, Chief of Staff, Woodbridge—Sustainable Jersey Board of Trustees, Member

CHERYL FULLER, Former Manager, Englewood — Public Employment Relations Committee, Member

WILLIAM J. KEARNS, JR., ESQ., League General Counsel — State Supreme Court's Committee on Court Security—Member, Attorney General's Municipal Prosecutors Oversight Committee—Member, Local Government Ethics Task Force

ROBERT V. KISER, Engineer, Princeton — Technical Advisory Committee for NJ Statewide Bicycle and Pedestrian Transportation Master Plan

JANICE KOVACH, Mayor, Clinton Town—Public Works Advisory Board, Department of Community Affairs

DR. EDWARD J. MAHANEY, JR., Mayor, Cape May City—Sustainable Jersey Board of Trustees, Member

PAUL J. MATAcera, League Past President—New Jersey Solid Waste Advisory Council; Trustee, League Educational Foundation

JANICE S. MIRONOV, League Past President—New Jersey Highway Traffic Safety Policy Advisory Council

## 2014 Annual Report

M. BOYD MILLER, Councilman,  
Brielle—New Jersey Water Supply  
Advisory Council, Department of  
Environmental Protection

JOSEPH P. MONZO, Chief Finance  
Officer, South Brunswick—New Jersey  
Tax and Fiscal Policy Study Commission

PAMELA H. MOUNT, Former  
Committeewoman, Lawrence Township  
(Mercer); Member — Clean Air Council;  
Sustainable Jersey Board of Trustees, Chair

L. MASON NEELY, Finance Director,  
East Brunswick—Department of Environ-  
mental Protection Clean Water Council

ARTHUR R. ONDISH, Mayor, Mount  
Arlington; League Past President—  
Public Works Advisory Board, Depart-  
ment of Community Affairs; Sustainable  
Jersey Board of Trustees Member

JOEL SHAIN, ESQ., Attorney, Monroe  
Township (Middlesex)—League  
Representative, Board of Public Utilities  
Committee on Development of Rules  
for Municipal Electric Aggregation

MATTHEW U. WATKINS, Administrator,  
West New York—Public Employment  
Relations Commission Member

RAYMOND S. HECK, Mayor, Millstone  
Borough; League Representative on  
State Fire Safety Commission

PAUL SHIVES, Mayor, Toms River;  
Public Employment Relations  
Committee, Member

**MEMBERSHIP AND FINANCE** The  
League is completing its 99th year of  
service to the municipalities of New Jer-  
sey. Our membership currently includes  
all 565 municipalities in the State of  
New Jersey.

The League's fiscal year runs from July  
1 to June 30. The Budget under which  
the League is currently operating is set  
forth on the right side of this page.

General descriptive brochures covering  
the range of League services are available  
from the League office in Trenton. 📄

## 2014/2015 ADOPTED BUDGET

INCOME	
1	Appropriation of Prior Cash Bal 0
2	Membership Dues 624,083
3	Magazine 310,000
4	Annual Conference 1,974,228
5	Interest 37,000
6	Publications 50,000
7	Labor Data 7,000
8	Seminars 115,000
9	Miscellaneous Receipts 5,000
10	Internet Advertising 75,000
11	Sub-Leases Base Rent 173,802
12	Sub-Leases Expense Rent 97,634
13	Sub-Leases Parking Space Rental 36,566
14	Corporate Supporters 105,000
15	Grant Station Subscription 1,520
16	Centennial Anniversary Sponsorships TBD
	<b>Total 3,611,833</b>

EXPENSE	
17	Salaries 1,298,461
18	Social Security & Medicare 99,332
19	Pension Employer Portion 129,027
20	Disability 870
21	Medical Benefits 322,246
22	Workers Compensation Ins 5,100
23	UCC 0
24	Automobile 5,500
25	Magazine 234,916
26	Office Expense 20,000
27	Legislative 28,000
28	Conference 466,300
29	Meetings 8,000
30	Postage 44,000
31	Equipment Payments 22,000
32	Maintenance on Equip. 5,200
33	Printing 22,000
34	Books, Subscriptions 3,000
35	Grant Station Subscription Exp. 1,102
36	Seminars 55,000
37	Telephone 15,000
38	Audit 4,200
39	Legal 52,000
40	Insurance Bond Premium 27,572
41	Temporary Help 15,540
42	Miscellaneous Expense 24,500
43	Computer Expense 36,000
44	Internet Web Maintenance 21,673
45	Photocopying 5,000
46	Scholarships 3,000
47	Interlocal Service 4,500
48	Grant Advisory Board 2,625
49	222 Base Rent 235,400
50	222 Expense Rent 185,480
51	Commission Leasing 4,533
52	Online Ordinance Shared Services 2,100
53	Centennial Anniversary Expense 20,000
	<b>Total 3,429,177</b>

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# Learning from a 100-year-old Partnership

Rockaway Township and Picatinny Arsenal have accomplished much more together than they ever could have going it alone

By Michael G. Dachisen, Mayor & Joseph S. Fiorilla, Community Services Director, Rockaway Township

**R**ockaway Township is the largest community by total area in Morris County, covering more than 45 square miles. Over 6,000 acres of the township is dedicated to the U.S. Army Picatinny Arsenal. The original settlement of Rockaway, then a part of Pequannock Township, dates back to the early 18th Century. The area was used for iron mining and blast furnaces that produced various colonial iron products, including ammunition used by the Continental Army during the Revolutionary War.

Some of those early mine workings were on land that is now part of Picatinny Arsenal. Through the years, the footprint of the Arsenal expanded to its current size, with the mission primarily focusing on research and development of weapons systems that use cutting edge technologies. Rockaway Township is very proud to be home to 80 percent Picatinny Arsenal's land. The township and the Arsenal have enjoyed a close working relationship for essential services for over a century, long before the idea of local shared services became fashionable.

Though small by comparison to other military facilities located around the country, the magnitude of Picatinny's presence in Rockaway Township, in geographic size, population and mission, cannot be overstated. The Arsenal currently employs approximately 5,000 civilians, and 150 Army service personnel. The U.S. Navy, U.S. Marine Corps and allied foreign military liaisons also have staff assigned to Picatinny. The Picatinny Garrison, commanded by Lt. Colonel Ingrid Parker, is responsible for base operations including infrastructure, contract management and support to soldiers and their families.

**Mutual Aid** Some of earliest relationships between the township and arsenal began with basic services such as Police and Fire mutual aid agreements decades ago. Today, the Township Police Department provides additional surveillance and support to the base security force. The Fire Department also maintains a mutu-



Frog Falls Aquatic Park opened during the summer of 2000 to enormous acclaim and still operates today, incorporating surrounding communities under a partnered agreement. In this 2007 photo, former Garrison Commander Lt. Col. John Stack poses with Kermit the Frog and Rockaway Township Business Administrator Greg Poff.

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## 100-year-old Partnership

al aid agreement. In turn, Picatinny will assist neighboring communities as they are able. In particular, the Arsenal has a well-trained and equipped hazardous materials response unit. They have responded to incidents not only in Rockaway but throughout Morris County.

**Health and Security** The township's Division of Health has historically worked very closely with the arsenal on numerous levels, primarily augmenting Arsenal health programs for soldiers and their families. Township health officials worked with the Arsenal after September 11, 2001 to plan for a "Point of Distribution" (POD) program, should circumstances require the rapid distribution of medications to the public. Picatinny health officials also participate in regional health management meetings, networking with local health officials to discuss essential services and trends.

**Educating the Children of Military Families** Rockaway also enjoys the privilege of educating K-12 students from Picatinny, as the township is the sending district for children residing at the arsenal. The arsenal provides a liaison to work closely with school officials, ensuring the best possible education to families who are often in transition due to military service rotation requirements. Picatinny also works with the township library on numerous initiatives, including streamlined registration for military families. All assigned active

duty families at Picatinny—regardless of the municipality in which they reside—are welcome at Rockaway's Library. The township also recently supported a book drop station at its municipal building as a fundraiser for military families.

**Playing Fields** The most celebrated partnership is between Rockaway Township's Division of Parks and Recreation and Picatinny Arsenal Family Morale Welfare and Recreation (FMWR). It began with the shared use of four athletic fields inside the Arsenal. FMWR had seen a decrease in the use of some recreational facilities due to an aging workforce and mounting maintenance costs. Picatinny offered the township the use of the fields for recreation programs in exchange for maintenance support. Rockaway has gained valuable field opportunities, while the FMWR was able to realize savings. At the time, no one realized the importance of this partnership and the positive impact it would have in the ensuing years.

**Roller Hockey** The success of the athletic field agreement soon expanded to include the use of an outdoor asphalt play area at Picatinny. The township's new roller hockey program lacked an adequate play surface, and after brief negotiations, another partnership was born. Picatinny offered a number of summer swimming pool memberships to the township. The existing pool was aging, base memberships were declining

and FMWR incurred the expense of maintaining this asset. As with prior collaborations, this partnership proved mutually beneficial.

**Construction of an Aquatic Park** Based on these early successes, the township and arsenal began exploring the construction of a new shared aquatic facility—a showcase operation that neither community could build individually. Frog Falls Aquatic Park opened during the summer of 2000 to enormous acclaim and still operates today, incorporating surrounding communities under a partnered agreement. Cooperation at this level for such a partnership had never previously been achieved between a local government and the military. Most of the original partnerships between Rockaway Township and Picatinny Arsenal continue to this day—a testament to the resourcefulness and commitment of our leaders and constituents.

**U.S. Family Covenant** The U.S. Army maintains a Family Covenant supporting the service men and women and their families at the local level. Rockaway Township was proud to join with every municipality in Morris County to sign the U.S. Army Family Covenant. As the longstanding host community to Picatinny Arsenal, the township understands the commitment and value the military installation brings not only to our community, specifically, but to the region in general. Community partnerships have enabled and enhanced our capability to provide a quality of life for soldiers and their families commensurate with the dedication of their service to our country. Partnerships have enabled Picatinny to continue use of previously compromised facilities and mitigated escalating maintenance costs that would have resulted in the elimination of programming. These groundbreaking collaborations resulted in the construction and use of a world class water park that would not otherwise be possible for a place like Picatinny, nor for Rockaway Township. Partnerships have been sustained and nurtured, enabling the township and Arsenal to make the Army's Community Covenant a reality in deed and in practice. ♣

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# LABOR RELATIONS

## Police Camera Videos Must Be Provided Under OPRA

By Joseph M. Hannon, Esq., NJLM Labor Counsel;  
Genova Burns Giantomasi Webster, LLC

In two recent Appellate Division rulings, the courts ruled that video footage taken from dashboard police cameras are “government records” and are therefore subject to disclosure under the Open Public Records Act (OPRA).

One case, *Paff v. Ocean County Prosecutor’s Office*, involved a motor vehicle stop and the police officer’s use of a police dog during the arrest. The second matter, *Ganzweig v. Township of Lakewood, et. al.*, involved a pedestrian who was struck by a vehicle. Both matters reached the same conclusion that these videos were discoverable under OPRA.

In *Paff*, the Prosecutor’s main argument centered on the fact that the video was a “criminal investigatory” record under OPRA. Additionally, the Prosecutor argued that the driver who was stopped had a reasonable expectation of privacy that the video would not be released. Both arguments were rejected by the court.

The court went through the OPRA analysis. First, it identified that a determination as to whether the video constituted a government record must be made. A governmental record is defined as:

[a]ny paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business...or that has been received in the course of his or its official business.

The video fell within the definition set forth above since it is “information stored or maintained electronically” in the course of the officer’s official business. Even though it is a government record, the government agency would still be permitted to deny access to the video if it fell within one of the exceptions of OPRA. Here, the Prosecutor’s Office argued that the video fit within the criminal investigatory exception.

In *Barnegat*, Plaintiff argued that the record was kept as required by law, which the township disputed. The videos were kept pursuant to the township’s General Police Order. Plaintiff argued that the Order carried the force of law and therefore

was the requirement for which the video was kept. Defendant argued that the *Barnegat* Order did not carry the force of law because it was not a uniform requirement throughout the state. The court rejected this defense. In so doing, the court determined that the Order carried the force of law for the *Barnegat* Police Department in creating and maintaining the dash-camera videos. It was issued by the Chief of Police. The Police Chief is charged with prescribing the duties and assignments of all subordinates. Therefore, the Police Chief runs the day-to-day operations of the department. The Order specifically stated that “[o]fficers using MVR (mobile video recording) equipped vehicles shall record the following situations: [a]ll traffic stops, criminal enforcement stops...police pursuits...” The Order also provided a retention schedule for non-indictable/traffic offenses, indictable offenses and DWI cases. As such, the court determined that the videos are kept as required by law.

**These two cases illustrate a clear determination of the discoverability of the dash-cam videos under OPRA. While these matters are under appeal, they are the current state of the law on this issue.**

Under prior court decisions if a document (or video) is required to be made then it cannot qualify as a criminal investigatory record. Since it was required to be made pursuant to the order then it cannot qualify as a criminal investigatory record even though it pertains to a criminal investigation. This is so even though the videos and requirements for their keeping may vary from municipality to municipality. In essence, since the video existed and was required to be made pursuant to the Order then it was not a record made because of a criminal investigation and therefore had to be produced.

Additionally, the Prosecutor’s Office advanced a privacy argument for the driver of the vehicle in the stop. The court also rejected this argument. The court weighed the privacy interest of the individual against the public purpose of OPRA which is to provide access to government records. Here, the access was to

provide insight into the actions of the police officer in the traffic stop. The court felt it important to mention that the driver's face was not shown nor was there any information contained in the video that was "horrific" or "chilling." Nonetheless, the court determined that the stop was made in a public area which would mitigate against any expectation of privacy that the driver may have had.

In *Ganzweig*, the township defended against the disclosure of the video on the grounds that the video was part of an internal affairs investigation. The township reasoned that the Attorney General's Internal Affairs Policy & Procedures required certain internal affairs investigations to remain confidential. Based on this reasoning, OPRA also would require the investigation and the nature and source of the investigation to remain confidential.

The court, in *Ganzweig*, disagreed with this analysis. Instead, the court drew a

distinction between those records that are created once the investigation has begun and the video itself. The video, which is solely a recording of the event, was deemed to merely be the source of the investigation. The court reasoned that the video had nothing to do with the substance of the investigation. The substance

**The new legislation will mean that eventually all municipal police departments will have to confront this issue.**

of the investigation is confidential and should not be disclosed. The court, therefore, made the distinction that the video was simply a record of the event, i.e. a "government record" of the event.

These two cases illustrate a clear deter-

mination of the discoverability of the dash-cam videos under OPRA. While these matters are under appeal, they are the current state of the law on this issue.

These decisions are highlighted by the fact that legislation passed in September of this year (A2280) "requires certain new or used municipal police vehicles that are purchased, leased, or otherwise acquired on or after the bill's effective date to be equipped with cameras." The legislation further states that municipal police vehicles that are used primarily for traffic stops are required to have a mobile video recording system.

The new legislation will mean that eventually all municipal police departments will have to confront this issue. Currently, the law on whether to provide these videos under OPRA has been clarified. Please continue to consult with your counsel for any changes in the law or how to handle specific requests on this or similar issues. ♣

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# Growing Old Together

Creating Blue Zones of health, happiness and longevity in the Garden State

By Janan Dave, Wellness Coordinator, Mayors Wellness Campaign, New Jersey Health Care Quality Institute



Mayor of Bernardsville Lee Honecker leads Bernardsville residents on an evening walk through the beautiful New Jersey Audubon Society grounds.

Imagine a future in your own town where your neighbors routinely live active and healthy lives well past the century mark. You see them gardening, or attending a church picnic, or sharing a glass of wine and good conversation with friends at a local restaurant’s sidewalk table. No, this is not a scene from a soon-to-be-released Disney movie. This is a Blue Zone®, and it can be the reality of your town, too.

**What is a Blue Zone?** For the last decade, Daniel Buettner, American explorer, educator, author and public speaker, has been studying the places where people live the longest in the world. The project grew out of a study by Dr. Gianni Pes of the University of Sassari in Italy and Dr. Michel Poulain, a Belgian demographer.

In 2000, they identified a region of Sardinia where the concentration of male centenarians was the highest in the world.

They marked this spot on a map with blue ink, and thus, the term “Blue Zone” was coined. Buettner, with support from the National Geographic Society, identified five Blue Zones®, places with the highest clusters of centenarians in the world, in total: Ikaria, Greece; the Sardinian coast; Loma Linda, California; Nicoya, Costa Rica; and Okinawa, Japan. In these five places, residents are “aging in place” and living long, quality lives together.

**Becoming the next Blue Zone®** Can your community become the next Blue Zone? The answer is yes—but, it’s important to understand that it is difficult to change individual behaviors when community behaviors stay the same. For example, even when someone is committed to a healthy diet, his or her self-discipline is tested daily at any checkout line, where candy bars and soda are prominently displayed. This is why the best way to get on the Blue Zone® road is to do so together, as a community, and even, as an entire state.

moderate amounts. Lastly, people in these regions prioritized self-growth and fulfillment, by finding their purposes and pursuing them, even as a hobby. They also valued slowing down by resting and taking advantage of vacation time.

While some of the Power 9® principles are difficult to put into immediate practice, there are very real ways that we can

create positive changes. Healthways, a global health and wellness-improvement company, has come up with simple tools to implant the Power 9® in communities across the U.S. So far, they have had great success with the implementation of programs such as walking school buses and workshops to help residents discover new passions and hobbies.

Last year, New Jersey rose from the 32nd happiest state in America to 23rd, according to the annual Gallup poll.

The Mayors Wellness Campaign (MWC), a program of the New Jersey Health Care Quality Institute in partnership with the New Jersey State League of Municipalities, plans to give mayors the tools they need to advance powerful changes in their communities over the next several years. Our goal is to make growing old well and growing old together important community values.

In Buettner’s study of the Blue Zone® communities, he and his colleagues identified nine principles, or the “Power 9,” which, if incorporated into one’s life, offer a science-backed blueprint that could give the average American an extra 12 years of quality living. Some of the principles are predictable: move more and move naturally, dine on a plant-based diet, and eat less. The majority of the principles, however, relate to mindset.

People in the Blue Zones® took more chances to feed their souls, whether through community work or spiritual activity, and spent more time with family. They participated in healthy social networks by joining groups in the community, and either alone or with these networks, they drank wine consistently in

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## Growing Old Together

In New Jersey, the Mayors Wellness Campaign works with over 360 municipalities to make New Jersey's wellness a priority. We equip mayors with tools to champion health and wellness in their communities. Thanks to the mayors' work, our state has several programs already in place that resemble the Power 9®. There are municipalities across the state growing community gardens, which reinforce the notion of eating well, feeding the soul, and strengthening community networks all at the same time. In other municipalities, there are weekly "Walk with the Mayor" programs, which encourage moving naturally. Over the next several years, we will continue to assist Mayors to instill simple yet powerful initiatives in their communities and work to connect community leaders with Healthways to put New Jersey on the path to becoming a Blue Zone®.

**Stories from the Blue Zones®** In the Blue Zones®, people aren't consciously incorporating these principles into their lives. In fact, there are several factors at work that encourage active, social and passionate living. If culture already dictates that you partake in an afternoon siesta or that you routinely walk to the local pub most evenings for a glass of



Residents of Maplewood learn how to do "Chair Yoga" at a Maplewood Wellness Campaign event.

wine, then that is what you are most likely going to do. These things contribute to wellness and longevity, say the researchers.

The main driver of quality living, however, is having a sense of purpose. In Okinawa, for example, the principle of *ikigai*—the reason for which you wake up in the morning—is an integral aspect of culture. Whatever it may be—teaching karate, cooking, or passing down knowledge to children—the *ikigai* gets centenarians out of bed each morning. Similarly, in Nicoya, Costa Rica, each person has a *plan de vida*, a "life plan," that serves as a roadmap throughout life. Dr. Robert Butler, the first director of the National Institute of Aging, noted that "being able to define your life's

meaning adds to your life expectancy."

Increasingly, communities in the U.S. are encouraging longevity by following the Blue Zones® guidelines with the help of the Healthways Blue Zone Project®. Communities in Minnesota, Iowa, Hawaii, California, and Texas have all pledged to create spaces where the healthiest choices are also the easiest to make—and there is evidence it's working. In the Beach Cities of California, there has been a 14 percent decrease in obesity and a 30 percent decrease in the number of smokers since the Blue Zones® principles were adopted. After just one year, the Blue Zones Project® reported that participants in Albert Lea, Minnesota added an average of 2.9 projected years to their lives, healthcare claims for city workers dropped by 49 percent, and participating businesses saw a 21 percent decline in absenteeism. Their success speaks to the remarkable power of collaboration, commitment, and small, simple initiatives.

Last year, New Jersey rose from the 32nd happiest state in America to 23rd, according to the annual Gallup poll. We are consistently ranked as one of the states with the highest access to education, healthcare, and financial attainment. There is a lot of great work already happening here. There's no reason we cannot achieve the kind of success that has been found in other American communities. Let's continue our upward climb. Together, it is possible for us to be the next Blue Zone®. 🌿

@ If you are interested in learning more about the Mayors Wellness Campaign or the Blue Zones®, please take a look at our website, [njhcqi.org](http://njhcqi.org) or

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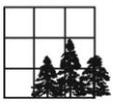
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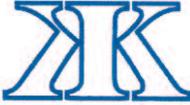
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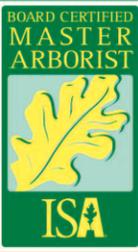


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**January 10**

**Orientation for Newly Elected, Re-elected, and Experienced Municipal Officials**  
Sheraton, Eatontown

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State House, Trenton

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Renaissance Meadowlands Hotel, Rutherford

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