



municipalities

Official Publication of the New Jersey State League of Municipalities

April 2017

Historic Preservation

South Orange's
bold move
to secure its town hall
for the future

Working with Drones

Piscataway's Metlar-Bodine
Museum



Focus:

**Historic
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New Jersey Municipalities Magazine

Volume 94 | Issue 4

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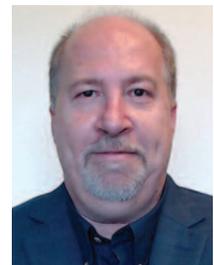
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South Orange made the bold decision to sell its town hall in order to ensure the historic facility was preserved for the future, updated, and maintained without the burden on taxpayers. Read about the efforts to keep communities' character and history in tact and flourishing in this month's Historic Preservation focus stories.



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Preserving History, Building the Future

“Local governments’ work in preserving local history is a service to the residents who find a sense of place, pride, home, honor, community, and belonging to something bigger, and more enduring, than now.”

History is important to New Jersey local government and its constituents. It becomes an important reference point because our sense of place and origin is linked to our knowledge and understanding of our history. Understanding of community is often framed in what we are experiencing now, but “now” stands on the shoulders of history just as tomorrow will stand on what is now and all these will eventually make up our history. So our local history is to be treasured as a resource and a foundation, whether it is a historic town hall or museum, or the redevelopment of historic commercial space. Local governments’ work in preserving local history is a service to the residents who find a sense of place, pride, home, honor, community, and belonging to something bigger, and more enduring, than now.

Two great examples of the value of honoring history are close to home for all New Jersey municipalities. The League is headquartered in a designated historic building on West State Street in Trenton. Like all great historic buildings, it holds many stories that, when told, add color and texture to events that occurred within. It has been home and host to governors, both historic and modern. It was nearly lost to time and neglect only to be saved

through the partnership of those who understood its value to New Jersey history, including the New Jersey Historic Trust, the City of Trenton, and the League of Municipalities. As the only remaining Roebling Mansion, saving it was an important reminder of Trenton’s history and the history of manufacturing in New Jersey. (For the full story, visit njslom.org/city_mansion.html)

The other local government example of the value of honoring history comes from the Department of Community Affairs (DCA). DCA began work on March 1, 1967, and recently celebrated its 50th anniversary. At that anniversary, eight former DCA commissioners were invited back by current Commissioner Richman to discuss how far DCA had come and how it honors its origin, while still contributing to the making of a modern state. (For details, visit nj.gov/dca/home/50th/dca50th.html)

First envisioned as a central point of coordination for federal programs and dollars, the DCA quickly evolved to address discrete issues of housing, neighborhoods, employment, health, and social programs. The mission continued to evolve over time, even as federal inputs waned. Housing remained a primary focus as issues of planning, safety, finance, and local government services gained priority. By the time Sandy struck in 2012, DCA was the State department with the right mix of history and technical ability to administer the recovery dollars that would be distributed locally.

Celebrate and preserve the history in your communities for the benefit of your current and future residents. 📌



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– Chante', 2015 graduate

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– Mike, 2013 graduate



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Creating New Form Out of Old Fabric

South Orange sells historic village hall to restaurant group

By Sheena C. Collum, MPA, Village President, Township of South Orange Village

Architecture critic Kenneth Powell eloquently observed that the main reason for reuse throughout history has been economics. Previously it was done “without regard for history or character.” However, this shifted in the late 20th century when adaptive reuse evolved more specifically into historic preservation. In Powell’s book *Architecture Transformed*, he described how we shifted to balance historic and economic reasons for adaptive reuse. According to Powell, recent adaptive reuse projects have generated “some of the most innovative and intelligent work” in the architectural field. Rather than a sentimental approach, Powell described it as a desire to create “new form out of old fabric.”



South Orange's historic Village Hall was constructed in 1894 and served our public for 120 years; housing at various times the Fire Department, Police Department, and our municipal offices. Unfortunately, decades of neglect and deferred maintenance had left the building in a precarious state. Our original plans were to rehabilitate this historic structure, which is so iconic that it is actually featured on our Village seal.

However, as the assessment of the building and architectural plans progressed, so too did the projected cost of the renovation; increasing from an

initial estimate of approximately \$3.5 million to almost \$8 million.

With this in mind, I urged my colleagues on the South Orange governing body to issue a competitive Request for Proposals ("RFP") to see what the private sector had to say about commercial alternatives for our municipal operations, which required a massive level of renovation to be safe, compliant, and useful.

Rather than automatically feel compelled to renovate it for municipal use, in my mind, the possibilities were endless. Here was a unique opportunity to stimulate a

“South Orange's historic Village Hall was constructed in 1894 and served our public for 120 years.”

community dialogue about the future of this iconic structure. After considerable discussion and caution that a “white knight” to rescue us would be unlikely, my colleagues indulged my request and we advertised an RFP for a buyer who would be required to renovate the building to historic standards while repurposing the interior for their proposed use.

Surprisingly, we had a taker that met all the rigid requirements of our RFP—Landmark Hospitality, an award-winning restaurant and hospitality group, owned and operated by veteran restaurateurs Frank and Jeanne Cretella.

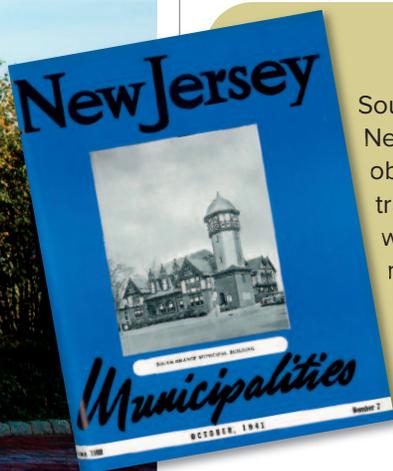
Land Use

Having the distinct pleasure of serving as Executive Director of the American Planning Association—New Jersey Chapter, also provides me with a unique perspective on how choices regarding land use can help transform commercial districts. As the oldest continuously operated Main Street New Jersey community, the first designated Transit Village with the 10th busiest train station in New Jersey, we are in the middle of a Smart Growth boom with \$100+ million in new investment in the past five years in our Central Business District and an anticipated \$150 million in the pipeline over the next five years. Our Village Hall is situated at the busiest intersection in our town, roughly two blocks away from our train station.

With our municipal offices only open from 8:30 a.m. to 4:30 p.m. Monday through Friday, Village Hall went dark every evening and weekend; creating a virtual dead zone at night. Activating this critical corner will help us connect the pedestrian experience eastward on South Orange Avenue, a county road, not to mention the 55,000 vehicles traveling daily past this site, and serve as a new anchor for renewed downtown investment. The site plan calls for a restaurant, indoor-outdoor beer garden, and catering facility, which will become a destination for both our community and visitors from the surrounding area.

Community Process

Selling your government center or any historic or prominent community icon clearly is not a decision taken lightly.



Historic Preservation

South Orange Village Hall is listed and protected on both the New Jersey and National Registers of Historic Places. Our primary objective was identifying a reputable redeveloper with a proven track record of getting the job done and working cooperatively with the State Historic Preservation Office. Some recent renovations completed by Landmark include the Courier News Building (1902), Ryland Inn (1770), Hotel DuVillage (1912), Logan Inn (1721), and the Plainfield Trust Company (1905) all very successful historic undertakings.

South Orange's Historic Village Hall

It deserves and demands transparency, accountability and, most importantly, direct participation from all stakeholders. Shortly after being sworn in as the 49th Village President, this issue rose to the top of my list. We convened meetings with our Development Committee (comprised of various resident volunteer development professionals), the South Orange Village Center Alliance (our Special Improvement District organization), our Historic Preservation Commission, and hosted over two dozen meetings with residents.

As a result, we engaged feverishly with our constituents, utilizing online message boards, the press, in-person community forums, and social media. We shared all aspects of the proposal, including our financial analysis. We didn't withhold any details and, if you consider a similar path, neither should you.

By the end of this process, we were satisfied that around 90% of residents favored adaptive reuse of the site. Our extensive public outreach and participation process thus confirmed our instinct on the wisdom of this decision. When I first approached my colleagues about changing direction and considering adaptive reuse, all six were opposed. By the end of our process of engagement, our governing body unanimously supported moving forward with the sale of our iconic Village Hall.

The Future of Government

For a long time, large edifices have symbolized the power, importance, and accessibility of government, but that is changing and we need to evolve with this change. The way the public interacts with government is different today and we have new tools to leverage and make the customer experience more streamlined. In South Orange, for many years, we have videotaped, transmitted, and posted online all of our governing body and land use board meetings. We modernized our website, published all Open Public Records Act requests, digitized our forms and permits, and provided opportunities for online payment of taxes and fees. We employ online surveys, social media, neighborhood message boards, and the press to communicate with residents and collect feedback. Today, a "meeting"



In 2016, South Orange was named the "3rd Hottest Real Estate Market in New Jersey" by NJ.com. Unfortunately, we also rank 15th in the state for "Highest Tax Bills" with an average property tax bill of \$17,576 on an average assessed home value of \$459,258. Because less than 10% of assessed values are from commercial ratables, the burden of high taxes primarily falls on homeowners.

Faced with the same fiscal challenges as all other municipalities, we quickly realized that we simply don't have the resources to address all of these neglected facilities and infrastructure. In short, hard choices had to be made. In evaluating the proposed renovation of Village Hall, we completed a comprehensive financial analysis of renovating, selling for adaptive reuse, renting office space and new construction costs.

The analysis showed that the sale of Village Hall would save our taxpayers \$8M in the immediate term and even more over 30 years factoring in projected debt service, maintenance on a renovation, or new construction vs. the sale. Our analysis applied multiple projected COLA increases, interest, and Net Present Value rates, and evaluated the total cost of each scenario at 5, 10, 15, 20, 25, and 30 years out.

The sale price ultimately was \$1.3 million and the financial agreement with Landmark included a 20-year Payment In Lieu of Taxes ("PILOT") which minimally will begin at \$35,000 in the first year, and increase to about \$100,000 by the 20th year.

The net savings will allow us to improve public buildings that our community values and enjoys, including our recreation and community center and our library—rather than administrative functions that frankly can be housed anywhere.

with the Mayor can be done using Face-time or Skype, at a local coffee shop, in a local park, or simply by attending neighborhood meetings and block parties.

The idea of owning, renovating, and operating 10,000 square feet to support 25 administrative employees always puzzled me. Rather than becoming "that millennial who sold our most historic, iconic building," I only can hope that a part of my legacy will instead become putting a premium on lessening government's footprint and doing more with less, while still meeting the needs of our community—albeit in a different sort of way.

The story of South Orange's Village Hall represents a larger interest and philosophy that I have about the future of local government. We have way too much government in New Jersey. And, nothing would please me more than eventually dissolving my own office and merging with our neighboring community, Maplewood, with which we already share a school

district, operate a joint municipal court, and share code enforcement and information technology. Plus, we currently are considering sharing animal control services and studying sharing/consolidating fire departments. Escalating operating costs and New Jersey's byzantine structure of taxation have driven up property taxes to the point of making it difficult for many to remain in New Jersey. Until drastic reforms are made, political self-preservation should take a back seat to good public policy. Unless we transform how we approach local governance, this trend unfortunately will continue.

In closing, please join me at our historic Village Hall when it re-opens, and enjoy a cocktail, beer, and delicious meal, and hopefully contemplate how elected officials and community leaders can think differently about our roles, preserve and maintain our assets, and still meet the needs of our constituents in the most cost efficient manner. 🍸



NOW & THEN



Patience and Perseverance Keep Towns Moving Forward



Amy Spiezio
Managing Editor

As a local official, you are part of history in the making every day. And, you are also the guardian of legacies and the history of communities that demand preservation. As one of the nation's oldest states and earliest settled by colonists, New Jersey's municipalities represent the success of the struggle for freedom and the nurturing of the spirit of independence that inspired the creation of the United States. Municipalities have proven themselves up to the task of preservation throughout the publication run of New Jersey Municipalities, even in the dark days of World War II and the subsequent recovery.

The April issue focuses on Historic Preservation and how some innovative communities are taking steps to ensure that the historic lands and structures of the state will continue to provide a visual reminder of our rich past. Through challenges

ranging from fire to finances, the municipalities we focus on have made a commitment to their constituents to ensure there is a lasting record of their communities' vibrant past.

In the 1940s, preserving life as we know it in the Garden State took a very different form with the admirable goal of keeping the nation safe from the threats lurking around the world. From a shortened paper-saving monthly League magazine to save paper to countless other efforts, the people of the State of New Jersey came together with the help of their local leaders to support the defense of freedom, giving up simple luxuries and even making the ultimate sacrifice for the good of the country.

Along with protecting the past, this issue focuses on preparing for the future in town emergency communications, end of life choices, and even the rise of drones as part of municipal life. While we can't foresee every possibility, we continue to strive to share the tools that will help communities preserve quality of life today and into the future. 🇺🇸

Time Capsule: 1940-1950



October 1941 Planning Municipal Finance for The Defense Period

...The greatest contribution which [municipalities] can make to the defense program will be to keep themselves going concerned to expedite rather than retard the onrush of industrial production, prepared to cope with threats of sabotage and destruction of vital services, and strong enough to keep our institutions stable right down to the grass roots during the vicissitudes of post-war adjustment.

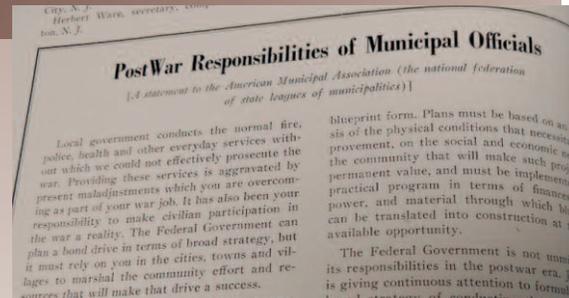
—Frederick L. Bird, Director of Municipal Research, Dun & Bradstreet, Inc.

April 1946 Does The Atomic Bomb Doom The Modern City?

The desirability of dispersing population and industries, which has long been considered on other grounds, has been raised anew by the invention of the atomic bomb. In view of the destructive power of the atomic bomb and the consequent vulnerability of large concentrations of population and industries,

plans for reconstructing our patterns of settlement and industry in the United States are now receiving serious consideration.

—Louis Wirth, University of Chicago

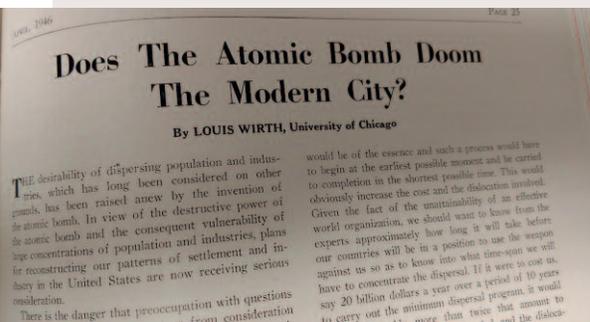


January 1944 Post War Responsibilities of Municipal Officials

Local government conducts the normal fire, police, health and other everyday services without which we could not effectively prosecute the war. Providing these services is aggravated by present maladjustments which you are overcoming is part of your war job...

To date a good job has been done, but it is not enough. We have the additional responsibility of planning now to channel our war facilities into a peace-time way of living so that we may realize the benefits for which so many have sacrificed so much.

—President Franklin D. Roosevelt





NOW



Deputy Mayor Carolann Garafola, Warren Township, gets kudos from Assembly Republican Leader Jon Bramnick

Welcome 2017 Hall of Fame Inductees

The 25th Annual Mayor's Legislative Day featured the induction of 18 new members to the New Jersey League of Municipalities Elected Officials Hall of Fame. The ceremony was held at the 25th Annual Mayors' Legislative Day held Feb. 8, at the State House Annex in Trenton.

The Hall of Fame is open to only those governing body members, active and retired, who have served 20 years in elected municipal office.

The 2017 Elected Official Hall of Fame Inductees are as follows:

- Councilwoman Lynn Delfing, Andover Borough
- Councilwoman Rosalie M. Baker, Buena Borough
- Mayor Sal Bonaccorso, Clark Township
- Councilman Michael DiBenedetto, Freehold Borough
- Mayor Paul Hoelscher, Harrington Park Borough
- Mayor Richard S. Goldberg, Hawthorne Borough
- Committeeman John Koonz, Hope Township



Friends and supporters congratulate Council President Dennis Quinlan, of South Bound Brook Borough.

- Council President David Lyons, Irvington Township
- Mayor Dr. David Runfeldt, Lincoln Park Borough
- Councilman Sam F. Fusaro, Jr., Manchester Township
- Mayor Randy George, North Haledon Borough
- Mayor Robert W. Matthies, Seaside Park Borough
- Council President Dennis Quinlan, South Bound Brook Borough
- Committeemember Walter Eckel, South Hackensack Township
- Deputy Mayor George Scott, Stillwater Township
- Mayor Suzanne Walters, Stone Harbor Borough
- Committeeman Shaun Van Doren, Tewksbury Township
- Deputy Mayor Carolann Garafola, Warren Township



Congratulations to our most recent members!

@ For a full list of the current members of the Elected Officials Hall of Fame, visit njslom.org.

The Class of 2017 is inducted into the Elected Officials Hall of Fame (l to r) Committeeman Shaun Van Doren, Tewksbury Township; Mayor Suzanne Walters, Stone Harbor Borough; Council President Dennis Quinlan, South Bound Brook Borough; Councilwoman Lynn Delfing, Andover Borough; Mayor Sal Bonaccorso, Clark Township; Deputy Mayor Carolann Garafola, Warren Township; Council President David Lyons, Irvington Township; Councilman Sam F. Fusaro, Jr., Manchester Township; Committeemember Walter Eckel, South Hackensack Township

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NOW

League Conference Named to TSNN Top 250 Trade Show List

The New Jersey State League of Municipalities' Annual Conference has been named to the Trade Show News Network (TSNN) 2016 TSNN Top 250 Trade Shows in the United States. Culled from show management and data supplied to TSNN, the list had a record number of submissions and represents the top 250 trade shows held last year in the U.S. ranked by net square footage.

The annual event held in Atlantic City was named 175th on a list topped by the annual CES (Consumer

Electronics Show) in Las Vegas. Event organizers note that the League Conference is an invaluable learning experience which yields benefits throughout the year. Delegates have the opportunity to learn at approximately 125 panels, clinics, workshops, and other sessions conducted by the League and the 21 allied associations of technical and professional employees. Commercial, government, and association exhibits display the latest



TOP 250 TRADE SHOW

products and services for municipal government in over 1,000 exhibit booths spread out over 110,400 net square feet.

New Jersey State League of Municipalities Executive Director Michael J. Darcy, CAE, noted, "It's an honor to be recognized as one of the leading events in the United States. We strive to create an atmosphere of learning, cooperation, and excellence that rewards attendees and exhibitors alike, and we look forward to doing so again at 2017's 102nd Annual Conference: 'Realizing Tomorrow's Potential.'"

NJLM's Exhibit Manager, Kristin Lawrence, noted that the award marks the success of connections between attendees and exhibitors. "Over 75% of the League exhibitors return each year to meet face-to-face with thousands of municipals officials over the three days of the conference," she said. "The exhibitors' support, commitment, and participation help to keep the conference strong, stable and growing. We look forward to many more years on the TSNN Top 250 Trade Show list and as the nation's largest municipal conference!"

For the complete 2016 TSNN Top 250 Trade Show list, visit tsnn.com/toplists-us

@ For more information on the 102nd Annual New Jersey State League of Municipalities Conference, visit njslom.org/2017conf.

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Seaside goldenrod in Barnegat Light NJ
Photo by Ben Wurst

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Mayors' Legislative Day Participants Share Goals, Efforts, and Concerns



DEP Commissioner
Bob Martin

The Commissioner also brought mayors up-to-date on the Department's efforts to address homelessness, particularly ending homelessness for veterans.

Department of Environmental Protection (DEP) Commissioner Bob Martin focused on DEP's efforts in regards to water infrastructure, storm water management, and the MS4 permitting process. The Commissioner also encouraged municipalities to seek financial assistance from the New Jersey Environmental Infrastructure Trust.

Department of Transportation (DOT) Chief of Staff John Case indicated that the methodology to determine TTF grant priorities was the same as previous years and that local aid is expected to go out in June.

Department of Human Services (DHS) Commissioner Elizabeth Connelly spoke about the effort to provide 'three generations service' to the citizens and families most in need. She complimented Mayor Kelly, and all who joined him,



DOT Chief of Staff
John Case

On February 8, Mayors from across the State convened at the League's 25th Annual Mayors Legislative Day. Topics discussed included affordable housing, reimbursement for Transportation Trust Fund projects, pension and health benefits funding, and property tax relief.

League President Albert Kelly, Mayor of Bridgeton, opened the event by outlining his priorities as League President, which include reforming the current property tax system; restoring the energy tax receipts; tying the Interest Arbitration Cap to the property tax levy cap; enacting a reasonable, rational and achievable housing policy through cooperation with the Administration and Legislature; and recognizing the innovative and creative governing by municipal government. He then asked key leaders in the Christie Administration to discuss their priorities for the coming year.

Department of Community Affairs (DCA) Commissioner Chuck Richman discussed the status of affordable housing, including the significant amount of financing from DCA for affordable housing, a fact often overlooked.



L to R: Politico NJ writer Matt Friedman; League 3rd, 2nd, and 1st Vice Presidents Mayors Perry, Mahr, and Cassella; Senate Republican Leader Kean; League President Mayor Kelly; Senate President Sweeney; Assembly Speaker Prieto; Assembly Republican Leader Bramnick; League Executive Director Darcy.

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Continued from page 16

in the successful push to make New Jersey a player in the Federal Department of Agriculture's SNAP Pilot program, which will give needy New Jersey families better access to fresh and healthy foods. The Commissioner highlighted areas where DHS works in tandem with DCA, and expressed the hope the Department could work more closely with New Jersey mayors to address social service needs and remedy problems, as they emerge first in municipalities.

The program then moved to the presentation of certificates to the new class of inductees into the League's Elected Officials' Hall of Fame. These



Senate Republican Leader Kean (l) and Senate President Sweeney (r).



DCA Commissioner
Chuck Richman

dedicated men and women have completed at least two decades of service to their fellow citizens in elected local office (see full report on page 10).

This was followed by a lively legislative policy roundtable discussion, moderated by Politico New Jersey writer Matt Friedman. The panel included Senate President Steve Sweeney, Senate Republican Leader Tom Kean, Assembly Speaker Vince Prieto, and Assembly Republican Leader Jon Bramnick. These State-level leaders were joined by League First Vice President, Mayor Jim Cassella of East Rutherford, Second Vice President, Mayor Colleen Mahr of Fanwood, and Third Vice President, Mayor Jim Perry of Hardwick.

The Mayors engaged the Legislators on a diverse range of issues important to municipalities, including affordable housing, TTF funding and reimbursements as a result of the shutdown, the upcoming expiration of the 2% cap on interest arbitration awards at the end of 2017 and support for the ongoing efforts of the Administration and Legislature to address drug addiction. ↴

NJLM Events

APRIL

April 4

Avoiding Wage and Hour Pitfalls and Hot Topics in the Union/Management Relationship
DoubleTree Hotel, Tinton Falls

April 7

NJLMEF Program: Introduction to Smart City Technology
Felician College, Rutherford

April 11

Licensed Professionals: The Impact of Employee Handbooks, the NJLAD and Other Municipal Actions (Shared Services) On Tenure and Employment
Double Tree Hotel, Tinton Falls

April 28

Bail Reform: What It Means for Your Municipality
Webinar—your computer

MAY

May 10

Using Current ABC Rules to Promote Redevelopment
DoubleTree Hotel, Tinton Falls

JUNE

June 16

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Conference Center at Mercer,
West Windsor

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If your community has a unique program or story, write to Amy Spiezio c/o New Jersey League of Municipalities, 222 West State Street, Trenton, NJ 08608 or via email at aspiezio@njslom.org.

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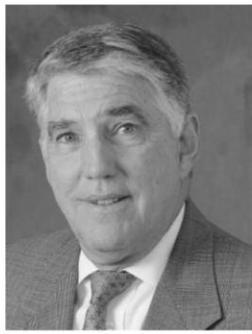
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On Commuter Parking: Now and the Future

By Nicolas Platt, Harding Township Committeeman and Former Mayor

Access to mass transit is a major driver of real estate values in any community. The economic value of our proximity to train service to Manhattan cannot be overstated. Towns with their own train stations enjoy strong home sales even in down markets.

My town's (Harding Township) ability to claim to be part of this mass transit hub became difficult for us 10 years ago. That is when the Borough of Madison excluded Harding residents from participating in its Annual Commuter Parking Lottery which was a result of the construction of their new Public Safety Building that eliminated as many as 70 parking spaces from the commuter parking lot. Efforts to find spaces for Harding commuters in Madison has become nearly impossible over the years and was completely shut down recently when Madison's Borough Council passed an ordinance to limit parking along their streets.

There is, however, reason for optimism. A change that involves both the bricks and mortar of an immense new infrastructure project and new "disruptive technology" that will change the way we do things. It will happen faster than we may think.

First, the infrastructure: The Hudson Tunnel Project (often referred to as the Gateway Project because it includes much more than a tunnel) is projected to cost \$20 billion and will create two new train tunnels under the Hudson River. The trains will arrive and depart under the soon-to-be renovated Foley Post Office, across the street from the current Penn Station. These two new tunnels will be added to the two current century-old ones that were severely damaged by Hurricane Sandy and are still undergoing extensive repairs. The end result will be four tunnels to be shared by New Jersey Transit and Amtrak—and the ability to add more trains to the schedule and new tracks designed to handle "faster" trains.

Second, the "disruption." Within the next five years there will be a revolution in automobile "driverless car" technology. It is already happening.

We should plan accordingly, because these two developments will combine to place Harding, with its unique proximity,

squarely in the mass transportation "sweet spot" for the very first time.

How will it work?

Harding residents will now have easier access to rail service to New York City through driverless cars that do not need to be parked near the Madison or Convent Station train stations. In the short term it will be Uber or a similar service. In the near future however, (about the time the tunnels are completed), driverless cars will move to the forefront. They will either be privately owned or available on a subscription basis from any of a number of service providers including the major car manufacturers. These vehicles will be able to drop a commuter off at the station and (if you own it) return home for other family members to use, or if you subscribe, drive off to be used by other subscribers and be in constant use throughout a 24-hour period.

You might have missed it but an ad shown during the recent Super Bowl the Ford Motor Company showed off both their driverless car and their concept on providing a vehicle on demand. Recently, the Town of Summit announced that they were no longer going to build an additional underground commuter parking lot (at a cost of \$10 million), but were instead going to supplement the cost of their residents using Uber (\$162,000) to and from the station to free up parking spaces for shoppers in their downtown.

The future is often unimaginable. But these changes in driving options are coming now and, in various forms, are already on our streets. (Uber is currently conducting a test of driverless cars in downtown St. Louis. Tesla Motors has been producing cars equipped to be totally autonomous since October 2016 and is awaiting Federal Regulations to allow it to upload the necessary "driverless" software.)

The benefit for Harding and other towns like it is that their commuters will soon have greater, easier and faster access to New York City than they have ever had—and we will be freed of needing parking spaces in our neighboring towns. This is just the beginning of what will be in store for Harding in the next couple of years.

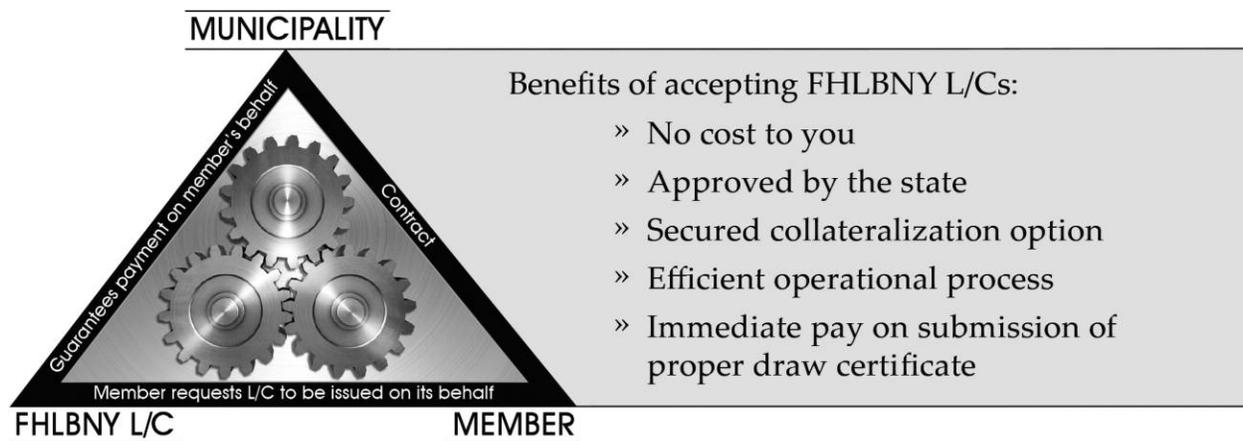
Being a commuter to New York who has utilized mass transit for the last 33 years I can say emphatically, yes, it will be a game changer. 🚗



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FOCUS: Historic Preservation

Piscataway's Metlar-Bodine House Museum

A historic preservation succeeds through the fire

By Junelynn N. Sadlowski,
Executive Director,
Metlar-Bodine
House Museum



For almost 40 years, a determined group of supporters, public and private, has worked at saving one of New Jersey's most noteworthy historic sites, the Metlar-Bodine House, and the unique collection it shelters. An enthusiastic and loyal membership of the not-for-profit foundation, the Fellowship for Metlar House, laid the groundwork for the museum to realize its potential as a cultural and historic asset for Piscataway Township and its citizens. And the township, through its ongoing support, has seen the museum grow and prosper to the benefit of all its constituents—individual, corporate, governmental, and educational. This is a historic preservation success story that even a major fire couldn't stop.

America's Story

Since 1728, the Metlar-Bodine House has stood atop a hill overlooking two Native American transportation routes—the Minisink Trail and the Raritan River. The house looked out on Raritan Landing, a vital 18th century port. Eventually, the Delaware and Raritan Canal was built alongside the river and carried tons of farm products to market. Trains, trolleys, and automobiles began to crisscross Piscataway, one of the 50 oldest towns in the nation, making the area a major transportation hub. How these diverse modes of travel impacted the social and economic growth of the area shapes an exceptional story revealed through the museum's theme, From

Indian Trail to Interstate.

The oldest surviving structure from Raritan Landing, the Metlar-Bodine House is a National and State Historic Site and, since 1979 has proudly served as Piscataway Township's official historical museum, showcasing a fascinating collection of Central New Jersey artifacts. The house, whose seminal 18th century section was built by Peter Bodine, a Raritan Landing merchant, experienced three major additions during the 19th century and is considered a fine example of architecture built in the New Jersey vernacular style. Early in the 1900s, John Metlar, heir to a real estate fortune, became the property's owner giving it the name, "Metlar House."



Gulick Clock, prior to conservation, winter 2004, and after conservation, spring 2011

Metlar-Bodine House

The N.J. Department of Transportation purchased the privately owned Metlar House in 1977 to make way for the N.J. Route 18 extension over the Raritan River. However, the home's compelling historic value caused an outcry from local citizens on behalf of its preservation. By 1979, the Fellowship for Metlar House foundation was formed, the township had leased the building for 25 years from the state, and the local history museum, The Metlar-Bodine House, was established. Piscataway's and the Fellowship's responsibilities were assigned, and the long-standing historic preservation commitment between government and residents began. The museum opened to the public in 1980 and all was set for a bright future.

county, and municipal officials surveyed the damage, with some authorities concluding that the historic site could not be saved. More than a third of the building was severely damaged, the roof was compromised, at least a quarter of the collection was lost, and the remainder of the historic site and artifacts sustained smoke and water damage. Thankfully,

the Ross Hall Wall avoided fire damage since it was in off-premises storage.

Rebuilding the Past

Piscataway Mayor Brian Wahler, the Township Council, and N.J. Senator Bob Smith, 17th District, championed its restoration, and the Fellowship for Metlar House immediately initiated the "Rebuilding Our Past" campaign.

“Early in the 1900s, John Metlar, heir to a real estate fortune, became the property’s owner giving it the name, “Metlar House.”

During the 1960s, a massive wall, with two beautifully executed cabinets and a fireplace surrounded of delft tile was salvaged from the 1740 Piscataway mansion, Ross Hall (see sidebar p.22 for more history). The Ross Hall Wall is the jewel of the museum’s collection. However, its large size (23 feet long, 11 feet high, 6 feet in depth) and condition, precluded its immediate installation at the Metlar-Bodine House, and an addition was planned. In December 2002, the Fellowship received a gift of \$225,000 earmarked for this project.

Then disaster struck in the form of a fire on the evening of July 17, 2003, and volunteer fire companies from Piscataway and neighboring towns rushed to the scene. The following morning, state,

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Metlar-Bodine House

Township workers covered the building with a large blue tarp, the museum's long-time historic architectural consultants were asked to plan the recovery, and N.J. Department of Transportation insurance would provide funds for the building's repair. Piscataway Township had continued its longtime partnership by insuring the museum's contents and within hours, freezer trucks arrived, and workers boxed all ephemera while volunteers formed a triage team selecting artifacts that could possibly be saved from those that were no longer viable.

Among the artifacts saved and, where necessary, professionally conserved were: the only remaining copy of the 1742 Duyckinck deed, a Piscataway property impacted by the Rt. 18 extension; the 150-year-old Gulick clock, the heirloom of a founding Piscataway family; the c. 1868 velocipede that was ridden in every Piscataway parade until 1930; an ice chest that belonged to one of the township's immigrant families, who were part of the early 20th century migrations from Europe; and the notary public sign of Mr. M. J. Jackson, a 1920s resettled southerner and the first African-American to achieve this prominent position.

NJ Department of Transportation site repairs began in 2005 (the lease was renewed for another 25 years), and a grant from the New Jersey Historic Trust, which was matched by the township, restored the building to its 1890s appearance. Through fundraising efforts, the Fellowship for Metlar House provided \$70,000 for central air conditioning.

The Fellowship continues to receive and purchase artifacts, which become township property when accessioned, and rebuild the collection to its pre-fire



An American Treasure: The Ross Wall

After its donation, The Ross Hall Wall was moved to the New Jersey Historical Society in Newark for safekeeping. In 2000 the relic became the property of Piscataway and is stored by the township in an acclimatized facility.

The exquisiteness of the wall's design is outweighed by a historical event of great import. This American treasure was salvaged from Gen. George Washington's Piscataway headquarters, where he wrote the military order for the Continental Army to celebrate the first organized expression of Independence Day. The joyous military maneuver took place on July 4, 1778, along the Raritan River.

This year the Fellowship for Metlar House launched a \$2-million capital campaign, Our Plan Is Revolutionary, which will complete the museum's full recovery by reestablishing exhibits, creating an endowment for the site's future needs, and, most importantly, building at long last a home for an American treasure, the Ross Hall Wall.

prominence. Among the museum's more recent acquisitions are a Federal-period linen press or kasten, a wardrobe in the Dutch tradition, built by renowned New Brunswick cabinetmaker Matthew Egerton, Jr.; and a valuable 16- by 18-inch needlework embroidered in 1800

by teenager Sarah Staats of South Bound Brook, depicting a soldier and a woman standing under a willow beside a tomb memorializing George Washington, who had died the previous year.

In 2010, temporary occupancy of the building was approved, and the following year the township matched another New Jersey Historic Trust grant for an ADA-compliant entrance and restroom addition. This work was completed in 2015, allowing the museum to re-open to the public in time for the township's 350th birthday in 2016. Visitors have been impressed with the historic building, the fascinating collection and the modern amenities, including an "app" that can be downloaded to tour exhibits, a feature usually not available in a local history museum. 📱

CHECK IT OUT!

To view a video about the Ross Hall Wall follow this link
vimeo.com/179123837/3b825e490c

For more information about the Metlar-Bodine House, located at 1281 River Road, Piscataway, call 732-463-8363, email metlarbodine@gmail.com, or visit metlarbodinehousemuseum.org or [facebook.com/MetlarBodineHouseMuseum](https://www.facebook.com/MetlarBodineHouseMuseum).



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Preservation New Jersey

Helping municipalities enhance the quality of their communities

By Barton Ross, on behalf of Preservation New Jersey



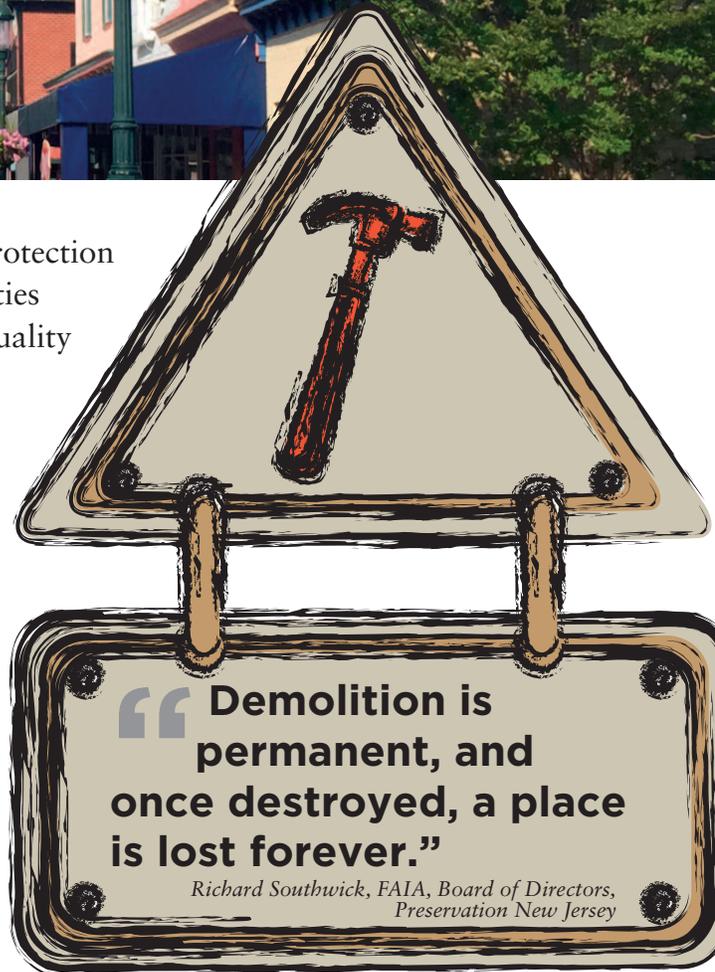
What is Historic Preservation?

Defined as the identification, evaluation, and protection of historic resources, these irreplaceable properties play a vibrant role in their communities by improving its quality of life. Municipalities can curb suburban sprawl, preserve open space, gain Sustainable Jersey points, and reduce their landfill waste by utilizing existing building stock.

In New Jersey, the 1975 Municipal Land Use Law (MLUL; N.J.S.A. 40:55 D-1, et seq.) represented the state’s enabling legislation, first allowing an historic preservation element to be implemented as part of a Planning Board’s Master Plan. It also permitted a municipal governing body to “promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources...and to prevent urban sprawl and degradation of the environment through improper use of land.”

Protecting the Past

Historic Preservation Commissions as we recognize them today evolved out of the 1985 amendments to the MLUL, which provided rules for governing bodies to establish a commission by ordinance.



“Demolition is permanent, and once destroyed, a place is lost forever.”

Richard Southwick, FAIA, Board of Directors, Preservation New Jersey



The principal duties of an Historic Preservation Commission (HPC) are to:

- Prepare surveys of historic sites;
- Make recommendations to the Planning Board on inclusion of Master Plan elements;

- Advise the Planning Board and Zoning Board of Adjustment on development applications involving historic sites or districts listed in the historic preservation element of the Master Plan, provide written reports to the Construction Official or Planning Board regarding permit applications;

- Perform other such advisory, educational, and informational functions that promote historic preservation.

Preserving our historic sites and the unique stories they tell of our cultural heritage is really a no-brainer. Who doesn't want property values to increase and local residents to be proud to call their town or city home? Municipalities that follow this sage advice consistently have greater community awareness, increased pride of place, lower crime rates, enhanced neighborhood identity, and broader investment dollars in heritage tourism.

Historic homeowners tend to want to share their home's past with the community and express their pride by hosting holiday walking tours, installing commemorative plaques on their facades, and displaying increased civic responsibility. These neighborhoods generally have higher home ownership rates, better rapport with neighbors, active

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Preservation New Jersey

security “eyes on the street” programs, and higher rates of participation in neighborhood associations and land use boards. Historic district residents typically believe in being good stewards of their town’s cultural heritage.

According to the National Trust for Historic Preservation, the passage of the Tax Reform Act of 1986, has enabled the successful rehabilitation of over 41,250 buildings, created over 2.3 million jobs and managed over \$117 billion in private investment nationwide. Every dollar invested in rehabilitation projects triggers a chain reaction on local economies benefitting everyone from architects to construction workers, truck drivers, restaurant owners, and the taxpayer. According to Donovan Rypkema, author and expert on the economics of preservation, historic district designation increases property values at least 5-35% over similar, non-historic neighborhoods. By being proactive about saving places, municipalities can increase investor confidence in historic communities, and in turn become protected against broader housing market uncertainty.

While National Register districts attract investment, local preservation ordinances remain the only way to regulate privately owned historic properties.

“ Why pursue historic preservation? Try to think beyond preserving individual landmarks, but instead protecting the character of your community. Today there is a great desire to protect the uniqueness of a town or neighborhood, before our communities are engulfed in suburban sameness.”

*Ron Emrich, Former Executive Director,
Preservation New Jersey*

An adopted ordinance allows for the creation and authority of the Historic Preservation Commission as municipal law. These ordinances provide a Statement of “Purpose” with detailed criteria and legal steps for local designation.

The document lists actions reviewable by the HPC (e.g., permit applications for a Certificate of Appropriateness) and specifies review procedures (e.g., does the HPC report to the Construction Official directly or to the Planning Board?).

An effective ordinance addresses demolition controls, property maintenance, legal challenges and code enforcement provisions. Properly implementing these concepts can qualify your town’s historic preservation commission as a Certified Local Government, thereby becoming eligible for up to \$25,000 in annual grants.

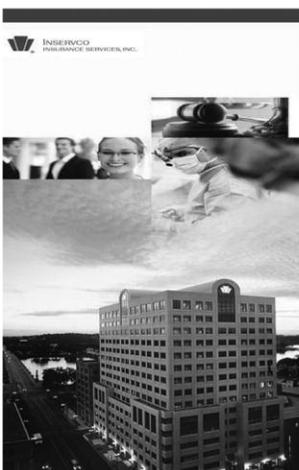
The crucial first step to drafting an ordinance is to identify which properties are resources worthy of municipal protection. Identification is usually performed through an architectural survey based upon specific criteria and according to an informed statement of significance. It is recommended that professionals, including an historic preservation architect, land use attorney, and a professional planner with experience writing historic preservation elements of local master plans, be hired to collaborate with elected officials to draft an appropriate historic preservation ordinance for your community.

How can we help?

Founded in 1978, Preservation New Jersey (PNJ) advocates for and promotes historic preservation as a sustainable strategy to protect and enhance the vitality and heritage of New Jersey’s richly diverse communities. Preservation New Jersey is the only statewide private member-supported historic preservation organization and is New Jersey’s local collaborative partner with the National Trust.

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The organization serves as a clearing-house for technical assistance and information for homeowners, municipalities, historic preservation commissions, nonprofit agencies and other individuals and groups. Preservation New Jersey annually publishes the popular 10 Most Endangered Historic Places list, which documents the challenges facing some of our state's remarkable but threatened historic sites. By bringing attention to these forgotten properties, the organization can facilitate finding positive outcomes and implementing meaningful solutions for rehabilitating these valuable resources. Preservation New Jersey also advocates on behalf of New Jerseyans for sound public policy at the local, state and federal levels through lectures, legislative testimony, position papers, educational materials, publications, and letters of support.

Historic preservation is a catalyst that ultimately gives physical places their cultural identity and promotes a sense of local pride and stewardship for future generations.

Does your municipality require historic preservation commission assistance, best practice recommendations, or advice for starting local preservation programs?

Are you having trouble building public support, formulating policies, or drafting an ordinance? Preservation New Jersey's Commission Assistance and Mentoring Program provides

interactive, one-day training sessions which focus on teaching fundamentals that every elected official, commission member, and history advocate should know. This training will prepare your municipality with proven regulatory expertise and guide your town toward the most effective protection of its significant landmarks. 



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How it started

Following the 1963 demolition of Penn Station in New York City, Americans galvanized grassroots support for Congress to pass the landmark National Historic Preservation Act (NHPA; Public Law 89-665; 16 U.S.C. 470 et seq.). This act, some 50 years on, has had a major positive impact on the fate of historic resources all across the United States. Keys to its success have been the creation of National Register Historic Districts to utilize Federal Tax Credits for redevelopment efforts and the official establishment of state historic preservation offices that coordinate regional preservation efforts and administer matching federal funding to certified local governments.

Smart Decisions

Bringing “Conversation of Your Life” to New Jersey

By Adrian Diogo, New Jersey Health Care Quality Institute
and David R. Mayer, Mayor, Gloucester Township

Founding father Benjamin Franklin once quipped, “In this world nothing can be said to be certain, except death and taxes;” and mayors of New Jersey know that well. They are already working to help residents with taxes, but now they can also help them to address death.

Every April 16 is National Healthcare Decisions Day, a day when communities across the United States hold events to help people understand the value of advance care planning.

This year, the New Jersey Health Care Quality Institute’s Mayors Wellness Campaign invited a nationally known physician and author of “The Conversation: A Revolutionary Plan for End-Of-Life Care,” Dr. Angelo Volandes, to speak to three communities in New Jersey.

Tools for Healthy Lives

The Mayors Wellness Campaign (MWC) is a community health initiative that gives mayors tools and strategies to champion and promote a healthy lifestyle in their towns. One of these successful tools is the Conversation of Your Life (COYL) program which is supported by The Horizon Foundation for New Jersey and works with local community task forces to create events and resources to help residents have that important conversation so that their family, friends, or doctors understand and respect their end-of-life wishes.

According to an April 2016 poll conducted by the New Jersey Health Care Quality Institute and the Rutgers Eagleton Center for Public Interest Polling, over 60% of New Jersey adults say they are comfortable with the idea of aging, and have thought about their wishes for medical treatment near the end of their life. However, six out of 10 New Jersey adults have no written documents expressing their wishes for end-of-life care. While the public is comfortable with aging and discussing end-of-life wishes, not enough people are making plans and many are not aware of important end-of-life care options or advance care planning documents.



Share the Story

A practitioner of internal medicine in Boston, Dr. Angelo Volandes explains and shows his patients different options of available care in a short video at <https://youtu.be/TR7MEZbhuJs> to help them understand and make an educated choice about the advance care planning. The mayors are encouraged to share this information with the residents and to hear from one of the nation’s leading experts of advance care planning.



Successful Conversation: Mayor David R. Mayer, Gloucester Township

Gloucester Township’s participation in Conversation of Your Life began with the support of Mayor David R. Mayer. As a pilot community, Gloucester Township introduced end-of-life care discussions with its now famous ‘Before I Die’ chalk board that provides residents the opportunity to write their greatest wish before they die.

COYL has been of tremendous value to Gloucester Township residents for multiple reasons. By understanding the importance of communicating with your loved ones all of your wishes, residents are giving the gift of clarity to their families. Since we began the COYL project a couple of years ago, citizens have participated in many activities geared to helping them talk about these very essential decisions of their lives.

One of the events was hosting Dr. Angelo Volandes’ visit here in Gloucester Township. Dr. Volandes was able to speak and deliver his insights in advance care planning as well as the importance of an individual’s end-of-life wishes. Gloucester Township’s residents had a chance to ask Dr. Volandes specific questions which proved to be very helpful and provided a new perspective for our residents.

To help people start such an important talk with their loved ones, the MWC is inviting Dr. Volandes to assist New Jersey residents to relieve the stigma around conversations about death with the comfort of knowing that their end-of-life wishes will be respected. Dr. Volandes will be speaking in the three participating COYL counties on April 18 and 19 (see below ad for details).

After successfully piloting COYL in Tenafly, Princeton, and Gloucester Township in 2015, the MWC expanded COYL into Bergen, Mercer, and Camden Counties. The initiative proved a tremendous success with New Jersey residents participating in various activities: from library sponsored book groups and follow-up discussions, to films, art programs, and games designed to help them better convey their end-of-life wishes. 📖

@ To start the Conversation in your community or find out about other MWC programs and resources, please visit njhcqi.org/COYL or contact Deborah Levine at dlevine@njhcqi.org.

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Dr. Angelo E. Volandes is a physician, writer, and patients’ rights advocate. He practices internal medicine in Boston, is on faculty at Harvard Medical School, and is the author of *The Conversation: A Revolutionary Plan for End-of-Life Care*.



Reversing a Trend

Raising awareness to combat rising sexually transmitted diseases

By Cathleen D. Bennett, Commissioner,
New Jersey Department of Health

The United States is currently experiencing a startling rise in Sexually Transmitted Diseases (STDs). Cases last year reached their highest in the U.S. since the late 1980s, prompting the Centers for Disease Control and Prevention (CDC) to warn of a looming epidemic. Despite recent declines, 2015 was the second year in a row in which increases were seen in all three nationally reported STDs: chlamydia, gonorrhea, and syphilis. Data from the CDC's Sexually Transmitted Disease Surveillance 2015 suggest that young people aged 15 to 24 years acquire half of all new STDs, and one in four sexually active adolescent females has an STD, such as chlamydia or human papillomavirus (HPV).

A Growing Problem

New Jersey STD rates have been mirroring national trends and steadily rising for several years. In 2015, there were nearly 40,000 cases of chlamydia, gonorrhea, and syphilis in the state. Atlantic, Camden, Cumberland, Essex, Hudson, Mercer, Passaic, Union, and Salem counties have STD incidence rates that exceed the statewide rate. The cities of Newark and Jersey City in particular are heavily impacted with more than 4,000 cases diagnosed in Newark and more than 1,890 in Jersey City in 2015. The Department of Health is committed to reversing this trend by increasing awareness, enhancing outreach to potentially exposed partners and working with providers to ensure young adults are aware of risks.

Left untreated, STDs can lead to devastating and costly conditions such as infertility in women, life-threatening congenital defects in infants, certain STD-related cancers and a higher risk of acquiring HIV. The CDC estimates the cost of treating an early case of chlamydia and/or gonorrhea is approximately \$73, whereas the cost of treating secondary conditions related to these diseases, such as pelvic inflammatory disease and epididymitis, is as high as \$684. This estimate does not include even higher costs of possible longer-term conditions such as

infertility treatment. The CDC estimates STD cases cost the U.S. healthcare system nearly \$16 billion each year. Thus, providing timely treatment and reducing the number of newly diagnosed cases saves the state millions of dollars in treating these long-term conditions and preventing outbreaks and epidemics.

Fighting the Tide

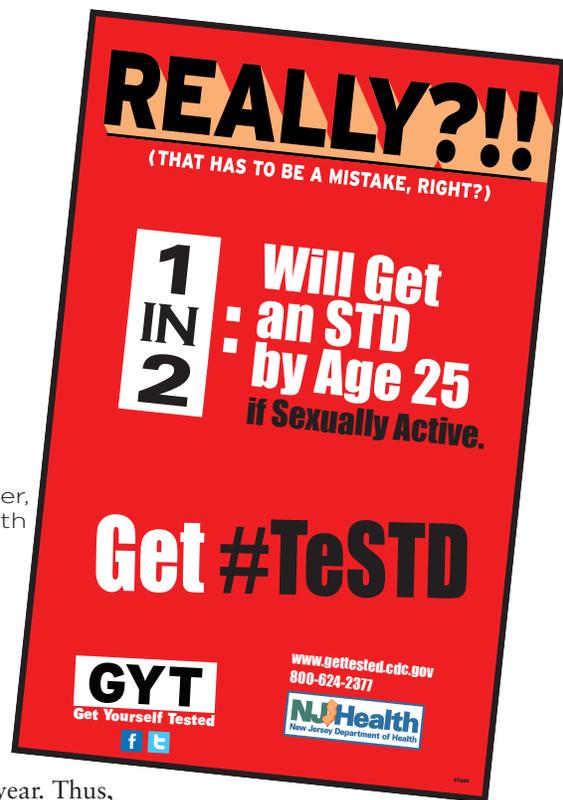
To fight the rise in STDs, the Department launched a “Get #TeSTD” social media awareness campaign in December about this urgent public health issue with a focus on alerting the public that one in two sexually active young people will get an STD by age 25. Our hope is that this startling fact will encourage parents, educators and healthcare providers to talk frankly and openly to adolescents about how they can get STDs and how to prevent them.

Decreasing STDs relies on timely diagnosis of new cases so any sexual and/or needle-sharing partners can be traced, tested, and treated to stop further spread. To boost early identification of cases, the Department has been improving our partner tracing efforts to ensure we are more effectively reaching those who might have been exposed to an STD. We recently combined our partner services offices for both HIV and STDs to maximize outreach efforts and share successful strategies. This merging of offices will also lead to less intrusion in clients' lives.

The Department is also modernizing our outreach to partners to reflect communication methods most used today, recognizing that partners are now connecting online and may only use an email address or username as their public identity. Our Internet Partner Services effort now allows the Department to access commonly used mobile applications to reach past sexual contacts of someone who has been diagnosed with an STD. ↴

@ Information on the numbers of cases per municipality is available at nj.gov/health/hivstdtb/stds/stats.shtml.

Campaign materials are available at nj.gov/health/hivstdtb or through social media sites twitter.com/NJDeptofHealth and facebook.com/NJDeptofHealth.





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Ready for Anything

Facilitating emergency response through effective communications

By Ryan Burke, NJM Corporate Communications



When emergencies arise, so does the immediate need to successfully and openly communicate with the public. Businesses, regulators, government officials, and residents will all likely be affected by such events. Ready.gov advises a prompt, accurate, and confident response during an emergency, as public safety, and opinion, is often shaped by the handling—or mishandling—of crisis situations.

An unfortunate reality is that neither the public nor private sectors are immune to the threat of a crisis.

Keeping Calm in the Face of Terror

Last September, the New York metropolitan area experienced two bombings and two other attempted bombings, beginning with a pipe bomb explosion in a Seaside Park trash can on September 17. A homemade pressure cooker bomb injured 31 people the same evening in Manhattan, and a second undetonated bomb was found four blocks away. The terror spree culminated with the discovery of five bombs inside a backpack at the Elizabeth train station on September 18.

Elizabeth Mayor J. Christian Bollwage, League Pase President, opted for transparent and proactive communication in response to this threat against New Jersey's third largest city of 125,000 residents.

“ I was worried about the residents in our community, but my fears extended well beyond the city of Elizabeth, and even beyond New Jersey.”

Once Elizabeth officials became aware of the possible threat, the area was quickly cordoned off and evacuations began. Even though there were no residents nearby, the mayor and local authorities took all possible precautions. Vehicle and pedestrian routes to the train station were blocked while officials walked the area to ensure there were no additional suspicious materials. New Jersey Transit and Amtrak trains through Elizabeth were delayed the following day while authorities performed a secondary search on the surrounding neighborhood. These efforts required a highly coordinated and very public communication effort.

“I was worried about the residents in our community, but my fears extended well beyond the city of Elizabeth, and even beyond New Jersey,” said Bollwage, now in his 24th year as Mayor of Elizabeth. “If someone can drop a backpack with multiple explosives into a public garbage can, it makes me concerned for everyone in our country.”

One of Bollwage's top priorities was to keep the public informed. “We shared as much information as we could without

compromising the investigation, and we were able to assess very early on that the city of Elizabeth was not in any further danger,” he said. Social media played a large role in the interaction with Elizabeth residents as well as the coordination with state, federal, and local agencies throughout the region.

The Mayor acknowledged that while

more extensive dialogue with federal authorities would be helpful in emergency situations, the mission could also be compromised if too much information is released. “This presents an inherent conflict in situations like this—our goal is to keep the public informed, and the authorities’ goal is to protect and preserve the evidence,” said Bollwage.

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“It will be a state of flux as the incident is ongoing, but you just have to stay the course.”

“The easier and more streamlined we can communicate, the better.”

The need for effective crisis communications is equally important to the private sector. According to NJM Insurance Group, social media is also a key component of their crisis plan.

“We have a responsibility to quickly and clearly communicate to our cus-

Municipal Team Preparation

Mayor J. Christian Bollwage of Elizabeth and NJM Insurance’s Amy Decker both recommend educational drills, such as tabletop exercises, to help communities and businesses prepare for potential crisis scenarios. Regularly engaging the respective teams in these activities will ensure a much more efficient response to real-life situations. While Bollwage says there’s no best way to respond in emergency situations, being as prepared, present, and informative as possible will go a long way to serving your constituents—and protecting your brand.

tomers, employees, and other stakeholders in the event of a crisis,” said Amy Decker, social media supervisor for NJM. “As a property and casualty insurer, our policyholders rely on us to respond quickly and effectively to a major weather event. Part of our communications strategy includes increasing

the number of customers who follow us on social media, allowing us to broadcast information to a large group immediately. Messaging on our website is also key, but requires an added step for someone to go and find the information. The easier and more streamlined we can communicate, the better.”

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Drone Technology

Moving forward while regulatory frame remains uncertain

By Brandon Dittman, of counsel, Helmer, Conley and Kasselmann, P.A.

The following article, supplied by League Affiliate, Jersey Access Group (JAG), continues a conference hot topic that promises to have wings to carry it well into the future.



At the League's Conference in November, one of the hot sessions was "Drones: Challenges and Opportunities for Local Governments," a joint session with the League and JAG featuring moderator Brian C. Wahler, Mayor, Picataway and League Past President with speakers Christina Engh, COO, UASolutions, and Ken Fellman, Partner at Kissinger & Fellman, P.C. (shown here with session attendees and the subject of much discussion, a drone). An expanded look at the topic is offered below.

Unmanned aircraft systems (UAS) or "drone" technology is becoming more ubiquitous with each passing day. At this year's Super Bowl, Lady Gaga performed with drone "back-up dancers," Aaron Gordon of the Orlando Magic used a drone to help perform his NBA All-Star Game dunk in February, and late last year Amazon and Chipotle began the first government-sanctioned drone delivery trials. While the advance of drone technology has been relentless, the promulgation of federal regulations to govern their use has been a slow trickle at best.

Local Government as Users of UAS Technology

On August 29, 2016, the Federal Aviation Administration (FAA) promulgated the first operational rules for commercial use of small UAS, widely known as the "Part 107" rules for the section

of the Code of Federal Regulations under which they fall (Operation and Certification of Small Unmanned Aircraft Systems (RIN 2120-AJ60) Federal Aviation Administration). The Part 107 rules govern most non-hobby drone applications, including cable

channels for public, educational, and government (PEG) programming and non-police and fire municipal operations. Part 107 requires operators to become certified as a remote pilot in command (the UAS equivalent to a pilot's license) and to register all UAS aircraft with the FAA. A Part 107 authorization allows UAS operation with a number of limitations including restrictions on maximum altitude, airspeed, "beyond line of sight" operations, "swarming," autonomous operations, and operations over people.

While the Part 107 rules provide a number of clarifications on the processes and procedures for municipal UAS operations, significant questions remain. We have yet to see regulations governing operations over people. One of the key benefits of UAS technology is to be able to hover over crowds for photography or survey proposes more cheaply and quickly than traditional means. However, as a widely shared video of a drone

nearly crashing into world champion skier Marcel Hirscher at an international ski federation world cup event has proven, UAS operations over people can be extremely dangerous without proper precautions. Under Part 107, organizations may request a waiver under Part 107 to fly over people on a per occurrence basis.

The waiver process requires a highly detailed submission to the FAA and must demonstrate compliance with FAA Performance Based Standards for Part 107 (Waiver forms are posted at faa.gov/uas/request_waiver/media/performance_based_standards.pdf). This cumbersome system of per

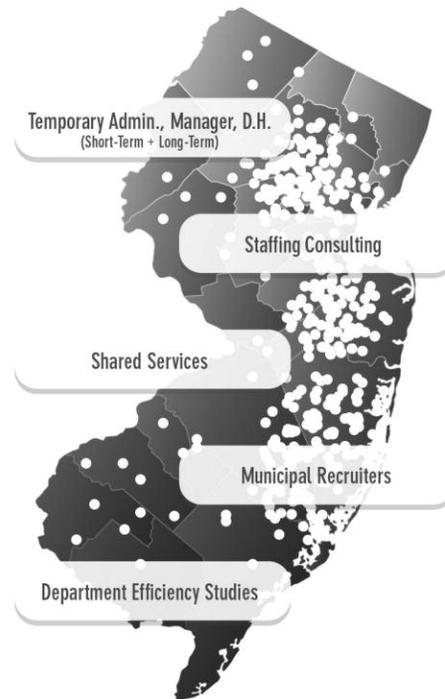
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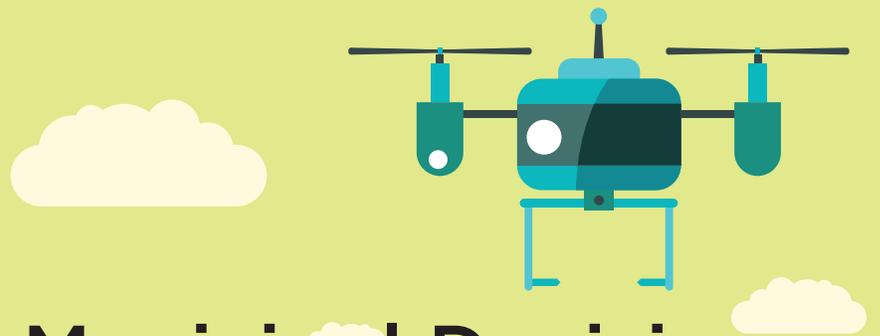
occurrence waivers is not ideal, particularly when trying to respond to or cover unplanned events such as protests or disasters. Because of the burden of this process, at press time, only 318 Part 107 waivers have been granted, mostly for night operations.

“While the number and diversity of drone-based applications is ever growing, regularity uncertainty regarding their use persists.”

The FAA was set to release a notice of proposed rulemaking (NPRM) in early 2017, specifically on the subject of operations over people. However, the transition to the Trump administration has thrown the future of the operations over people and all other drone regulations into question. This concern was highlighted in a recent letter from the Commercial Drone Alliance (which includes members such as Google and CNN) to the Office of Information and Regulatory Affairs stressing that the Administration’s recent Executive Order (EO) on Reducing Regulation and Controlling Regulatory Costs (the so called “two for one” regulatory EO) would only serve to increase the regulatory burden on drone operators if it were used to stop burden-easing regulations such as the operations over people NPRM from being promulgated. Given the current regulatory uncertainty, municipal UAS operators are encouraged to strictly comply with Part 107 or their Public Certificate of Authorization (if applicable).

Local Governments as Regulators of UAS Technology

The ability of local governments to regulate drones is even less clear than the ability to operate them. During the



Municipal Decisions Around the USA

The absence of clear federal rules has not stopped localities from stepping into the void, and these local attempts to regulate will likely lead to a more definitive picture of what is permitted under federal law.

ORLANDO, FL: On January 23, 2017, the Orlando City Council passed Ordinance No. 2016-87, a comprehensive drone regulatory scheme. The ordinance restricts drone use within 500 feet of city-owned parks, schools, and venues. Drones are also restricted within 500 feet of gatherings with more than 1,000 people. The ordinance creates a series of permitting obligations for drone use and provides for civil and criminal penalties for unsafe operations as defined by the city. Given that the federal government has already “occupied the field” on subjects such as the location of drone operations, permitting schemes, and operations over people, and the Orlando ordinance creates city-specific standards that go beyond federal law in their reach, if the Orlando ordinance is challenged, it will likely be found to be preempted, at least in part.

SAN DIEGO, CA: In contrast, the City of San Diego is considering an ordinance drafted in coordination with the FAA specifically to avoid federal preemption. In essence, the San Diego ordinance creates local enforcement mechanism for compliance with FAA standards on safe operations including operations near airports and emergency responders. The drone advocacy group, Academy of Model Aeronautics, has hailed the ordinance as sensible, rare praise from an organization which generally opposes local regulation.



development of the Part 107 rules, many urged the FAA to preempt all state and local regulation of drone activity. Instead, the FAA's final rule stated that the agency was "not persuaded that including a preemption provision in the final rule is warranted at this time," concluding that "certain legal aspects concerning small UAS use may be best addressed at the state or local level." However, the FAA has provided little guidance on what kinds of local regulations of drone activity are permissible. This is coupled with the fact that a recent statute, H.R.636 - FAA Extension, Safety, and Security Act of 2016, contains provisions which create a petition process by which entities may petition the Department of Transportation (DOT) to designate certain locations as off limits to drones. These provisions appear to preempt the ability to place location-based bans on drones.

The contrast of the Orlando and San Diego ordinances provides a helpful example for local governments considering regulating drones. First, local regulators should always consult with the FAA before passing new regulations on drone activity. Second, regulations that are unlikely to be preempted are those that focus on traditional state and local police power (such as land use, planning and zoning, health, safety, advertising, general welfare) and those that provide a local enforcement mechanism to enforce FAA standards.

While the number and diversity of drone-based applications is ever growing, regularity uncertainty regarding their use persists. The FAA has created a Drone Advisory Committee (DAC) to assist it, in part to define the roles and responsibilities of federal, state, and local governments in regulating and enforcing drone laws, and it met for the first time last September. Unfortunately, of the DAC's 35 members there are only two representing local government interests – San Francisco Mayor Ed Lee and former Riley County, Kansas Commissioner Robert Boyd. Given this regulatory uncertainty at least in the short term, local governments must stay

abreast of the federal regulatory changes which will eventually come, and tread carefully, both as operators and regulators of drones.

Save the Date

FAA Certification for Commercial Operations requires that drone operators successfully pass the 14 CFR Part 107 Aeronautical Test. The Jersey Access

Group has teamed up with certified flight instructors to provide a two-day training course for municipal employees, May 30 and 31, 2017 at the Hyatt Regency Morristown. ↗

@To learn more contact jaginfo@jagonline.org. Registration is limited.

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State Audits

A look at the process behind the OSC's audit process

By Philip James Degnan, State Comptroller



The Office of the New Jersey State Comptroller (OSC) strives to bring greater efficiency and transparency to the operation of all levels of New Jersey's government. Our Audit Division plays an integral part in fulfilling that mission.

OSC has the statutory authority, pursuant to *N.J.S.A. 52:15C-1 et seq.*, to conduct financial and performance audits of the executive branch of state government, including all entities exercising executive branch authority, public institutions of higher education, independent State authorities, units of local government, and boards of education. We, as an agency, recognize two basic truths: 1) few individuals or organizations like to hear that they are being audited, and 2) we understand that the process, as hard as we try to minimize disruptions, can be uncomfortable and is invasive.

Maintaining a fair process

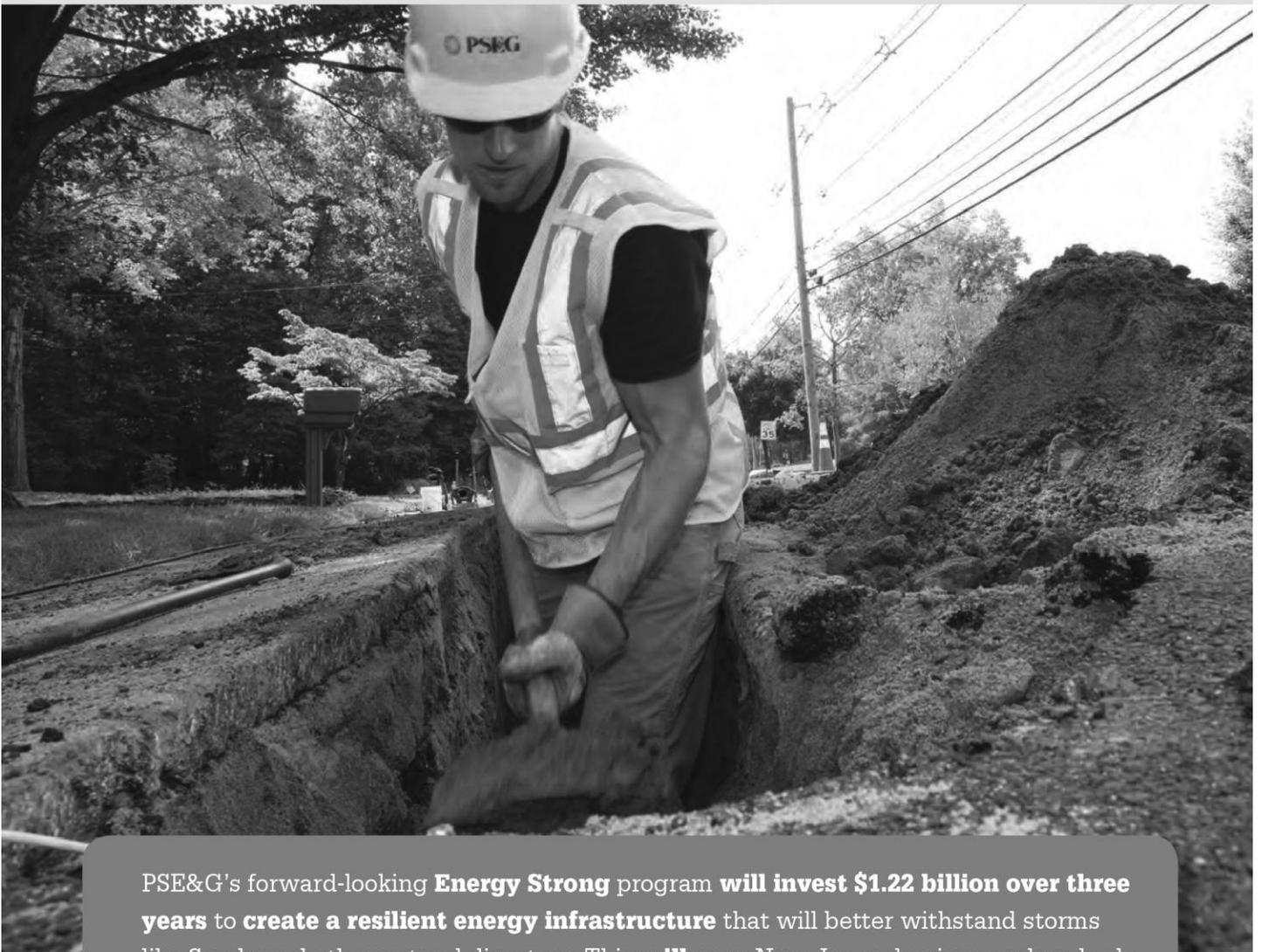
The process that OSC has put in place with respect to our audits is reflective of these "truths." Our goal is to be fair and unbiased, and to provide an objective, independent review with meaningful recommendations for improvement.

At every stage of the audit process, we maintain fairness and independence. For example, with regard to selecting an audit, OSC's enabling legislation requires us to "establish objective criteria for undertaking performance and other reviews authorized by this act."

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OSC's Audit Process

As a result, OSC has developed a risk/priority evaluation matrix that includes a number of risk factors, such as the entity's past performance, size of budget, the frequency, scope and quality of prior audits, and other credible information which suggests the necessity of a review. OSC staff conducts research along these parameters and assesses risk associated with each applicable factor as an aid in determining audit priority and for use in creating a preliminary audit plan.

We never begin an audit with preconceived or predetermined results in mind. Rather, we engage in this sophisticated analysis to assess risk areas, establish audit objectives, and define the scope of the engagement.

Getting started

Once we select an audit, OSC issues the auditee an engagement letter

summarizing basic information regarding the audit process, identifying essential OSC personnel assigned to the project, and outlining our technical requirements. After issuing the engagement letter, we will coordinate scheduling of the opening conference to discuss:

- The scope of the audit, including the program areas under review and the period of time covered.
- Appropriate communication channels for obtaining information and transmitting preliminary audit findings.
- The existence of any known improprieties.
- Reporting procedures for preliminary, draft and final reports, including the opportunity for responses.
- Technical requirements, such as office space and equipment needed to conduct the audit.

At any time after the receipt of the engagement letter or at the opening conference itself, we ask that you make us aware of any unique circumstances or limitations we should take into account. We will consider those factors, while balancing our mission and the need to accomplish our audit goals. Throughout the audit process, the audit team will meet with you to discuss the potential audit findings and issues. These discussions not only allow us to fully understand your operations, but also give you the opportunity to provide pertinent information to the audit team to ensure a quality audit with accurate findings.

At the conclusion of our field work, OSC engages in a robust vetting process during which time the information that we have collected is evaluated, findings are determined, and recommendations

Audit Results: Recent Projects



Most recently, OSC has conducted audits of the Plainfield Municipal Utilities Authority regarding certain operational and procurement practices; three state universities and colleges and their use of student fees; the preschool program in a public school district; controls over personnel and fiscal practices in three municipalities; and the state's Temporary Disability Insurance program.

It would be disingenuous to say that, in each of the above-referenced cases, we reached a complete meeting of the minds between the auditee and OSC staff. While, in many cases, the auditee does ultimately agree with our findings and takes corrective action, agreement is not necessarily the goal of the process. We believe, however, that even in cases where consensus cannot be achieved, auditees feel that they were treated fairly through the process and were given ample opportunity to be heard prior to the publication of the audit report.

All of our audit reports are available online at www.state.nj.us/comptroller/news/approved/news_archives.html. Additionally, our website provides a link to a pamphlet that outlines the audit process in greater detail.

are considered. You, as the auditee, have a role in that process. Indeed, the auditee will have multiple opportunities to provide pertinent information to the audit team. A discussion copy of the audit report will be provided to the auditee and a final exit conference will

All responses are appended to the official audit report.

What we have seen is that the most effective and beneficial audits arise out of a cooperative and open relationship between the auditee and the auditors. Indeed, given that the overwhelming

meaningful analysis and recommendations. An engaged auditee is significantly more likely to assist the audit staff in developing sound, useful recommendations with fewer issues or conflicts to resolve during the close-out process.

We, as an organization, value the auditee's role in this process and believe that an auditee who engages openly with audit staff contributes to a more accurate and meaningful report. Our goal is to execute a well-defined and non-adversarial audit that will assist you, and others in similar circumstances, in operating more efficiently and effectively.

We hope to provide an audit report that not only identifies weaknesses or areas for improvement found by our auditors, but also provides meaningful recommendations that serve as a guidepost to strengthen your organization's internal controls and operative effectiveness. ♣

“ What we have seen is that the most effective and beneficial audits arise out of a cooperative and open relationship between the auditee and the auditors.”

be held to discuss OSC's preliminary findings. The final audit report is published and posted on OSC's website only after the auditee has an opportunity to review the draft and formally respond.

majority of OSC's audits constitute performance audits (rather than financial audits), OSC staff must develop a level of expertise and a base of knowledge regarding the auditee to support

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FINANCE CENTER

State Regulatory Oversight of New Jersey Municipal Finance Protects Access to Credit Markets

By Edward J. McManimon, III,
Counsel, McManimon Scotland & Baumann; League Bond Counsel

The recent flirtation with bankruptcy by Atlantic City highlighted the benefit that all municipalities receive from the regulatory oversight by the State of the finances of municipalities. While the chapter on Atlantic City is yet to be completed, it is safe to say that the State's actions, whether you agree with them or not, bear witness to the importance of the role that the State plays in stepping into and addressing the financial conditions of a municipality. The State's oversight can assure creditors that deal with municipalities in New Jersey (whether they be vendors or contractors or bond or note holders or even employees) that their issue will be addressed before the financial conditions deteriorate to the point where it is too late to address them.

While early indications suggested that bankruptcy was an option for Atlantic City, it became clear that whatever action the State was contemplating in dealing with the financial stress of Atlantic City, that action would resonate throughout that State's 565 municipalities regardless of the financial conditions of those municipalities.

Over the years, the State's municipalities have enjoyed strong credit ratings from the national rating agencies, which have resulted in easy and consistent access to the credit markets in connection with the issuance of its bonds and notes. The ratings themselves generally vary from a high of AAA to some as low as Ba. All have, nevertheless, generally been able to access the credit markets just with varying interest rates. This is largely due to the financial policies enacted by the State that affect and protect its municipalities.

The resulting regulatory oversight of the finances of such municipalities provides significant comfort to those credit ratings agencies and the bond and note markets. The ultimate decision to be made by the State in Atlantic City, where the circumstances of the State oversight is needed most, will put the value of that oversight to the test. While there is an

assumption that most other states and local governments have similar oversight, that is not the case and many that have it do not have the depth of the oversight that exists in the State of New Jersey. These protections include:

- 1** All New Jersey municipalities must adopt operating budgets annually which are submitted for review by the State. These are not "planning" documents, they are spending documents. Contracts cannot be entered into without identifying an appropriation in the budget or from some other grant or similar source. The Chief Financial Officer must certify the source and availability of funds for such purposes.
- 2** All municipalities must prepare and submit to the State an annual audit of its finances.
- 3** State law restricts the amount of debt that can be incurred to 3.5% of its 3-year average of assessed property value (2% for counties). It can only exceed this amount with the approval of the Local Finance Board.
- 4** The State monitors the amount of debt incurred by municipalities as a percentage of its budget and if it exceeds certain thresholds, it requires the municipality to appear before the Local Finance Board to explain its ability to operate under those conditions.
- 5** If a municipality operates at a deficit above certain thresholds for two successive years or longer, it must appear before the Local Finance Board to present a financial plan that corrects that.
- 6** The Local Finance Board and its Director have significant discretion to exercise direct supervisory powers over municipalities that continue to experience financial stress.

There are many more protections built into the New Jersey Statutes and regulations to assure the bond and note markets as well as vendors, contractors, creditors, and those dealing with municipalities that their obligations will be honored and paid. To some, these may seem to be onerous and costly, but the protections they provide are in fact the foundation for the strong position New Jersey municipalities occupy in the credit markets around the country. 📌

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GOLD DOME

Trenton Re-Boot

By Benjamin Dworkin, Ph.D.,
Assistant Professor of Political
Science (Adjunct); Director of
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Politics at Rider University



Five current state Senators—12.5% of the upper house—have chosen not to run again in the upcoming election. Large-scale legislative retirements don't happen often, and when they do, the implications can be far-reaching for how state politics gets done. New Jersey is losing influential legislators with 123 years of Trenton experience that won't be easy to replace.

Here is a rundown of each which is accurate at press time.

District 2 Senator Jim Whelan (D), a 68-year old former teacher, has held his Atlantic County-based senate seat for a decade. Previously, he was an Assemblyman, following 11 years as Atlantic City Mayor.

In Trenton, Whelan is a well-regarded leader on all issues related to Atlantic City, gambling, and tourism.

District 2 is a “split district”—each party has at least one of the three legislators in the district—making it very competitive. The fall contest to replace Whelan was originally between Assemblymen Vince Mazzeo (D) and Chris Brown (R), but Mazzeo opted to focus on re-election to the Assembly. Brown's Democratic opponent will now be former Atlantic County freeholder Colin Bell, Mazzeo's running mate for the Assembly in 2015. Even with this change, this contest is likely to be one of most expensive legislative races ever.

District 7 Senator Diane Allen (R), a cancer survivor and former Philadelphia television news anchor, is leaving after 20 years in the Senate representing Burlington County. “I have come to realize that I must face some health issues that I have been trying to ignore,” she explained.

Allen has a reputation as the quintessential moderate Republican, willing to work with Democrats and occasionally buck her own party's leadership. She is currently Deputy Minority Leader and has been very active on issues affecting senior citizens and families.

Her replacement is likely to be one of the district's two Democratic Assembly members—Herb Conaway and Troy Singleton.

District 13 Representing a safe Republican district in Monmouth County, Senator Joe Kyrillos (R) has spent more than half his life in the legislature, having been elected to the Assembly first in 1987.

He served as state party chairman from 2001 to 2004, and ran unsuccessfully for Congress in 1992 against Frank Pallone and U.S. Senate in 2012 against incumbent Bob Menendez.

An early supporter and close friend of Governor Chris Christie, Kyrillos and the Governor parted political ways recently, with

the Senator backing former Republican Gov. Jeb Bush, not Christie, for president.

Kyrillos has earned profound respect from all corners. He has strong relationships across the aisle and that allows him to have significant influence, particularly on issues related to shore protection and coastal development.

Though both GOP Assembly members in the district—Declan O'Scanlon and Amy Handlin—were looking to replace Kyrillos originally, Handlin dropped out and it is now widely expected that O'Scanlon will move into the seat.

District 20 In this Union County-based district, Senator Raymond Lesniak (D) has been a fixture for almost 40 years. Considered by many Trenton observers as a consummate dealmaker, Lesniak shaped his legacy recently as an unyielding critic of Chris Christie and a standard-bearer for New Jersey progressives. His biggest efforts have involved repealing the state's death penalty and providing marriage equality.

Lesniak recently launched his bid for the Democratic nomination for Governor in 2017.

Former Assemblyman and current Union County Sheriff Joe Cryan is the odds-on favorite to win the seat in this heavily-Democratic area.

District 40 Senator Kevin O'Toole (R), a 51-year old attorney, is leaving the legislature after 22 years in Trenton. He has been active on judicial and budgetary matters, as well as anti-discrimination efforts.

A very close ally of Christie, he is admired as a top party strategist. Tom Wilson, a former chairman of the state Republican party, described him as one of the GOP's “brightest minds and astute tacticians.”

To replace O'Toole in this safe Republican district, which includes portions of Passaic, Essex, and Bergen counties, there will be a bitter intraparty fight among well-known and well-financed candidates, including former Assembly Majority Leader Paul DiGaetano and Passaic County Clerk Kristin Corrado.

In a world of hyper-partisanship, these five Senators found ways to work with Governors and legislators of other parties, and for this, they should all be commended. Their legislative legacies are extensive and praise-worthy. As a new Senate takes its seats in January, they will be sorely missed.

However, the impact of these retirements is dwarfed by what will happen when a new governor comes to Trenton.

It's like unplugging and re-plugging your computer. When you have a new governor, it re-boots the entire system.

New Jersey politics was designed to have the governor at the center of everything. Legislative personalities are important, but once a new person is in the front office, as will happen in January 2018, everything gets a new start. 🍻

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Major New Jersey 2016 Environmental Legislation

By John M. Scagnelli, Partner, Chair of the Environmental & Land Use Law Group, Scarinci Hollenbeck, LLC; NJLM Environmental Counsel

In the year 2016, we saw New Jersey environmental legislation introduced in a number of important areas, including beach and shoreline access, lead in drinking water, electronic waste management, sustainability, and oil carrying trains, among other areas. In addition, resolutions were introduced in the New Jersey State Legislature seeking to block the Christie Administration and the New Jersey Department of Environmental Protection (NJDEP) from loosening septic system density requirements in the Highlands, and putting a constitutional amendment on the November 2017 ballot to dedicate funds received from state environmental litigation settlements for environmental purposes. I discuss this environmental legislation below.

1. Dedication of State Environmental Settlement Funds

In December 2016, the State Assembly passed ACR-127 (McKeon Benson/Eustace), which asks New Jersey voters to approve a constitutional amendment mandating that any money recovered from state initiated environmental lawsuits be dedicated to environmental projects. The Resolution was introduced after the Christie Administration had collected more than \$350 million from companies responsible for polluting the Passaic River in the Passaic River litigation and spent less than 20% of those funds on restoration projects, and the Christie Administration settled the Exxon Mobil environmental litigation for \$225 million—far less than what environmental advocates claimed the case was worth. The State's Exxon Mobil settlement has been challenged in the courts, and the case will be heard in the Appellate Division this year.

2. Blocking NJDEP's Highland's Septic System Density Standards

On December 15, 2016, the State Assembly Regulatory Oversight and Reform and Federal Relations Committee favorably

reported ACR-192 (McKeon/Spencer), which would reflect a legislative finding that NJDEP's rule proposal to revise the septic system density standards in the Highlands Water Protection and Planning Act Rules, published for public comment on May 2, 2016, in the New Jersey Register, is not consistent with legislative intent. NJDEP's proposal would increase development in the Highlands Preservation Area. The proposed septic rules concern what levels of nitrate may be absorbed into the soil in the Highlands Preservation Area, and leach into the groundwater supply. The full Assembly has now approved ACR-192, and the Senate needs to introduce a companion bill.

3. Beach and Shoreline Access

A major battle is underway in New Jersey regarding public access to beaches and shorelines. The Appellate Division in *Hackensack Riverkeeper v. New Jersey DEP*, 443 N.J. Super. 293(App. Div. 2015) had invalidated NJDEP's 2012 public access rules, holding that the Legislature had never explicitly granted that authority to NJDEP. In January 2016, the Legislature enacted P.L. 2015, c.260, signed by the Governor, which granted NJDEP the authority to condition its land use approvals upon providing public access to the beaches and shorelines. On September 8, 2016, Senator Bob Smith introduced S-2490 (Smith/Bateman) in the State Senate to provide public access to beaches and shorelines under the public trust doctrine. NJDEP opposed that bill, stating it went too far and imposed undue requirements on property owners. NJDEP subsequently introduced its own proposed public access rules at *N.J.A.C. 7:7-16.9*, which themselves have raised questions. The League has raised concerns that NJDEP's proposed public access regulations could constitute, at least in part, constitutionally prohibited de facto mandates on local governments. Other groups have raised objections and NJDEP's regulations are pending. Stay tuned in the coming year.

4. Lead in Drinking Water

On April 4, 2016, A-3539 (Muoi/Spencer) was introduced in the State Assembly requiring public and non-public schools to test for and remediate lead in school drinking water and to

disclose test results. The bill was introduced in response to complaints surrounding the detection of lead in City of Newark public school drinking water at levels exceeding United States Environmental Protection Agency (USEPA) standards. Subsequently, the New Jersey State Board of Education issued regulations on July 13, 2016, requiring testing for lead in all drinking water outlets within all facilities in New Jersey public schools and charter schools within 365 days of the effective date of the rules, or by July 13, 2017. Given the attention to the lead in school drinking water issue, it would not be surprising if legislation is introduced in the coming year requiring testing for lead in the drinking water of other public facilities.

5. Municipal Sustainability Ordinances

The year 2016 was noteworthy in that we saw the continued adoption of municipal sustainability ordinances requiring developers to furnish environmental impact information with their applications for municipal approvals. The City of Newark passed an ordinance making it mandatory that developers in the City provide an environmental checklist with environmental impact information. In 2015, the City of Camden had enacted a sustainability ordinance requiring developers to submit an Environmental Impact and Benefits Assessment (EIBA) addressing environmental impacts.

6. Oil Trains

In 2016, there was increased attention placed upon the transport of crude oil in oil trains transiting northern New Jersey counties. This led to the introduction of several bills in the New Jersey Legislature seeking to require the owners and operators of the oil trains to have emergency response and cleanup plans, and seeking the creation of a New Jersey Crude Oil by Rail Safety Task Force. S-806 (Weinberg/Gordon) and A-2463

(Eustace/Vainieri Huttler) require the owners operators of oil trains to have emergency response and cleanup plans, and S-2803 (Gordon) seeks the creation of a New Jersey Crude Oil by Rail Safety Task Force to study the risks and impact of the transport of crude oil by rail on the public health and safety and to make recommendations on emergency response measures. The bills remain under consideration.

7. Electronic Waste Management

Governor Christie signed into law S-981 (Smith/Bateman/Greenstein), which requires manufacturers of electronics to provide for the collection, transportation, and recycling of their market share in weight of disposed electronics collected in a program year. Municipal and county programs have experienced increased costs of recycling electronics in recent years and had been forced to either pass on those costs to residents or close down their recycling

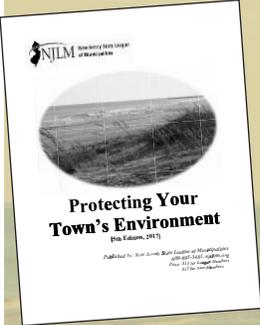
programs. The new legislation imposes those e-waste recycling costs on the manufacturers.

8. Illegal Dumping of Tires

The problem of illegal dumping of tires in New Jersey gained increasing attention in 2016. Two bills were introduced in the New Jersey State legislature to deal with the illegal tire dumping. S-2422 (Madden/Stack), introduced in the State Senate, requires the recycling of scrap tires and the licensing of scrap tire dealers. A-4395 (Schaer), introduced in the State Assembly, requires the identification and remediation of waste tire sites to bring the sites into compliance with the Solid Waste Management Act and other applicable laws. Both bills are pending.

2016 was certainly an interesting year for environmental legislation in New Jersey.

The year 2017 promises to be more interesting still. ♪



League Releases Updated Environmental Publication

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LABOR RELATIONS

Rice Notice Requirements Expanded by Appellate Division

By Joseph M. Hannon, Esq., Genova Burns, LLC;
Labor Counsel for New Jersey State League of Municipalities

A recent Appellate Division decision, *Kean Federation of Teachers v. Ada Morell, et. al.*, set important guidelines for the issuance of Rice notices and making minutes of public meetings available to the public. In the decision, the court expanded the application of Rice notice requirements on personnel issues. It also analyzed what the Open Public Meetings Act (“OPMA”) means in making minutes “promptly available” the public. Both rulings set stricter requirements on public bodies and all public bodies therefore should review their processes to ensure compliance with this ruling.

At Kean University, the reappointment of faculty followed a standard process. First, the President of the university would make recommendations to a subcommittee of the Board of Trustees as to reappointments. The subcommittee would then review the recommendations and from that make its recommendation in a report to the full Board. At the public meeting, the Board would then simply vote to accept the subcommittee’s report, thereby having no discussion about the issue at the public meeting. As such, since there was no discussion of the personnel matters, the Board did not send Rice notices to the individuals who were voted on for reappointment or non-reappointment.

The court analyzed the issue under *N.J.S.A. 10:4-12b(8)*. That provision authorizes a public body to exclude the “public only from that portion of a meeting at which the public body discusses”:

...matter(s) involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual

employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting.

The court reviewed this exemption and determined that even though the employees were not discussed, they still had a right to receive the Rice notice to inform them of their rights and the ability to waive it. Therefore, anytime a public body has one of these topics as an agenda issue pursuant to *N.J.S.A. 10:4-12b(8)*, it must provide the Rice notice. As the court explained, “this approach will provide all of the affected employees with the opportunity to: (1) decide whether they desire a public discussion, and (2) prepare and present an appropriate request in writing.” In short, any time any individual will be discussed in a public meeting, he/she will be required to be provided a Rice notice pursuant to this ruling.

“Public bodies should review their protocols to ensure that Rice notices be issued in advance of taking action on agenda items involving employment matters.”

The court also addressed the question of when minutes from public meetings must be made available to the public. Minutes of public meetings are to be made “promptly available” to the public as required by *N.J.S.A. 10:4-14*. The question of what is “promptly available” had not been defined in numerical terms, but rather based on the facts and circumstances of the public body. While that general principle remains, the Appellate Division did put stricter limits on public bodies.

In this matter, the Board of Trustees met five times per year. Accordingly, minutes would be distributed to the public after

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they were approved at the following meeting. However, as the facts in this matter showed, in one instance the timeframe was 94 business days and the other time was 58 business days. The trial court judge, on an injunctive relief application, determined that the Board of Trustees should release their minutes within 30 to 45 days of the meeting. The Appellate Division reviewed this issue.

In its decision, the Appellate Division did not uphold a “bright-line” rule as to the number of days, but rather determined that the timeframe that the Board of Trustees used did not meet the statutory definition of “promptly available.” The court utilized the general principles of statutory construction to determine what is meant by the amorphous phrase. It stated that “promptly available,” “requires a public body to adopt a

protocol that makes the availability of its meeting minutes a priority. The approval of meeting minutes cannot be treated as a mere ministerial function, or worse yet, a technical annoyance.”

The court looked at the following factors in determining that the Board of Trustees did not make the minutes “promptly available.” First, it reasoned that the minutes consisted of two pages and therefore, did not require much drafting or editing. Second, the subject matter involved, i.e. personnel decisions, are matters of importance to the faculty, student body, and the public. Accordingly, it was necessary for the public body to make the minutes available in a shorter timeframe. While 45 days may be too rigid and not permit for flexibility for various circumstances that could lead to a delay, permitting the Board of

Trustees to act as it did in this matter was clearly not making the minutes “promptly available.” One suggestion made by the court was that the Board of Trustees should schedule more than five meetings a year in order to comply with this ruling.

This decision certainly provides important guidance to public bodies on these issues. The court’s clear directive to the parties is applicable to all public bodies effective immediately. Public bodies should review their protocols to ensure that Rice notices be issued in advance of taking action on agenda items involving employment matters. Public bodies must also review their processes to ensure an efficient method of producing required meeting minutes (including those which are subject to redaction) relatively soon after receipt of a request. ♣



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LEGISLATIVE UPDATE

By Michael F. Cerra, NJLM Director of Government Affairs;
Lori Buckelew & Jon R. Moran, NJLM Senior Legislative Analysts



**S-2107/A-536/
A-3223/S-2446**

Allowing pensioners to continue as volunteers

Status: S-2107, A-536 and A-3223 all await action in the Assembly State and Local Government Committee. S-2446 has been referred to the Senate State Government, Wagering, Tourism and Historic Preservation Committee.

The League supports two pairs of bills, designed to allow many of our invaluable volunteers to continue to serve their communities, without interruption.

In 2014, the State's Division of Pension and Benefits issued guidance on post retirement employment restrictions for public employees. The guidance noted that there must be a "bona fide severance of employment," a complete termination of the employee's employment relationship with the employer for a period of at least 180 days, in order not to jeopardize the employee's retirement benefits. The Division considers re-employment by a different unit of the same public entity, whether the position is covered by the same retirement system or a different retirement system, to be employment by the same employer. If an employee holds more than one position with the employer they must separate from all employment in order to retire, even if the positions are covered by different retirement systems, or the second position is not subject to pension contributions.

If an individual returns to public employment with the former employer, even as a volunteer, prior to satisfying the requirements of a bona fide severance from employment, the employee will be required to repay all retirement benefits received from the date of retirement and may be required to re-enroll in the same or different retirement system. As a result, volunteer firefighters and first aid members (and volunteer parade, event or celebration committee members or volunteers serving the

PTA, to name a few), who were also public employees, have been required to resign from their volunteer position in order to receive their retirement benefits.

Volunteers are the backbone of communities, providing services to the residents at no cost to taxpayers while freely giving of their time and expertise. Employees affected by the Division of Pensions ruling generally are at least 55 years of age. In their volunteer positions, they often serve as mentors to the new and younger members, typically providing guidance and direction.

While well intended the Division of Pensions has created an unintended consequence which, if not changed, will impact every public employee who volunteers in the state and will not only drive up property taxes, but would also reduce the quality and level of essential public services.

In November, 2014, the League of Municipalities adopted a Resolution urging action to direct the Division of Pension and Benefits to permit retirees and local elected officials to continue as volunteers, without impact to their retirement, and to not require the complete 180 day separation from volunteer service.

In response, two pairs of companion bills have been introduced.

Last year, the State Senate unanimously passed S-2107 (companion to A-536), which would permit a person with a pre-existing volunteer relationship as a firefighter or first aid with their employer to retire from service covered by PERS or PFRS and continue to serve that employer as a volunteer. We support this bill, which would address part of the problem.

Other legislation, however, goes all the way in resolving the problems created by the Division of Pensions' ruling on "bona fide severance."

A-3223/S-2446 would allow public employees in state-administered retirement systems who continue any preexisting volunteer relationships with employers from whom they retire, to continue to volunteer for their prior employers without jeopardizing their pensions. Legally speaking, this bill would clarify that such a relationship does not vitiate a bona fide retirement.

We commend the sponsors of these bills and would urge action to remedy the problem, once and for all.—LB

 **S-2431/
A-3903**

Increases disclosure of political contributions

Status: Introduced and referred to Senate State Government, Wagering, Tourism and Historic Preservation Committee. The Assembly companion is referred to Assembly Judiciary Committee

S-2431/A-3903 would modify the current law regulating the awarding of public contracts to business entities that make campaign contributions, commonly referred to as the “pay-to-play” law. The bill would:

- Eliminate the “Fair and Open” process.

- Prohibit the adoption of local “pay-to-play” ordinances.
 - Bar business entities seeking to enter into a public contract from making a contribution to a political committee and continuing political committee, in addition to candidate committees and legislative leadership committees.
 - Increases business entities contribution threshold from \$300 to \$1,000.
 - Requires disclosure of contributions to independent expenditure committees.
 - Changes the definition of “business entity” based on the type of business.
 - Decreases the threshold disclosure requirement for business entity that contracts with a single State agency, or a county, municipality, independent authority, board of education, or fire district from \$50,000 to \$17,500.
- Our main concern is that S-2431/A-3903 would eliminate the “fair and open” process that municipalities use to comply with the Pay-to-Play law. The

law applies to any contract over \$17,500, even if a local unit’s bid threshold is higher. If enacted, this legislation would create a procurement issue for “window contracts,” which are those contracts over \$17,500 but under the local unit’s bid threshold.

The “fair and open” process provides an alternative for both vendors and municipalities to comply with Pay-to-Play without the cumbersome reporting requirements, while meeting the spirit and intent of the Pay-to-Play law. The “fair and open” process is a competitive process that advertises the need for goods or services and provides an opportunity for a broader pool of vendors. Without the process, vendors will be required to complete the necessary and often time consuming voluminous paperwork; a requirement that often discourages small business owners.

By eliminating the “fair and open” process S-2431/A-3903 limits the competitive process and discourages small business owners from the process.—LB

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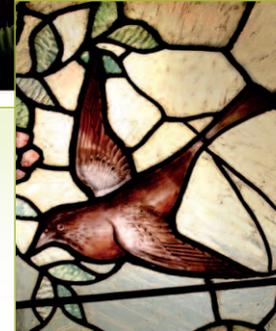
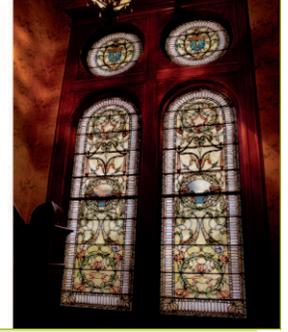
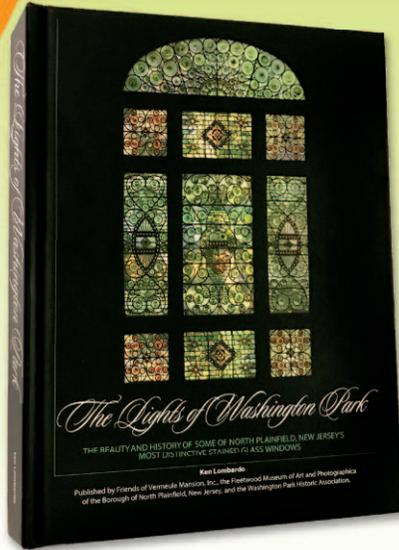
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