From the NJCM President:

Mayors and COVID-19

Many of us seek the position of Mayor to make an impact in our communities, whether you reside in a Borough, Town, Township, Village or City. Our role is much like that of the conductor of an orchestra. We know we need each player or band member to step up and on queue play their part so that our towns are in harmony. It is especially in times of hardship or adversity that we need to make sure that our towns stay together and in cord. You see, we already knew how valuable each player was, and at any time on queue they step up and play their part.

No one could have predicted that COVID-19 would bring such a disruption to our lifestyle and bring such uncertainty. As we watch our doctors, nurses and medical professionals step up with great confidence and accuracy on the stage, it gives our communities a sense of promise that they are working feverishly to supply us with our necessities that are so vital to our economy and wellbeing. Countless residents who are in the background, that every day hustle and bustle, that at times get lost in the big picture because quite frankly they are playing the melody we know all too well. They are the truck driver, grocery store workers, waiters, fire and police, DPW workers, town

NJCM Annual Spring Conference Postponed

As you are surely now aware, the NJCM Annual Spring Conference scheduled for May 13 to 15 at the Hard Rock Hotel & Casino in Atlantic City has been postponed due to the Coronavirus pandemic.

The conference has been rescheduled to September 23 to 25, 2020 at the Hard Rock Hotel & Casino, Atlantic City

We will continue to update you with information about the Conference in the months ahead.

Mayors Need to Support Legislation Providing Direct Financial Assistance to Cities and Municipalities with a Population of 500,000 or Less

Urgent action needed

Letters needed by mayors to congressional delegation to support direct financial assistance to local governments with a population below 500,000 as introduced in legislation (hr6467) --the coronavirus community relief act.

Under the current coronavirus relief fund created by the cares act only cities with a population of 500,000 or more will receive direct financial assistance. This language leaves out all cities and municipalities in New Jersey.

Please use the sample letter on the next page which may be used to address this matter with your congressional representatives (also provides more information)
Sincerely,

Mayor William Chegwidden
Borough of Wharton
NJCM President

Executive Orders

Governor Murphy issued three additional Executive Orders in the fight against COVID-19

Executive Order #113
Postponement of June 2nd Primary Elections until July 7th

Executive Order #121
Executive Order Allowing Greater Weight Limit for Vehicles Carrying COVID-19 Relief Supplies

Executive Order #122
Executive Order to Cease All Non-Essential Construction Projects and Imposes Additional Mitigation Requirements on Essential Retail Businesses and Industries to Limit the Spread of COVID-19

From NJCM President continued from page 1

hall staff and countless others. Everyday heroes playing their hearts out to a song we all know.

We are mindful of the task mayors are facing. This is an extraordinary time in our history where we are fighting with one of our hands tied behind our back. Every day we are dealing with new executive orders that end up on our plates. Many things are out of our control yet our residents are looking to us for some kind of normalcy. Residents know that it’s the Mayors who are on the front line with them and they look for your leadership. It may feel like we have been pushed into a new role, but remember you are the conductor and have the same players you have always counted on, and together you will bring things back into harmony.

Sincerely,

Mayor William Chegwidden
Borough of Wharton
NJCM President

Governor Murphy Signs Executive Order Authorizing Commandeering of Property Such as Medical Supplies

TRENTON - Governor Phil Murphy today signed Executive Order No. 113, authorizing the New Jersey State Director of Emergency Management to use the Governor’s full authority under the Disaster Control Act to commandeering personal services and/or personal property. This includes medical supplies and equipment from private companies and institutions in order to help meet the continued need for ventilators and Personal Protective Equipment (PPE) in the State in hospitals, health care facilities, and emergency response agencies due to the ongoing outbreak of COVID-19.

“we must continue to take action to meet the critical medical needs of our hospitals and medical centers during this pandemic,” said Governor Murphy. “While we look forward to these facilities cooperating in providing this equipment, this order gives the Office of Emergency Management the express authority to protect the public health, safety, and welfare by ensuring that supplies go to where they are most needed.”

Executive Order No.113 authorizes New Jersey State Police Superintendent Colonel Patrick Callahan, the State Director of Emergency Management, to take or use resources from private sources in order to address the continued pressing public health concern presented by COVID-19. This authority shall be exercised in consultation with the Department of Health. The Order also states that compensation for such takings will be provided by the procedures established under the Disaster Control Act.

“it is our responsibility to ensure that health care professionals in dire need of personal protective equipment are our first priority, because they are the heroes on the front lines, providing lifesaving care to the sick,” said Colonel Callahan. “We will continue to work cooperatively with our partners at the Department of Health to determine where these critical resources are best allocated.”

Executive Order No. 113 builds on direction in Executive Order No. 109-signed on March 23, 2020-mandating that all businesses and non-hospital health care facilities submit an inventory to the State of PPE, ventilators, respirators, and anesthesia machines they have in their possession that are not required for the provision of critical health care services; and

WHEREAS, on March 28, 2020, I signed Executive Order No. 111 (2020), the facts and circumstances of which are adopted by reference herein, requiring that all businesses and non-hospital health care facilities submit an inventory to the State of personal protective equipment (“PPE”), ventilators, respirators, and anesthesia machines they have in their possession that are not required for the provision of critical health care services; and

WHEREAS, the State has taken aggressive steps to expand the capacity of New Jersey’s overall health care system, including the assembly of four Medical Stations in three convention center locations around the State, in partnership with the Federal Emergency Management Agency (“FEMA”), the U.S. Army Corps of Engineers (”USACE”), the New Jersey State Police, and the New Jersey National Guard that will result in approximately 1,000 new hospital beds, as well as working with USACE to create additional capacity at hospitals on an
Executive Order 113

In response to the recent amendment to Open Public Records Act (“OPRA”), the Government Records Council ("GRC") has prepared the following guidance on the effects of work disruptions and potential closures related to COVID-19. The GRC notes that this information does not constitute legal advice or a final decision of the Council since the provisions of OPRA are applied to the specific facts of the request and/or complaint.

Generally, a custodian is required to allow for inspection or copying of government records “during regular business hours.” N.J.S.A. 47:1A-5(a). Moreover, OPRA provides that a custodian must respond to an OPRA request “not later than seven business days after receiving the request.” N.J.S.A. 47:1A-5(i). In determining whether a custodian has responded within the mandated period, the GRC has held that N.J.S.A. 47:1A-5(i). In determining whether a custodian has responded within the mandated period, the GRC has held that “…the day of the act or event from which the designated period begins to run is not to be included.” R. 1:3-1; See also Verly v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2014-325 (Final Decision dated October 27, 2015). Thus, the statutorily mandated seven (7) business day time frame begins on the first (1st) business day after the date of receipt of an OPRA request.

Further, the GRC has consistently interpreted the term “business days” to mean those days on which a “public agency” is open for “regular business hours.” N.J.S.A. 47:1A-5(a). This term does not include weekends, holidays, or regular emergency closures. Thus, in the instance that a public agency is closed on an emergency basis and is not open for "regular business hours," whether in the short- or long-term, it is reasonable to conclude that those days on which the agency is closed is not included in the statutory response time frame.

Enacted on March 20, 2020, P.L. 2020, c.10 amended N.J.S.A. 47:1A-5(i) as follows:

During a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or state of local disaster emergency, the deadlines by which to respond to a request for, or grant deny access to, a government record under paragraph (1) of this subsection or subsection e. of this section shall not apply provided, however, that the custodian of a government record shall make a reasonable effort, as the circumstances permit, to respond to a request for access to a government record within seven business days or as soon as otherwise permissible.

In closing, the GRC stresses that custodians within agencies operating under normal business hours during an emergency, even if closed to the public or working off-site, are obligated to respond to OPRA requests upon receipt in due course to the extent possible. Additionally, custodians should proactively advise the public (by website notification and/or other methods) if the method of transmission for OPRA requests has changed or been limited due to a state of emergency. Similarly, members of the public should contact the applicable public agency for updates on any limitations or disruptions affecting the OPRA process during a state of emergency.
6. Certification of complete application – 45 days

5. Time to appeal decision to governing body – 10 days

4. Inclusion of applicants in preparation of public documents – 7 days

3. Applicants following applicant's request – 7 days

2. Preliminary subdivision application of 10 or fewer lots – 45 days

1. Certification by Administrative Officer of list of property owners following applicant’s request – 7 days

6. Certification of complete application – 45 days

5. Time for governing body to conclude review of record on appeal – 95 days

4. Preliminary subdivision application of more than 10 lots – 95 days

3. Minor site plan – 45 days

2. Preliminary subdivision application of 10 or fewer lots – 45 days

1. Minor subdivision application – 45 days

Time for Board to act once the application is deemed complete:

- 1. Minor subdivision application – 45 days
- 2. Preliminary subdivision application of 10 or fewer lots – 45 days
- 3. Preliminary subdivision application of more than 10 lots – 95 days
- 4. Preliminary site plan approval where plan involves 10 acres of land or less, or 10 dwelling units or less – 45 days
- 5. Minor site plan – 45 days
- 6. Preliminary site plan approval where plan involves more than 10 acres or more than 10 dwelling units – 95 days
- 7. Time of protection of an approved minor site plan – 2 years
- 8. Time of protection against zoning changes for a minor subdivision – 2 years
- 9. Planning Board approval for application seeking variances or relief – 120 days
- 10. Time period during which a Planning Board shall grant or deny an application for conditional use – 95 days
- 11. Maximum number of days for Zoning Board of Adjustment to decide on an application that has been certified complete where a variance is coupled with another form of development – 120 days
- 12. Time of approval of a General Development Plan – 95 days
- 13. Maximum term for the approval of a General Development Plan – 20 years

Requirements for filing plans and application materials:

- All plans and application materials must be on file with the Board Secretary for review by the public at least ten (10) days prior to the hearing. In the present circumstances, the local unit should consider receiving plans electronically, and posting them for public review on and through the municipal website, drop-box, or some other online service that is accessible to the public, free of charge so that the ten day public access period is maintained. The local unit should also publicly post, and post online, a phone number and email for the Board Secretary. Members of the public should be advised that they may contact the Board Secretary to receive a hard copy of the plans and application materials by mail or via an exchange site such as a drop/pick up box by appointment at a secure, public location such as the police station or at the municipal building, subject to any standard fees or charges.

Recommendations regarding filing plans and application materials:

- Under the MLUL, a public notice must state the time, place and location of a public hearing, and where submitted plans can be found for public inspection. At this time, the notice must provide conference call access or web-meeting access information. Dial-in information should be provided to individuals without computer access or mobile device. The notice should also identify the websites on which plans are posted, contact information for the Board Secretary, and all available means of achieving access to all documents and the meeting itself. The notice should state that individuals lacking the resources or know-how for technological access should contact the Board Secretary for assistance in accessing the plans and the meeting.

Recommendations regarding the record of proceedings:

- Local units have a continuing obligation to record and make public the minutes of public meetings. They must also continue to transcribe quasi-judicial proceedings. To maintain compliance with these obligations, a court reporter should participate in any virtual hearing, transcribing the video session. Additionally, a record of the entire proceeding can be retained using the adopted virtual meeting technology. New Jersey’s Courts have employed remote hearings for essential functions, which may be of interest to local units seeking to conduct statutorily compliant hearings under the present constraints: https://www.njcourts.gov/; https://www.njcourts.gov/notices/2020/n200315a.pdf.

Conclusion:

Planning Boards and Zoning Boards of Adjustment have options available to ensure the continuation of public business during this challenging time. The Division encourages local officials to review this guidance with their Board secretaries and professionals. Should you have any further questions or seek additional information, please contact the Division by email at DLGS@dcacnj.gov or by phone at 609-292-6613.
Full text of Administrative Order re: Hotels, Motels & Guest Houses

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF NEW JERSEY STATE POLICE
OFFICE OF EMERGENCY MANAGEMENT
ADMINISTRATIVE ORDER
HOTELS, MOTELS, GUEST HOMES
No. 2020-8

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, the Governor declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard posed by Coronavirus disease 2019 (COVID-19); and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, the Governor issued Executive Order No. 107 (2020) on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which established enhanced social mitigation strategies for combating COVID-19; and

WHEREAS, the Governor issued Executive Order No. 108 (2020) on March 21, 2020, the facts and circumstances of which are adopted by reference herein, finding that unitary management is essential for coordination needed during an emergency, and invalidating any county or municipal restriction imposed in response to COVID-19 that in any way will or might conflict with any of the provisions of Executive Order No. 107, or that in any way will or might in any way interfere with or impede its achievement or the achievement of Administrative Orders issued as authorized by the Governor’s Executive Orders; and

WHEREAS, Executive Order No. 108 recognized that there are certain limited circumstances in which it may be beneficial for localities to be able to impose additional restrictions, and specifically identified that certain municipalities may have legitimate concerns about an influx of new visitors, which may cause public health concerns as the State imposes social distancing measures and aims to avoid unnecessary increases in density of individuals; and

WHEREAS, substantial influxes of new visitors may overtax the health care facilities and public safety and emergency services in a particular locality as COVID-19 spreads through the increased population; and

WHEREAS, Executive Order No. 108 permitted municipalities or counties to impose additional restrictions in response to COVID-19 on online marketplaces for arranging or offering lodging and further authorized the State Director of Emergency Management to make additions, amendments, clarifications, exceptions, and exclusions to this list;

NOW, THEREFORE, I, Patrick J. Callahan, State Director of Emergency Management, hereby ORDER as follows:

1. Paragraph 3 of Executive Order No. 108 (2020) is hereby amended to allow municipalities and counties to impose additional restrictions in response to COVID-19 on the ability of hotels, motels, guest houses, or private residences, or parts thereof, to accept new transient guests or seasonal tenants after the effective date of this order.

2. As used in this Order, the term “transient guest or seasonal tenant” described in paragraph 1 shall not include: (i) individuals housed as a part of State-directed non-congregate shelter initiative, (ii) individuals taking temporary residence supported by Federal, State, or local emergency and/or other housing assistance, or (iii) healthcare workers taking temporary residence. Municipalities or counties may not impose restrictions in response to COVID-19 on the ability of hotels, motels, guest houses, or private residences, or parts thereof, to accept any such individuals. The State Director of Emergency Management reserves the right to amend this paragraph as needed to address the ongoing public health emergency.

3. When determining whether any hotel, motel, guest house, or private residence is permisibly operating by housing individuals who are listed in the categories in paragraph 2, the municipality or county shall defer to the determination made by the County Office of Emergency Management, which shall consult with the New Jersey Office of Emergency Management in making that determination.

4. Nothing in this Order shall be construed to conflict with the directive in Executive Order No. 106 (2020) that prohibited the removal of an individual from a residential property as the result of an eviction proceeding.

5. This Order shall take effect at 8:00 p.m. on Sunday, April 5, 2020.

April 4, 2020
Colonel Patrick J. Callahan
State Director of Emergency Management
New Jersey State Senate President Stephen Sweeney
New Jersey State Senator Anthony M. Bucco

New Jersey Assembly Minority Leader Jon M. Bramnick and Somerdale Mayor Gary Passanante, NJCM Business Council Director

Township of West Windsor Mayor Hemant Marathe made comments from the audience

Buena Vista Township Mayor Teresa Kelly expressed concerns to the Legislators

Christopher Rein, the Chief Technology Officer of the New Jersey Office of Information Technology provided the Keynote Address for the “Smart Cities Technology” program.

Suzanne Chiavari, Engineering Director Treatment & Asset Resiliency, New Jersey American Water spoke to the Mayors during the “Smart Cities Technology” program.

Trenton Mayor W. Reed Gusciora welcomed the Mayors to his city.

Hope Township Mayor Tim McDonough, NJCM Legislative Committee Chairman moderated the program

New Jersey Assembly Minority Leader Jon M. Bramnick and Somerdale Mayor Gary Passanante, NJCM Business Council Director