

**North Jersey NIGP Chapter #7**

*Chartered October 26, 1977*

**President:** *James J. Jorgensen*

**Treasurer/Membership:** *Jane Foti*

**Vice President:** *Cindy Lea Weber*

**Secretary:** *Paula S. Ferreira*

**Minutes**

**Regular Meeting**

**March 10, 2010**

**The Imperia Conference Center**

**Somerset, NJ**

The meeting was called to order at 10:00 am by President Jim Jorgensen.

After the flag salute, self introductions were made.

Minutes from December 2009 were approved.

Our first speaker Marc Pfeiffer, Division of Local Government Services

He started his career in 1975. His first job in government was a purchasing agent for 8 years with a municipality. He worked with Gordon ball. He has now been with Division and involved with purchasing since 1974.

**He will answer any questions we may have on non legislative items.**

What needs to be published in newspaper that applies to Local Public Contracts Law? What are our responsibilities when we award the contract? If it's over the bid threshold we are required to publish in the newspaper. Not for professional services awards but Governing Body needs to do

a resolution and pay to play requirements. Under the bid threshold no publication is necessary. John Path complained to him that towns were publishing under bid thresholds and wasting taxpayer's money.

### **Professional services subcontracted-engineers doing inspection on road improvements.**

Who pays the municipality or engineer? Not engineering services if municipality paid. Ancillary services not related at all. Attorney hired a law firm to manage the municipality. When the services is related to what professional does, lab testing on attorney side, court reporter etc. Question is "what rates are we getting and is the attorney charging overhead"? We must ask these questions. Maybe we could get better rates on our own. What are we hiring our professionals to do? Is hiring an attorney for labor relations a professional service? Yes. It's arguable. Grey area. Financial advisors for bond issuances. Is an auditor's skill required to do the financial statement? NO. We are asking you to watch out more on professional services side. Making sure professionals are hired for professional services. Everyone is looking at what we do and this is what we are responsible for. We have a responsibility even if Governing Body gives a hard time.

### **Contracting with a higher education institute with the State.**

He is perplexed on how it is interpreted. Questioned Attorney Generals office. Once they did that they realized it was intended also for municipalities. We can use State Contracts. Higher education is branching out. Does that mean because higher education can offer it to us we must get it from them? NO. We need to shop around. We need to see if we can get it better. These are some of the decisions we have to make.

### **Payment of late fees.**

Before notice came out we all thought it was illegal to pay interest. First Finance Office said we don't pay interest on anything. There is nothing in State law that prohibits us from paying interest. We must put it in our contract language that we won't pay interest on outstanding obligations. Put it on your Purchase Orders. Marylou Stanton disagrees because vendors don't read and we can't fit anything else on our PO's. She can't believe vendors would be reading such small print. Marc said he prints out a separate page, a supplemental document. We can refer on PO to terms and conditions document. Mail it out with purchase order. Cindy Lea Weber said that Pitney Bowes has a boiler plate specifying that they will charge interest. How many can't send out bills until governing body votes? Archaic practices that provide governing body control. It creates problems with interest rate issues. We should talk to CFO about it.

Go ahead and change bill paying practice, it makes sense because what is governing body going to say, you can't pay the Verizon bill? What is the point of them not paying bill? Once goods and services are delivered we have an obligation to pay. They sign checks; we can change that policy also. We have the ability to not use checks anymore, use ACH. Large organizations are

dealing with hundreds of payment a month. Governing Body sets policy. CFO has premade plates of authorized signatures. No humans are touching checks until it goes into envelopes. Payroll going out on ACH. We are working on getting there. We have this potential. Governing Body does not need to sign each check, especially paying interest on things.

Municipal prevailing wage threshold went up last year to \$14,187. For everyone else it remains at \$2000.00. Municipalities are thankful.

Political contributions for "Not for Profits" not required to file. Initially Pay to Play did not affect schools. Now the Dept of Education adopted provisions and administratively imposed on the Board of Education.

Mary Lou Stanton-something buzzing around about change in amount that can be charged for copies in OPRA. Here's the story. Two things are being blurred the Appellate Division said. Specifically different directions of OPRA. The point is you have to calculate what your cost of reproduction is. What it costs us to make a copy. It is limited to consumables. Labor charge not included. Also not cost of the machine. It is very limited. Taking expansive view on what is covered. The court thought they were being helpful. All public agencies had to fix and have fees in place by 7/1. Pending legislation to lower price to 10 cents. The fact that Counties are not appealing is interesting. It is a challenging issue and highly annoying. Every town may have a different rate and residents will be confused and angry. It becomes an interesting conundrum to be dealt with.

Finance Notice reporting of wage records effective July 15, 2009 on Waste Contracts. That law affects all government agencies and is required on all contracts to have it in your bid spec language that requires contract to report wages to municipality that made contracts. Does it apply to curb pick up? Collection from our facilities. Only deals with contractors not employees. The idea is that contractors have to provide wage payment to employees while under that contract. Gerri Popkin- does it apply to PACO? More wage and hour info. Another file cabinet, an annoyance. Organized labor seeing fly by night companies are underbidding union type wage companies. First step for data gathering for Unions. Soon solid waste will come under prevailing wage laws. What if enter into a contract into October of last year, what about this law? Marc doesn't have an answer. Finance notice to go out later this week. How about if it's less than prevailing wage? Doesn't matter. Clerk needs to set up another file folder. Trying to get answer on what if we didn't do it. Contractor may want an answer. Gerri Popkin- if we were in a multi year contract must we add it? If the contractor knew he would bid more because of the cost of doing it. It is restricted to companies with less than 1000 employees. This law is an exercise in data gathering. Still doesn't apply to workshops? Yes it does. Finance notice mentions it. Doesn't talk about how the contract was awarded. Not how it was publicly bid. Department has to amend its regulations in their boiler plate. Solid waste and recycling. Ray Murray-what about the agreement we have with Somerset County? Do they have to supply wage reporting? Marc- that is a good question. Finance Notice needs to be adjusted. It is a biweekly

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report. Kevin Galland-I need clarification. Solid waste/recycling and marketing, collection or transportation? Marketing is not. Once we get the Finance Notice we should discuss with CFO.

## **QPA Bill**

Law does not require municipality to hire a Purchasing Agent. If we have a Purchasing Agent we need to name somebody. Person must be a QPA. Smaller governments don't need to name anyone. If you don't have a Purchasing Agent on 1/1/11 your bid threshold will be \$ 17,500. Dual thresholds jump. You will go down to 17,500. Not that big a penalty without Purchasing Agent. You do not have to be a School Business Administrator to get QPA, just do the work. Continuing Education Credits will now be required, 20 hrs over 3 years. Don't want all 1200 QPA's to have the same date. So we will take the oldest QPA's first. Will be done over a year's time. The first batch will expire 12/31, the next 3/10 etc. Do we remember when we first started issuing? It was in 2002. RPPO certificate will go away. RPPS will probably stay. Not sure at this point how it will work. Once you have your QPA you have it. There is going to be a test for those who are not QPA's. Current QPA's will be grandfathered

Green purchasing course will probably happen in 2011. Going to set up a working group on QPA law. It has to get through budget. Joe Valenti is still involved. They work together. Working with all Associations. Let us figure out who will be at table with them.

Mary Lou Stanton-what do you think is the real benefit of the QPA at this point? There is a strong belief in education and that everyone be educated. Everyone doing purchasing knew what they were doing. Goal to insure every entity had a QPA. It was pulled because people felt it was a mandate. In essence it was about education and the bid threshold. Mary Lou Stanton-he thinks that in the end it will be worthwhile for education but does not see any other benefits. Reflection on CEU requirement is that so many peoples budgets are being restricted that they can take classes but can't go to seminars. We will see more things that can done with technology, like online courses. Technology will enter our world. We will have webinars instead of conferences. We are going to see a revolution.

### **UTCA-3 Bills Passed**

Base bid bill. We only have ourselves to blame on this one. Procedure for ranking. Get the vendor they want using several dozen alternates. Then pick the alternates they want. Really stupid on their part. Governing body is to blame. They wanted a certain vendor and that is how they went about it. That is why we have this law now. We have to explain what our methodology will be. This will be an interesting challenge for architects and engineers. Going into effect May 1, 2010. Will be annoying. We did get amendments to the bill for flexibility.

Price adjustments for asphalt fuel. Department of Transportation has on its website standards for work. We will be using those standards. For fuel usage has to be at least 500 gallons, asphalt must use at least 1000 tons to kick in. Must be built into bid specs for road projects. Engineers should know how to do this. May be able to come up with boiler plate. Marlina Schmid-is the vendor or contractor to provide evidence? No, it will be based on how much moved so much rock so much soil this is how much allowance you get. This changes that once we award a bid you are out of luck, this changes that.

Extends prevailing wage to maintenance related contracts over \$50,000. Couldn't figure out who this was supposed to apply to. Maintenance related things? UTCA puts out monthly magazine and their lobbyist always has a column extolling that they got 3 bills passed and nobody gets 3 bills passed. Nobody ever gets that done. So we figured out it was maintenance related contracts. Put into effect immediately.

Agencies were exempt from getting permit for work on our own properties i.e. electrician, journeyman. Apparently there were cases where there were some unqualified did electrical work and things went bad. Electricians said we have a problem. When someone is not an electrician you cannot do the work yourself. You will have to hire someone who is qualified. This is like trying to get a security guard to get a black seal per Gerri Popkin. Self implemented. Pretty sure electrical contractors will complain. Does not include changing light bulbs. However changing ballasts may be included. Someone needs to do a little more effort on this. He is not volunteering. We could research this. What are thresholds and where are they to be found? Leave that to Jim our President.

BRC is no longer fatal. Got rid of that as of January 18, 2010. Don't need to reject. Clear as mud. Trying to get Finance Notice done. Don't have to have BRC until award and get it anytime up until award. It is weighable in bid. They can register after bid. Marc screwed up and didn't make it clear in Finance Notice. Mary Lou issue. Many of our construction contracts are received one day and awarded the next. The local finance notice needs to be corrected and a new notice will come in. Do not have to collect sub BRC's only the named primes. Formerly we had to track the BRC's of the subs, now we don't have to. Make it clear in the specification if you decide to use language for providing the BRC as soon as possible because it must be in hand by award.

Requires us to provide ½ of 1 percent to finance issues. It is given to the Department of Labor. How funds should be handled. Requiring municipalities to raise that percent is a permissible mandate. Some uncertainty on that. Complicated issues. If borrowing money do we need an additional ½ percent? Don't know. Just be prepared particularly authorities and schools. Possible we will never be asked for the money but possibly we will be asked. Don't have an answer on that. Geri Popkin-does it go any further as to where it goes and who implements the program? Supposed to go to training and is organized through the State. Send money to State and they will spend it.

Mary Richers-In reference to solid waste wage reporting. I am having a bid opening tomorrow. Will I have an issue? No don't think it will follow that.

Affirmative Action regulations disappeared per Mary Lou Stanton and she is pleased but she is still getting questions. Issue of the subs, sub subs etc. Where is that Marc? He has no idea. It is entirely likely that when new administration came in they put in suspended rule list. Not a lot of fire with this rule proposal. Legal standpoint they have one year to adopt it. If year passes they have to start all over.

#### **Mary Lou Stanton update on upcoming Purchasing Conference.**

She would like to say she is pleased to be here today. She has been on Conference Committee for over 30 years. She took the tour of our new facility for our meetings as a board member and it is comfortable and a well maintained facility. Purchasing Conference this year is "Back to Basics". May 12-13 2010 fee is \$350.00, one day fee of \$200.00. Fran Shames and Joe Valenti are doing their show. Marcella Longo from Mercer County will be doing a session. Jim Jorgensen will be doing "What's in My Bid Package"? GPANJ will be hosting a reception in the gallery Thursday, May 13, 2010. We will have the trainer on Division on Civil Rights there to speak. Concurrent sessions and Joe Valenti and Mary Lou will do their thing. The sessions will be repeated after lunch. Paula Fransase will be there.

**John Donnadio, Esq.** Will talk briefly about the State budget. Governor Chris Christie to give budget update on March 15, 2010. State is in a 10 billion dollar deficit for 2010. Cuts will be made everywhere. Programs will take a hit in 2011. He will provide Jim Jorgensen and Mary Lou Stanton information... Stay tuned for Tuesday. Package of pension bills. Many questions about pension bills. Senate passed package. Benefit and pension reforms. Stalled in the Assembly. Held package for discussion purposes only. Won't move as quickly as it did through the Senate. Pension reforms are really for new employees. Change benefits formula. Changes retirement calculation. Three highest paid years for current will change to 5 highest paid years for new employees. No longer will be able to contribute more than one job to PERS. Current employees will have to pay 1.5 percent of their base salary for health care benefits, regardless of what type of health care plan. Will take effect after current contract expires. Bill also allows locals to negotiate higher than 1.5 percent. It also restricts payout for sick leave to \$15,000.00.

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Unions are against bills. Not the most effective way to handle pensions. Most municipalities are not in a position to do that. Christie is committed to putting State in charge. Concept is necessary; putting on the ballot is dangerous. Towns can't defer payments any longer. Mary Lou- is lobbying associations going to still be on pension? No Senate bill barring them from being members of PERS and participation in SHBP. The association and league will support this.

**S245-exempts local governments from bidding if it's cheaper under the State Contract.**

Governor has concerns about bill because it circumvents bidding. Drafting new language to be forwarded to him and he will forward to Mary Lou. US Communities is pushing for this bill. NJAC has supported US Communities, some positives and negatives as well. Bill undermines Purchase Bureau.

President Jim Jorgensen-Old Business

New officer's introduction.

The Association recognized former NIGP President Francis Decibus with a plaque.

Next meeting is June 9, 2010.

With no more business, the meeting was adjourned at 12:15. Networking and lunch were enjoyed by all.

Respectfully Submitted,

Paula S. Ferreira

Secretary