

BOROUGH OF BUENA
REGULAR COUNCIL MEETING
MINUTES
SEPTEMBER 12, 2022
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MEETING CALLED TO ORDER: P.M. 7:12
MEETING ADJOURNED: P.M. 8:55

CALL MEETING TO ORDER: Flag Salute

ROLL CALL OF ATTENDANCE:

Council Member	Present	Absent
ANDALORO, G	X	
ALVAREZ	X	
ADAMS	X	
D’ALESSANDRO		X
ANDALORO, P	X	

Also present were Solicitor Richard Tonetta, Engineer Robert Smith, and Road Supervisor William Nimohay

SUNSHINE LAW: This meeting is being held in compliance with the Open Public Meetings Act and notices of this meeting have been provided, via email, to The Press of Atlantic City and The Daily Journal on December 6, 2021, as well as having been posted on the municipal bulletin board and website at www.buenaboro.org

MAYOR’S REPORT: FIRST ORDER OF BUSINESS.

PUBLIC PORTION OF THE MEETING:

PUBLIC PORTION OPENED:

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G			X				
ALVAREZ	X		X				
ADAMS			X				
D’ALESSANDRO						X	
ANDALORO, P		X	X				

RICK CORALUZZO, BUENA, QUESTIONED THE COUNCIL ON THE PAYMENT PROCESS FOR A COUNCIL MEMBER’S ABSENCE. MAYOR ZAPPARIELLO REPLIED THAT THE COUNCIL WOULD REVIEW THE MATTER.

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SUSAN ROMEO, LANDISVILLE, ASKED IF THE TYPE OF GROW FACILITY IN VINELAND WOULD BE LIKE WHAT IS BEING PROPOSED IN BUENA AND EXPRESSED HER CONCERNS ABOUT THE LOCATION. SOLICITOR TONETTA REPLIED THAT COMPANIES MUST FOLLOW *BEST PRACTICES* FOR THEIR FACILITIES. MS. ROMEO INDICATED SHE HAD MORE SIGNATURES FOR A PETITION TO REOPEN THE LANDISVILLE VOLUNTEER FIRE COMPANY, AND SHE HANDED THE PETITION TO THE ACTING CLERK. MS. ROMEO QUESTIONED THE FIRE TAX LEVY AMOUNT, SEEKING CLARIFICATION ON THE INCREASE. SOLICITOR TONETTA RESPONDED THAT THE COMMISSIONERS VOTE ON THE AMOUNT TO BE RAISED BY TAXATION AFTER A PUBLIC HEARING. FURTHER, SINCE THE DISTRICT IS AUTONOMOUS, THE COUNCIL DOES NOT HAVE JURISDICTION OVER ITS BUDGET.

JOANNE ROSEMOUNT, LANDISVILLE, EXPRESSED HER CONTINUED CONCERN ABOUT REPAIRING THE MANHOLE COVERS. ROAD SUPERVISOR NIMOHAY SAID HE IS IN CONVERSATIONS WITH THE STATE TO FACILITATE THE PROCESS. MS. ROSEMOUNT THEN ASKED COUNCILMAN ALVAREZ IF HE HAD A PERSONAL INTEREST IN THE PROPOSED CANNABIS GROWING FACILITY. THE COUNCILMAN REPLIED HE HAD NONE. MS. ROSEMOUNT ASKED IF THERE WAS AN UPDATE ON THE CURRENT LAWSUIT BETWEEN THE BOROUGH AND FIRE DISTRICTS No. 1 AND 2. COUNCILMAN ADAMS GAVE A BRIEF UPDATE BUT STATED HE IS WAITING TO HEAR THE RESULTS OF A RESCHEDULED MEETING.

TONI MATTIOLI, LANDISVILLE, ASKED FOR AN UPDATE ON THE BRUNINI POOL DEMOLITION. SOLICITOR TONETTA GAVE AN OVERVIEW OF THE LENGTHY PROCESS AND STATED THAT HE HAD COMPLETED THE TITLE SEARCH ON THE PROPERTY. NEXT, THE BOROUGH WILL HOLD A HEARING TO ENSURE ANY PARTY OF INTEREST IS NOTIFIED.

PUBLIC PORTION CLOSED:

Council Member	By	2nd	YES	NO	Abstain	Absent	Recuse
ANDALORO, G	X		X				
ALVAREZ		X	X				
ADAMS			X				
D’ALESSANDRO						X	
ANDALORO, P			X				

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PUBLIC HEARING OPENED:

ORDINANCE NO. 711 AN ORDINANCE AMENDING ORDINANCE 584, AS AMENDED, CHAPTER 13 OF THE CODE OF THE BOROUGH OF BUENA ENTITLED MUNICIPAL COURT ESTABLISHING A JOINT MUNICIPAL COURT WITH THE TOWNSHIP OF FRANKLIN TO BE KNOWN AS THE FRANKLIN JOINT MUNICIPAL COURT TO ADD THE BOROUGH OF NEWFIELD.

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Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G			X				
D’ALESSANDRO						X	
ADAMS		X	X				
ALVAREZ			X				
ANDALORO, P	X		X				

WHEREAS, the Council of the Borough of Buena finds it to be in the best interest of judicial economy and efficiency to provide for the creation of a Joint Municipal Court together with the Township of Franklin (Gloucester County) Borough of Newfield (Gloucester County), and the Borough Buena (Atlantic County).

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Buena as follows:

SECTION I

Chapter 13 of the Code of the Borough of Buena entitled “Municipal Court” be and is hereby repealed in its entirety.

SECTION II

A new Chapter 13 of the Code of the Borough of Buena, entitled “Joint Municipal Court” be and is hereby adopted containing the following provisions.

§ 86.1: Creation of Court, name, jurisdiction.

A. Creation of Court. This shall create a Joint Municipal Court consisting of the following members: the Township of Franklin (Gloucester County), the Borough of Newfield (Gloucester County), and the Borough of Buena (Atlantic County). This Court is created by the Shared Services Agreement dated October 1, 2022, by and between the aforesaid municipalities and is subject to the terms thereof. The Shared Services Agreement is attached hereto and incorporated in this Ordinance and shall be approved by and filed with the Administrative Director of the Courts.

B. Name of Court. The name of the Joint Municipal Court shall be the “Franklin Township Joint Municipal Court” and it shall have a seal bearing the name of the Court.

C. Jurisdiction. The jurisdiction of the Franklin Township Joint Municipal Court shall be co-extensive with the territory of the Township of Franklin (Gloucester County), the Borough of Newfield (Gloucester County), and the Borough of Buena (Atlantic County). The Court shall be under the jurisdiction of the Assignment Judge and Municipal Court Administrator for Vicinage 15.

§ 86.2: Municipal Judge, powers, duties and qualifications.

A. There shall be a Municipal Judge appointed by the Governor as provided by law with regard to a Joint Municipal Court. The Municipal Judge shall serve for a term of three years from the date of appointment and until a successor shall be appointed and qualified.

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B. The Municipal Judge shall have and possess the requisite qualifications in order to serve as a Municipal Court Judge as provided by the laws of the State of New Jersey.

C. The Municipal Judge shall faithfully carryout all of the responsibilities of a Municipal Court Judge and shall abide by all rules and regulations established for Municipal Court Judges by the Administrative Office of the Courts, the New Jersey Supreme Court and any other applicable laws and rules.

§ 86.3: Prosecutor, Administrator, Public Defender, other personnel

A. Municipal Prosecutor: There shall be appointed a Municipal Prosecutor for the Joint Municipal Court who shall prosecute all cases in the Joint Municipal Court. The Municipal Prosecutor shall be appointed for a one year term by the Township of Franklin. The compensation for the Municipal Prosecutor shall be determined by the Township of Franklin.

B. Municipal Court Administrator: There shall be an administrator of the Franklin Joint Municipal Court who shall perform the functions and duties prescribed for the administrator by law, by the rules applicable to municipal courts and by the municipal court judge. The administrator shall be appointed by Franklin for a term of one year, subject however, to the tenure provisions as set forth in N.J.S.A. 2A:8-13.2 and considered an employee of Franklin. The compensation of the administrator shall be determined by Franklin. The administrator's duties shall include, but not be limited to:

1. Carrying out the rules, regulations, policies and procedures relating to the operation of the Franklin Joint Municipal Court.
2. Interviewing and speaking to persons wishing to file criminal or quash criminal complaints or wishing information in that regard; receiving complaints and dispensing information relating to court matters.
3. Maintaining the financial records of Franklin Joint Municipal Court, including receiving and accounting for fines and costs.
4. Attending court, recording pleas, judgments and dispositions; arranging trial calendars; signing court documents, preparing and issuing warrants and commitments and other court-related documents.
5. Maintaining and classifying records and files of the Franklin Joint Municipal Court.
6. Maintaining, forwarding, receiving and reporting such records, reports and files as required by appropriate agencies.
7. Carrying out such additional duties as may be required in order to fulfill the duties of the court administrator.

C. The Township of Franklin shall, hereafter, by Resolution have the power to designate such other persons as may be required to serve as clerks and administrators and other officers thereof and to establish compensation to be paid to the respective persons to manage and run the day-to-day operations of the Joint Municipal Court. Compensation

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thereof shall be in accordance with the salary ordinance adopted annually by the Township of Franklin.

D. The Township of Franklin shall, by Resolution, annually appoint a Public Defender and Conflict Public Defenders to serve within the Franklin Township Joint Municipal Court. The Public Defender and Conflict Public Defenders shall be compensated as determined by the Township of Franklin. Applications for the appointment of the Public Defender for particular cases shall be in accordance with Chapter 102 of this Title.

E. The auditor appointed by Franklin Township shall act as the auditor for the Franklin Joint Municipal Court. The auditor shall perform a yearly audit of the Franklin Joint Municipal Court, which audit shall be prepared generally in accordance with the requirements of the Local Fiscal Affairs Law, N.J.S.A. 4A:50-1, et. seq. A copy of the complete audit shall be supplied to each participating municipality by September 1 of each year.

§ 87.4: Withdrawal by a member

A. Withdrawal by Members. The members of the Franklin Township Joint Municipal Court established by this ordinance are the Township of Franklin (Gloucester County), the Borough of Newfield (Gloucester County), and the Borough of Buena (Atlantic County), Collectively, the Township of Franklin, the Borough of Newfield, and the Borough of Buena shall referred to as members. Any member of the Joint Municipal Court may withdraw at the end of the next calendar year by complying with the provisions of the Shared Services Agreement between the Members identified in §86.1(A) *supra* or such subsequent agreements or amendments then existing and in effect.

§ 87.5: Contributions and compensation.

A. The Borough of Newfield and the Borough of Buena shall compensate the Township of Franklin a fee in accordance with the Shared Services Agreement then existing between the parties.

§ 87.6: Uniform Shared Services and Consolidation Act.

The governing bodies of the Township of Franklin (Gloucester County), the Borough of Newfield (Gloucester County), and the Borough of Buena (Atlantic County) are authorized to enter into contract with each other embodying the provisions of the contract attached hereto as Exhibit A pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq. In the event of a discrepancy between this Ordinance and the USSC Act, and any amendments thereto, the USSC Act shall take precedence.

SECTION III

Validity. If any section, subsection, sentence, clause or phrase of this ordinance, for any reason is held to be unconstitutionally invalid, or incorrect, such decision shall not affect the validity of the remaining provisions of this ordinance.

DISCUSSION: None

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PUBLIC HEARING CLOSED:

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G			X				
D’ALESSANDRO						X	
ADAMS		X	X				
ALVAREZ			X				
ANDALORO, P	X		X				

ORDINANCE NO. 711 ADOPTED:

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G		X	X				
D’ALESSANDRO						X	
ADAMS			X				
ALVAREZ			X				
ANDALORO, P	X		X				

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INTRODUCED AND PASSED ON FIRST READING:

ORDINANCE NO. 712 AN ORDINANCE OF THE BOROUGH OF BUENA, COUNTY OF ATLANTIC AND STATE OF NEW JERSEY AUTHORIZING THE LEASE OF CERTAIN PROPERTY OWNED BY THE BOROUGH AND NOT REQUIRED FOR PUBLIC PURPOSES, COMMONLY KNOWN AS 201 KENNEDY DRIVE LANDISVILLE, NJ 08326, BLOCK 116 LOT 5.

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G		X	X				
D’ALESSANDRO						X	
ADAMS					X		
ALVAREZ			X				
ANDALORO, P	X		X				

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A: 12-14 authorizes the lease by municipalities of any real property, capital improvements or personal property or interests therein, not needed for public use to an association for a public purpose; and

WHEREAS, the Borough of Buena is the owner of certain real property located 201 Kennedy Drive Landisville, NJ 08326; and.

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WHEREAS, the building located at 201 Kennedy Drive Landisville, NJ 08326 is not needed for public use; and

WHEREAS, the Council has determined that it is in the best interest of the Borough to lease the property to the Buena Historical Society as such use will provide historic information of the Borough and its residents for the benefit of all.

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Buena, County of Atlantic and State of New Jersey, that:

SECTION 1.

1. The said property shall be leased to the Buena Historical Society subject to the following terms and conditions:
 - (a) The said property shall be leased for an annual rent of \$ 1.00 per year for 10 years.
 - (b) The lease may be extended and/or terminated as provided for in the written Lease Agreement.
 - (c) The Lease Agreement shall be on file with the Borough Clerk.
 - (d) The Buena Historical Society shall annually submit a report to the Clerk setting forth the use to which the leasehold was put during each year, the activities being undertaken in furtherance of the public purpose for which the leasehold was granted and an affirmation that the Historical Society continues its tax-exempt status pursuant to both State and Federal laws.

SECTION 2. Repealer

Any and all other ordinances inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. Severability

In the event that any section, paragraph, clause, phrase, term, provision or part of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, paragraph, clause, term, provision or part thereof directly involved in the controversy in such judgment shall be rendered.

SECTION 4. Effective Date

This ordinance shall take effect upon final passage and publication as provided by law.

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INTRODUCED AND PASSED ON FIRST READING:

**ORDINANCE NO. 713 AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A
PORTION OF LOT 1, BLOCK 145 TO THE AMERICAN LEGION
POST 270 IN ACCORDANCE WITH N.J.S.A. 40A:12-21**

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G			X				
D’ALESSANDRO						X	
ADAMS		X	X				
ALVAREZ			X				
ANDALORO, P	X		X				

WHEREAS, the Borough of Buena owns certain property known as Block 145, Lot 1 on the Tax Map of the Borough of Buena which is adjacent to certain property owned by the American Legion Post 270 (American Legion), an Internal Revenue Code 501(c)(3) organization; and

WHEREAS, the American Legion is a nationally chartered organization of American Veterans and provides charitable and civic services to the residents of the Borough including youth sports, scholarships and troop and family support; and

WHEREAS, the American Legion has requested the Borough consider conveying a portion of Block 145, Lot 1 to the organization to provide more area to further its mission; and

WHEREAS, the portion of Lot 1 that is being considered, as depicted in the subdivision map attached hereto and made a part hereof has no present municipal use; and

WHEREAS, the Borough Council adopted Resolution authorizing the American Legion to apply for a subdivision before the Buena Borough Land Use board and the application was approved and the Land Use Board adopted Resolution approving the subdivision, which Resolution is incorporated herein as if set forth at length; and

WHEREAS, Borough Council finds it to be in the best interest of the Borough, its residents and the American Veterans to assist the American Legion in its mission

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Buena as follows:

1.
- That portion of Block 145 Lot 1 containing 22,898 sq. ft. of land as described in the legal description and subdivision map attached hereto and made a part hereof shall be conveyed to the American Legion Post 270.

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2. The consideration for such conveyance shall be \$1.00 and other valuable consideration including the continued provision of civic services for the residents and American Veterans.

3 The Deed of Conveyance shall contain a restriction therein that the use of the land shall not be for commercial business, trade or manufacture and a Reverter Clause shall be contained therein that states should the American Legion fail to use the property in accordance with this limitation, title thereto shall revert to the Borough of Buena without any entry or reentry made thereon on behalf of the Borough of Buena.

4. The Deed of Conveyance shall contain a restriction therein that the American Legion shall be prohibited from selling, leasing or otherwise transferring any interest in that portion of Block 145 Lot 1 being transferred hereby or any all-inclusive deed containing the land being transferred hereby within ten (10) years of the Deed of Conveyance of the property being transferred hereby except upon the American Legion reimbursing the Borough of Buena the fair market value of the property being transferred at the time of sale, lease or transfer, which may be waived by the adoption of an Ordinance releasing this restriction. Failure to do so shall cause the property to revert to the Borough. For purposes of this Reverter and restriction, leasing shall not mean a temporary lease of any portion of the property of the American Legion in the normal course of their operation for fund raising purposes.

BE IT FURTHER ORDAINED that the Mayor and Clerk are hereby authorized to execute any and all documents required for the conveyance.

BE IT FURTHER ORDAINED that should any portion of this Ordinance be deemed unenforceable by a Court of competent jurisdiction, then that portion not deemed unenforceable shall remain in full force and effect.

BE IT FURTHER ORDAINED that the Clerk of Borough of Buena is hereby Ordered and Directed to cause this Ordinance to be published in accordance with the laws of the State of New Jersey.

BE IT FURTHER ORDAINED that this Ordinance shall take effect and be in full force and effect on and after the date of its final passage and adoption according to law.

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ORDINANCE NO. 708 ORDINANCE OF THE BOROUGH OF BUENA, COUNTY OF ATLANTIC, NEW JERSEY, APPROPRIATING CERTAIN UNEXPENDED PROCEEDS OF THE SALE OF PREVIOUSLY ISSUED BONDS AND NOTES TO FINANCE THE COST OF ADDITIONAL CAPITAL IMPROVEMENTS AND TAKING RELATED ACTIONS.

WHEREAS, the Borough of Buena, County of Atlantic, New Jersey (the “**Borough**”) has, pursuant to the Local Bond Law, Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (“**Local Bond Law**”), and Ordinance Nos. 482, 521, 610, 621,

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645 and 646 (the aforesaid Ordinances are hereinafter referred to collectively as the **"Ordinances"**), all having been duly published as required by law, authorized, issued and sold general obligation bonds and bond anticipation notes (collectively, the **"Obligations"**) to finance the costs of various municipal projects and improvements as are more fully described in the Ordinances (collectively, the **"Prior Projects"**); and

WHEREAS, payment of all of the costs of the Prior Projects under the Ordinances has been made or provided for and **\$128,086.09** of the proceeds of the Obligations for the Prior Projects are not necessary for such purposes and remain unexpended (**"Unexpended Proceeds"**); and

WHEREAS, Section 40A:2-39 of the Local Bond Law provides that, if, in the opinion of the Borough Council of the Borough (**"Council"**), it is in the best interest of the Borough, the Unexpended Proceeds may be appropriated to and used to finance the cost of any other purpose or purposes for which bonds may be issued; and

WHEREAS, Council has determined that it is in the best interest of the Borough to appropriate the Unexpended Proceeds towards the costs of the additional capital improvement and project for the Borough as hereinafter specified.

NOW, THEREFORE, THE BOROUGH COUNCIL OF THE BOROUGH OF BUENA, COUNTY OF ATLANTIC, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), does hereby ordain as follows:

Section 1. Capital Character of Additional Project; Authorization. It is hereby determined that the Unexpended Proceeds shall be used to finance the cost of Municipal Building improvements (the **"Additional Project"**). The Additional Project constitutes a purpose for which bonds may be issued pursuant to the Local Bond Law, having a period of usefulness in excess of five (5) years, as required by Section 40A:2-21 of the Local Bond Law. The implementation of the Additional Project is hereby authorized to be made as a general improvement in and for the Borough.

Section 2. Appropriation of Unexpended Proceeds. It is hereby determined that, in the opinion of Council, it is in the best interest of the Borough to appropriate the Unexpended Proceeds in the amount of **\$128,086.09** under this Ordinance to finance the costs associated with the Additional Project, and accordingly, said sum is hereby appropriated.

Section 3. Capital Budget Amendment. The capital budget is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital improvement program as approved by the Director, Division of Local Government Services, are on file with the Borough Clerk and are available for public inspection.

Section 4. No Additional Indebtedness Authorized. This Ordinance does not authorize any additional indebtedness, but merely appropriates proceeds of the Obligations in excess of the amount required to complete the improvements for the financing of which such Obligations were originally issued.

Section 5. Repeal of Inconsistent Legislation. All ordinances and resolutions or parts thereof to the extent inconsistent herewith are hereby repealed or rescinded.

Section 6. Effective Date. This Ordinance shall take effect immediately upon final adoption and publication as required by law.

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ORDINANCE NO. 708 ADOPTED:

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G			X				
D’ALESSANDRO						X	
ADAMS		X	X				
ALVAREZ			X				
ANDALORO, P	X		X				

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RESOLUTION 104-22 A RESOLUTION OF THE BOROUGH OF BUENA ACCEPTING THE RESIGNATION OF DANIEL M. BARD AS EMERGENCY MEDICAL TECHNICIAN FOR THE BOROUGH OF BUENA, WITH REGRETS.

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G		X	X				
D’ALESSANDRO						X	
ADAMS			X				
ALVAREZ			X				
ANDALORO, P	X		X				

WHEREAS, Daniel M. Bard has served the Borough of Buena in the capacity of Emergency Medical Technician; and

WHEREAS, during his tenure, Daniel M. Bard has provided effective and compassionate representation to the Borough while serving as Emergency Medical Technician; and

WHEREAS, Daniel M. Bard has resigned his position, effective immediately.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Buena that the resignation of Daniel M. Bard be regretfully accepted effective immediately.

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**RESOLUTION 105-22 A RESOLUTION AUTHORIZING THE TAX COLLECTOR TO
ISSUE AN MUA PAYMENT THAT WAS ERRONEOUSLY
DEPOSITED INTO THE TAX COLLECTORS ACCOUNT.**

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G			X				
D’ALESSANDRO						X	
ADAMS			X				
ALVAREZ		X	X				
ANDALORO, P	X		X				

WHEREAS, a check was received from Mortgage Lenders Service in the amount of \$136.25 for the MUA and was credited to B156 L 6 and deposited into the Tax Collectors account.

NOW THEREFORE BE IT RESOLVED by Mayor and Council of the Borough of Buena that the Tax Collector is hereby authorized to issue the amount of \$136.25 to the MUA for correct payment against B156 L6.

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**RESOLUTION 106-22 RESOLUTION AUTHORIZING THE EXECUTION OF A
CONTRACT RENEWING MEMBERSHIP IN THE ATLANTIC
COUNTY MUNICIPAL JOINT INSURANCE FUND.**

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G			X				
D’ALESSANDRO						X	
ADAMS			X				
ALVAREZ		X	X				
ANDALORO, P	X		X				

WHEREAS, the Borough of Buena is a member of the Atlantic County Municipal Joint Insurance Fund (hereinafter the "FUND"); and

WHEREAS, the Borough of Buena’s membership terminates as of January 1, 2023 unless earlier renewed by a Contract between the Borough of Buena and the FUND; and

WHEREAS, N.J.S.A. 40A:11-5 (1) (m) provides that a Contract which exceeds the bid threshold may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor, if the subject matter is for the purchase of insurance coverage and consultant services, provided that the award is in accordance with the requirements for extraordinary unspecifiable services; and

WHEREAS, N.J.S.A. 40A:11-6.1(b) provides that the Borough of Buena shall make a documented effort to secure competitive quotations; however, a Contract may be awarded upon a determination, in writing, that the solicitation of competitive quotations is

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impracticable; and

WHEREAS, in accordance with N.J.A.C. 5:34-2.3, a designated official of the Borough of Buena, has filed a certification with the governing body describing in detail, as set forth below in this Resolution, why this Contract meets the provisions of the statutes and the regulations and why the solicitation of competitive quotations is impracticable; and

WHEREAS, it has been determined that the purchase of insurance coverage and insurance consultant services by the Borough of Buena requires a unique knowledge and understanding of the municipal exposures and risks associated with the operation of a municipal entity, and many insurance professionals are not qualified to assess these risks and exposures based upon their inherent complexity; and

WHEREAS, insurance coverage for municipal entities can vary greatly in the type, limits, and exceptions to coverage, and therefore particularized expertise in determining and obtaining the appropriate coverage is required to protect the BOROUGH OF BUENA; and

WHEREAS, it is the goal of the Borough of Buena to obtain a single integrated program to provide all types of insurance coverage with a plan to limit the MUNICIPALITIES exposure; and

WHEREAS, the FUND has provided comprehensive insurance coverage to member municipalities since 1987; and

WHEREAS, since 1987, the Fund has continually refined all of the types of coverage that it provides to its members so that it offers comprehensive insurance coverage and limits to all members that is unique and cannot be purchased from a single entity in the commercial insurance market; and

WHEREAS, the FUND has also developed and made available to its members Safety, Risk Management and Litigation Management programs that address the specific exposures and risks associated with municipal entities; and

WHEREAS, the FUND provides the Borough of Buena with Fund Administration, Claims Review, Claims Processing, Claims Administration, Actuarial and Legal services; and

WHEREAS, the FUND is one of the most financially sound Municipal Joint Insurance Funds in New Jersey, and the FUND operates with strong fiscal controls, member oversight, and meets all of the requirements promulgated by the New Jersey Department of Community Affairs and the Department of Banking and Insurance; and

WHEREAS, as an existing member of the FUND, the Borough of Buena would be renewing its membership in an organization with experienced and dedicated FUND Professionals who provide specialized services to the members; and

WHEREAS, the membership of the FUND includes many neighboring municipalities that have uniquely similar exposures to the Borough of Buena, and with whom the Borough of Buena has existing inter-local arrangements; and

WHEREAS, all of the aforementioned factors categorize the award of this Contract as an "extraordinary, unspecifiable service" that cannot be duplicated, accounted for, accurately detailed, or described in a manner that truly depicts the value of the Borough of Buena's membership in the FUND; and

WHEREAS, for all of the aforementioned reasons, it is impracticable for the BOROUGH OF BUENA to seek competitive quotations for a Contract to provide the

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procurement of insurance coverage and consultant services; and

WHEREAS, the FUND has been organized pursuant to N.J.S.A. 40A:10-36 et seq., and as such is an agency of the municipalities that created it; and

WHEREAS, N.J.S.A. 40A:11-5(2) also provides that a Contract which exceeds the bid threshold may be negotiated and awarded by the governing body without public advertising for bids and bidding therefor, if the Contract is entered into with a municipality or any board, body, officer, agency or authority thereof; and

WHEREAS, the FUND meets the definition of an agency as set forth in N.J.S.A. 40A:11-5(2); and

WHEREAS, for all of the aforementioned reasons, the Borough of Buena desires to enter into a Contract to renew its membership with the FUND for a period of three (3) years, for insurance coverage and consultant services, as an exception to the public bidding requirements of the Local Public Contracts Law.

NOW THEREFORE BE IT RESOLVED by the governing body of the Borough of Buena as follows:

1. The Borough of Buena agrees to renew its membership in the FUND and to be subject to the Bylaws, Rules and Regulations, coverages, and operating procedures thereof as presently existing or as modified from time to time by lawful act of the FUND.
2. The Mayor and Clerk of the Borough of Buena shall be and hereby are authorized to execute the "Contract to Renew Membership" annexed hereto and made a part hereof and to deliver same to the FUND evidencing the Borough of Buena’s renewal of its membership.
3. In accordance with N.J.A.C. 5:34-2.3, the certificate of a designated official of the Borough of Buena, which details why the solicitation of competitive quotations is impracticable, is attached hereto and made a part of this Resolution.
4. The Clerk of the Borough of Buena is authorized and directed to place a notice of the adoption of this Resolution and the award of this Contract in the official newspaper of the Borough of Buena.

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RESOLUTION 107-22 A RESOLUTION OF THE BOROUGH OF BUENA AUTHORIZING THE EXTENSION OF A SHARED SERVICE AGREEMENT WITH THE ATLANTIC COUNTY UTILITIES AUTHORITY FOR SOLID WASTE AND BULKY WASTE COLLECTION.

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G		X	X				
D’ALESSANDRO						X	
ADAMS			X				
ALVAREZ	X		X				
ANDALORO, P			X				

WHEREAS, the Council of the Borough of Buena adopted Resolution 119-17, a resolution awarding a contract for solid waste and bulky waste collection to Atlantic County

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Utilities Authority for a five-year period commencing on October 1, 2017, and expiring on September 30, 2022; and

WHEREAS, the Council finds it in the best interest of the Borough of Buena to solicit bids for solid waste and bulky waste collection; and

WHEREAS, the Agreement for solid waste collection shall expire prior to providing the statutory time period required for submission of bids for solid waste collection; and

WHEREAS, this situation constitutes a threat to public health, safety, welfare of our residents; and

WHEREAS, Atlantic County Utilities Authority provides a necessary service to the Borough which, without said service, would present a health hazard to the residents of the Borough; and

WHEREAS, in order to provide the essential services necessary, it is in the best interest of the Borough of Buena to award an emergency extension of the existing Agreement with the Atlantic County Utilities Authority until a new contract may be awarded in accordance with New Jersey Statutes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Buena that the Mayor and Clerk are authorized to execute an amendment to the Agreement with Atlantic County Utilities Authority so as to extend the existing Agreement and its terms until December 31, 2022, or until the award of a new solid waste agreement, whichever shall first occur, in an amount not to exceed \$27,169.62 in accordance with the Certificate of Availability of Funds certified by the Chief Financial Officer.

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RESOLUTION 108-22 A RESOLUTION AUTHORIZING THE RECEIPT OF BIDS FOR SOLID WASTE COLLECTION AND DISPOSAL.

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G		X	X				
D’ALESSANDRO						X	
ADAMS			X				
ALVAREZ			X				
ANDALORO, P	X		X				

NOW THEREFORE BE IT RESOLVED by the Council of the Borough of Buena that Municipal Clerk is hereby authorized and directed to advertise for sealed bids for solid waste collection and disposal service within the Borough of Buena.

BE IT FURTHER RESOLVED, that the Borough Attorney is hereby authorized and directed to prepare bid specifications for solid waste collection and disposal service within the Borough of Buena.

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ENGINEER’S REPORT:

FY2021 NJDOT Municipal Aid Project – South Boulevard Drainage Improvements

- A contract was awarded to Mathis Construction Co., Inc. We are awaiting concurrence of award from the NJDOT. Once the contract award is approved by the NJDOT, our office will schedule a pre-construction meeting.

FY2022 NJDOT Municipal Aid Project – E. Summer Road and E. Flower Street

- The Borough received \$285,000 for E. Summer Road and E. Flower Street. Our office submitted a proposal for survey and engineering work. We are awaiting authorization.

SOLICITOR’S REPORT:

Solicitor Tonetta stated that specific technological developments have made access to its Municipal Rights-of-Way desirable by certain telecommunications companies and operators for the placement of small cell infrastructure, also known as Small Wireless Facilities. This includes small cell-wireless telecommunications facilities, 5G cell towers, and distributed antenna systems. Further, Small Wireless Facilities are primarily installed within public rights-of-way, and they can create significant and far-reaching local concerns in traffic and pedestrian safety, aesthetics, protection and preservation of public property, and the safety and welfare of the public. The Federal Telecommunication Act preserves a local government’s authority over the placement, construction, and modification of personal wireless service facilities. An ordinance is necessary to regulate the Small Wireless Facilities in the public right-of-way to protect and preserve the aesthetics and property values of properties within the Borough and to ensure that all Small Wireless Facilities are installed using the least intrusive means possible. Solicitor Tonetta will prepare the appropriate ordinance to update the Borough’s regulations to reflect the development of current wireless technologies.

Minutes of the regular meeting of August 22, 2022 were approved.

Council Member	By	2nd	Yes		No	Abstain	Absent	Recuse
ANDALORO, G		X	X					
ALVAREZ						X		
ADAMS			X					
D’ALESSANDRO							X	
ANDALORO, P	X		X					

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UNFINISHED BUSINESS: Councilman Adams questioned whether a committee could be formed for the Landisville Fire District. Solicitor Tonetta responded that a committee can be formed however, the membership cannot constitute a quorum.

NEW BUSINESS: None

BILLS PAID AS LISTED:

Councilwoman Patricia Andaloro abstained on Invoices #2532 in the amount of \$704.60 for Testa and Invoice #15310 in the amount of \$3,960.00 for Costigan and Costigan.

Council Member	By	2nd	Yes	No	Abstain	Absent	Recuse
ANDALORO, G	X		X				
ALVAREZ		X	X				
ADAMS							
D’ALESSANDRO			X			X	
ANDALORO, P			X				

NEXT MEETING: SEPTEMBER 26, 2022

MEETING ADJOURNED: M/ANDALORO P. S/ANDALORO G. RCVU

Pamela Johnston

Pamela Johnston, Acting Borough Clerk