

**BOROUGH OF BUENA
REGULAR COUNCIL MEETING MINUTES
MAY 26, 2015**

**MEETING CALLED TO ORDER: 6:30 P.M.
MEETING ADJOURNED: 7:15 P.M.**

The regular meeting of Mayor and Council of the Borough of Buena was held Tuesday, May 26, 2015, commencing at 6:30 p.m. at the Borough Hall with Mayor Baruffi presiding. Mayor Baruffi led the flag salute and announced that this meeting was being held in compliance with the Open Public Meetings Act and notices of this meeting have been provided to the Press of Atlantic City, the Daily Journal and the Atlantic County Record as well as having been posted on the bulletin board at Borough Hall.

PRESENT: Councilpersons Marolda, James, Baker, Zappariello, Dr. Paul Trivellini, Administrator, Dan Careganto, Public Safety Directory, Michael Benson, Acting Solicitor and Maryann Coraluzzo, Borough Clerk

ABSENT: Councilpersons Cugini and McAvaddy

MAYOR'S REPORT:

RESOLUTION 57-15 A RESOLUTION AUTHORIZING REDUCTION OF SURETY POSTED BY CONTE'S PASTA, INC. m/Baker s/Zappariello

WHEREAS, applicant posted surety in the form of a Performance Guarantee for certain improvements to Block 173, Lot 30; and

WHEREAS, the Land Use Board Engineer has confirmed that the improvements have been completed 70%.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Buena that the surety posted by Conte's Pasta Inc., is hereby approved to be reduced by \$75,068.70 contingent upon the posting of a Performance Guarantee in the amount of \$32,172.30.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

RESOLUTION 58-15 TO AMEND ADOPTED BUDGET (CHAPTER 159) SPECIAL ITEMS OF REVENUE AND APPROPRIATIONS (N.J.S.A. 40A: 4-87) m/Baker s/James

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the

budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Borough of Buena, County of Atlantic, has been awarded \$ 11,968.38 from the State of New Jersey Department of The Treasury Clean Communities Account Fund

NOW, THEREFORE, BE IT RESOLVED that the council of the Borough of Buena, County of Atlantic, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Budget of the year 2015 in the sum of \$ 11,968.38 which is now available as revenue as follows:

Clean Communities Grant: \$ 11,968.38

BE IT FURTHER RESOLVED that a like sum of \$ 11,968.38 and the same is hereby appropriated under the caption of:

Clean Communities Grant: \$ 11,968.38

BE IT FURTHER RESOLVED that the Chief Financial Officer will forward one copy of this resolution to the Director of the Local Government Services.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

PERSONNEL:

ORDINANCE NO. 630 PUBLIC HEARING OPENED ON:

**AN ORDINANCE CREATING THE POSITION OF POLICE CHAPLAIN FOR BUENA BOROUGH POLICE DEPARTMENT
m/James s/Baker**

WHEREAS, N.J.S.A. 48:14-141 provides that the governing body of the Borough of Buena by Ordinance may provide for the appointment of one or more Chaplains to the Police Department; and

WHEREAS, Police Chaplains serve an integral role in providing comfort to members of the Police Department as well as the public and aid in community policing; and

WHEREAS, the Council finds it in the best interest of the Borough of Buena;

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

1. POSITION CREATED. The position of Police Chaplain for the Borough of Buena Police Department is hereby created in

accordance with 40A:14-141. The position will be a volunteer position. The position of Chaplain shall be under the Director of Public Safety and subject to the control of the Director in the absence of a Chief of Police.

2. QUALIFICATIONS. Any person appointed as Chaplain shall be an ordained clergyman in good standing in the religious body from which he/she is selected. The Chaplain shall have basic training and shall be a certified Police Chaplain credentialed in accordance with the rules and regulations of the Buena Borough Police Department and shall be qualified in accordance with N.J.S.A. 40A:14-141.
3. DUTIES OF POLICE CHAPLAIN. The duties of Police Chaplain shall include, but not be limited to assisting the Buena Borough Police Department in death notifications, station house adjustments and any other duties that may be assigned by the Director of Public Safety in the absence of a Chief of Police.
4. RANK AND SALARY. Any person appointed as Chaplain shall serve in that capacity without Rank or Salary.
5. TERM OF OFFICE. A person appointed as Chaplain shall serve for a period of one (1) year from date of appointment and shall continue to serve in that capacity until he/she is either terminated or reappointed with the recommendation of the Director of Public Safety or Chief of Police.
6. APPOINTMENT. The Director of Public Safety or Chief of Police may recommend to the Mayor persons that he/she believes meet the qualifications of N.J.S.A. 40A:14-141 as well as the rules and regulations of the Buena Borough Police Department with reference to Chaplains, if any. All applicants for the position of Chaplain shall be reviewed by the Director of Public Safety, Chief of Police if appointed, Senior Police Chaplain and Chaplain liaison to determine his/her qualifications in accordance with this Ordinance and shall make recommendations to the Mayor regarding the appointment as Chaplain. The Mayor shall appoint Chaplains in accordance with this Ordinance with the advice and consent of Borough Council.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

Discussion: Frank Marolda questioned the ability of the chaplain(s) to ride along with police officers.

PUBLIC HEARING CLOSED:
m/Baker s/Zappariello

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

ORDINANCE NO. 630 ADOPTED:
m/Baker s/James

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

ORDINANCE NO. 631 PUBLIC HEARING OPENED ON:

AN ORDINANCE AMENDING ORDINANCE NO. 604 AS AMENDED, CHAPTER 45 OF THE CODE OF THE BOROUGH OF BUENA ENTITLED PUBLIC SAFETY DIRECTOR. m/Zappariello s/Baker

WHEREAS, On January 2, 2013, the Borough Council of the Borough of Buena adopted Ordinance 604 which provided for the Director of Public Safety to maintain direct supervisory powers as the Chief Executive Officer of the Police Department in lieu of a Chief of Police in accordance with PBA North Brunswick Local 160 v. Township of North Brunswick, 318 NJSuper 544 (App.Div. 1999); and

WHEREAS, Borough Council intends upon reinforcing their intent by

further providing the Director of Public Safety with the duties of the Appropriate Authority pursuant to NJSA 40A:14-118.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Buena that Ordinance 604, as amended, Chapter 45 of the Code of the Borough of Buena, as follows:

Article I
Definitions

Appropriate Authority shall be repealed and replaced as follows:

Appropriate Authority shall mean the Director of Public Safety who shall have all of the powers specified in NJSA 40A:14-118.

Article II
General Provisions

§45-3 shall be repealed and replaced as follows:

§45-3 Director.

Under the direction of the Mayor and Council, the Director of the Department of Public Safety shall be appointed by the Mayor subject to the confirmation of Council. Where the Borough has opted not to appoint a Chief of Police, the Director is vested with the duties ordinarily assigned to the Chief of Police excepting those duties which are specifically reserved to law enforcement personnel.

A. Qualifications of the Director of Public Safety. All applicants for the position of Director shall have acquired a minimum of five (5) years supervisory experience in law enforcement or a minimum of five (5) years supervisory experience in the United States military service which shall be considered the rank of Chief Master Sergeant or its equivalent in all branches of the military.

B. Duties and Responsibilities.

Duties and Responsibilities of the Director shall include but not be limited to the following:

(1) Be the Chief Executive Officer of the Police Department and shall be the head of the Department and all police personnel shall be subordinate thereto.

(2) Promulgate, administer and enforce all Rules and Regulations, Policies and Procedures of the Department including the allocation of assignments and instruction to police personnel.

(3) Determine internal organization of the Department.

(4) Delegate his/her authority as he/she may deem necessary for the efficient operation of the Police Department to be exercised under his/her direction and supervision.

(5) Establish procedures for the hearing and determination of charges of violation of departmental Rules and Regulations, Policies and Procedures by any police personnel.

(6) Report at least monthly to the Borough Council as the Appropriate Authority in such form as the Council shall prescribe on the operation of the Police Department during the preceding

month, and make such other reports as may be requested by the Council;

(7) Formulate, implement and issue rules and regulations for the Police Department.

(8) Analyze crime trends and statistics to ensure that the Police Department makes the best use of available funds, personnel, equipment and supplies.

(9) Provide police officers and employees of the Police Department with guidance and advice and supervise their work to see that proper procedures are followed, that reasonable standards of workmanship, conduct and output are maintained, and that desired police objectives are achieved. The Duties and Responsibilities set forth herein are subject to Article II Section 45-3 C of this Ordinance.

(10) Direct the establishment and maintenance of police records and files, and make sure that procedures are followed at all times for the creation, updating, preservation and oversight of all police records and files, including personnel files.

(11) Issue directives and allocate resources to ensure police protection for public events, hazardous situations or weather conditions, times of emergency and in response to emergent conditions.

(12) Review for administrative purposes reports prepared by police officers and employees.

(13) Prepare the Police Department budget, and keep the Mayor and Council updated monthly on costs and expenses incurred inside and outside that budget, including overtime.

(14) Evaluate effectiveness of work programs and procedures for all sections of the Police Department and develop effective work methods for police officers and personnel.

(15) Establish and maintain helpful and cooperative relations with the public, groups, organizations, businesses, schools, neighboring municipalities, local and regional law enforcement and emergency services entities.

(16) Designate the streets, avenues and areas of the Borough to be patrolled by the police officers.

(17) Determine the days and hours of service of the police officers and other police employees.

(18) Determine the periods of time when the police officers respectively may be off duty to make up for overtime service.

(19) Provide for the proper and timely institution and commencement of disciplinary process, and for the proper and timely conduct of disciplinary hearings in accordance with Borough ordinance and State law.

(20) Perform all duties authorized by law, rule, regulation or prosecutor advisory or other types of opinions, directives or orders.

C. Civilian Nature of Position of Police Director.

Since the Public Safety Director shall be a civilian position the Public Safety Director shall not possess regular police powers. This subsection shall not limit or constrain the power or authority of the State Attorney General, or the Director of the Division of Criminal Justice within the Department of Law and Public Safety, or the Atlantic County Prosecutor, to delegate or assign such additional responsibilities or powers to the Public Safety Director as the Attorney General, or Director of the Division of Criminal Justice, or the Atlantic County Prosecutor may determine, in the circumstance then presented, to be appropriate or warranted. Under ordinary circumstance, the civilian Public Safety Director shall not be permitted to:

- (1) Operate a marked patrol vehicle, conduct a motor vehicle stop or answer calls for service.
- (2) Routinely stop, detain or arrest persons.
- (3) Wear a law enforcement officer uniform.
- (4) Be issued a firearm.
- (5) Approve permits to carry firearms.
- (6) Direct the investigation of criminal matter.

D. Department Equipment.

The Public Safety Director shall recommend to the Borough Administrator from time to time the purchase of new equipment or the repair or rearrangement of such old equipment as will improve the Department. The Public Safety Director shall have full oversight responsibility for the charge and control of all apparatus and equipment of the Department and its assignment and use, and shall be held responsible for overseeing its care, cleanliness and safe keeping. The Public Safety Director shall be responsible for ensuring that a supervisory officer of the Police Department shall be designated with possessory authority, responsibility, and accountability for all firearms, weapons, and items of evidence.

E. Compensation.

The Public Safety Director's compensation shall be in the amount as shall be fixed annually by Ordinance.

BE IT FURTHER ORDAINED that any portion of Chapter 45 not so amended hereby shall remain in full force and effect.

BE IT FURTHER ORDAINED that if any section, subsection, paragraph, sentence or other part of this Ordinance shall be adjudged by a Court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, subsection, paragraph, sentence or other part so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED that all Ordinance or parts of Ordinances or Resolutions inconsistent with the provisions of this Ordinance are hereby repealed to the extent of their inconsistencies.

This Ordinance shall take effect immediately after final passage

and publication as required by law. Any Ordinances inconsistent with this Ordinance are hereby repealed.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

Discussion: none

PUBLIC HEARING CLOSED:
m/Baker s/James

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

ORDINANCE NO. 631 ADOPTED:
m/Baker s/James

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

**RESOLUTION 56-15 A RESOLUTION PERMANENTLY APPOINTING
ROBERT AUSSENBERG AS CONSTRUCTION
OFFICIAL OF THE BOROUGH OF BUENA
EFFECTIVE MAY 26, 2015.
m/Baker s/Zappariello**

WHEREAS, Robert Aussenberg is duly licensed and qualified to serve as Construction Official: and

WHEREAS, the said Robert Aussenberg has agreed to serve as Construction Official in the Borough of Buena effective May 26, 2015.

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

1. Robert Aussenberg be and he is hereby permanently appointed as Construction Official in the Borough of Buena, effective May 26, 2015.
2. Robert Aussenberg shall be paid bi-weekly as specified in the current Buena Borough salary ordinance.
3. A certified copy of this resolution shall be submitted to the Department of Community Affairs by the Clerk of the Borough of Buena to advise them of the appointment set forth herein.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

MAYOR'S UPDATE:

Mayor Baruffi thanked those who attended the Memorial Day ceremonies. A meeting was held with property owners on Wheat Road to determine if an easement can be obtained by the Borough for the purpose of improving drainage on Louis Drive.

With regard Kimberly Lane and final payment, Mayor Baruffi stated that all punch list items must be completed prior to the Borough releasing funds.

PUBLIC SAFETY DIRECTOR'S REPORT:

Director Caregnato submitted a report to Mayor and Council. Mayor Baruffi asked the Council to review the information and submit questions to the Director at the next meeting.

ADMINISTRATORS'S REPORT:

Dr. Trivellini provided a status update on renovations in the municipal building and senior center. A report was also given on the playground equipment.

SOLICITOR'S REPORT: none

COMMITTEE REPORTS:

RECYCLING: (COUNCILMAN MAROLDA)

Councilman Marolda reported on the ongoing bike path audit.

STREETS/ROADS: (COUNCILMAN JAMES)

Councilman James extended his thanks to Road Department Supervisor Nimohay and the road department laborers for their efforts in beautifying the Borough.

FINANCE: (COUNCILWOMAN BAKER)

Council President Baker reported the auditors have completed the audit. When their report is ready an exit conference will be held.

RECREATION: (COUNCILMAN ZAPPARIELLO)

Councilman Zappariello reported that the lighting issue in the park seems to be resolved. A list of upcoming events was discussed.

PUBLIC SAFETY/STREET LIGHTS: (COUNCILMAN CUGINI) none

BLDGS/GROUNDS/IMPROVEMENTS: (COUNCILMAN MCAVADDY) none

PUBLIC PORTION OF MEETING:

Brian Fatcher of Kimberly Lane expressed his concern with the number of foxes in the area. Director Caregnato state he contacted wildlife control and was provided with a case number. The Director will follow up with our animal control officer to possibly trap and relocate the animals.

CLERK'S REPORT:

Minutes of the regular meeting of November 10, 2014 were tabled due to a lack of quorum.

Minutes of the regular meeting of April 27, 2015 were tabled due to lack of quorum.

Minutes of the regular meeting of May 11, 2015 were tabled due to lack of quorum.

UNFINISHED BUSINESS: none

NEW BUSINESS: none

BILLS PAID AS LISTED: m/Baker s/Zappariello

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA	X			
JAMES	X			
BAKER	X			
ZAPPARIELLO	X			
CUGINI				X
MCAVADDY				X

NEXT MEETING: June 8, 2015

MEETING ADJOURNED: m/Baker s/James RCVU

MARYANN CORALUZZO
BOROUGH CLERK