

**BOROUGH OF BUENA  
REGULAR COUNCIL MEETING  
AGENDA  
MAY 9, 2016**

**MEETING CALLED TO ORDER: P.M.  
MEETING ADJOURNED: P.M.**

**CALL MEETING TO ORDER: Flag Salute**

**ROLL CALL OF ATTENDANCE:**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**SUNSHINE LAW:** This meeting is 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.

**MAYOR'S REPORT:** First order of business.

**ORDINANCE NO. 639: NEED MOTION TO INTRODUCE AND PASS ON FIRST READING:**

**AN ORDINANCE REQUIRING THE REGISTRATION AND MAINTENANCE OF VACANT PROPERTIES.**

**M \_\_\_\_\_ S \_\_\_\_\_**

**WHEREAS**, the Borough of Buena (the "Borough") contains structures which are vacant in whole or large part; and

**WHEREAS**, in many cases, the owners or responsible parties of these structures are neglectful of them or are not maintaining or securing them to an adequate standard or restoring them to productive use; and

**WHEREAS**, it has been established that vacant and abandoned structures cause severe harm to the health, safety, and general welfare of the community, including diminution of neighboring property values, increased risk of fire and potential increases in criminal activity and public health risks; and

**WHEREAS**, the Borough incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to, excessive police calls, fire calls, and property inspections and maintenance; and

**WHEREAS**, it is in the public interest for the Borough to establish minimum standards of accountability on the owners, creditors or other responsible parties of vacant and abandoned structures in order to protect the health, safety and general welfare of the residents of the Borough; and

**WHEREAS**, it is in the public interest for the Borough to impose a fee in conjunction with registration of vacant and abandoned structures and to require creditors to be responsible for the maintenance of abandoned residential structures under certain circumstances in light of the disproportionate costs imposed upon the Borough by the presence of these structures.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF BUENA, AS FOLLOWS:**

## **SECTION 1. Definitions.**

As used in this ordinance, the following terms shall have the meanings indicated:

### **CREDITOR**

Shall mean any creditor including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under a mortgage agreement.

### **INITIATION OF THE FORECLOSURE PROCESS**

Shall mean any of the following actions taken by a lienholder or mortgage holder or mortgagee

- (A) taking possession of the Property
- (B) delivering a Creditors or mortgagee's notice of intention to foreclose to the borrower
- (C) commencing a foreclosure action or filing a lis pendens in the Superior Court of New Jersey

### **OWNER**

Shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity that has filed a notice with the Borough Clerk pursuant to the provisions of N.J.S.A. 46:10B-51 (P.L.2008, c.127, Sec.17 as amended by P.L.2009, c.296), or any other entity determined by the Borough to have authority to act with respect to the property.

### **PROPERTY**

Shall mean any real estate, residential property, or portion thereof, located in the Borough, including buildings or structures situated on the Property. Property does not include property owned or subject to the control of the Borough or any of its governmental bodies or agencies.

### **PUBLIC OFFICER**

The Director, Department of Public Works, or his designee, is hereby designated as the Public Officer of the Borough and shall exercise the powers prescribed by this Ordinance.

### **RESIDENTIAL PROPERTY**

Shall mean any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes

### **SECURING**

Shall mean taking measures that assist in making the property and accessible to unauthorized persons

### **VACANT PROPERTY**

Any building or structure which is not legally occupied or at which all lawful business or construction operations or renovation work or residential occupancy have substantially ceased, and which is in such condition that it cannot legally be reoccupied without repair or rehabilitation, including but not limited to any property meeting the definition of abandoned property in N.J.S.A. 55:19-80; provided, however, that any property where all building systems are in working order, where the building and grounds are maintained in good order, or where the building is in a habitable condition, and where the building is being actively marketed by its Owner for sale or rental, shall not be deemed a vacant property for purposes of this Ordinance.

## **SECTION 2 . Registration Requirements.**

Effective October 1, 2014, the Owner of any Vacant Property as defined herein shall, within 30 calendar days after the building becomes Vacant Property or within 30 calendar days after assuming ownership of the Vacant Property, whichever is later; or within 10 calendar days of receipt of notice by the Borough, file a registration statement for such Vacant Property with the Code Enforcement Office on forms provided by the Borough for such purposes. Failure to receive notice by the Borough shall not constitute grounds for failing to register the property.

A. Each Property having a separate block and lot number as designated in official records of the Borough shall be registered separately.

B. The registration statement shall include the name, street address, telephone number, and e-mail address (if applicable) of a person 21 years of age or older, designated by the Owner or Owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such Owner or Owners in connection with the enforcement of any applicable code; and the name, street

address, telephone number, and e-mail address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour per day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

C. The registration shall remain valid for one year from the date of registration except for the initial registration time which shall be prorated through 2014. The Owner shall be required to renew the registration annually as long as the building remains a Vacant Property and shall pay a registration or renewal fee in the amount prescribed in Section 8 of this Ordinance for each Vacant Property registered.

D. The annual renewal shall be completed by January 1<sup>st</sup> of each year. The initial registration fee shall be prorated for registration statements received less than 10 months prior to that date.

E. The Owner shall notify the Code Enforcement Office within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Borough for such purpose.

F. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the Owner or Owners of the building.

G. The Owner shall maintain insurance in accordance with Section 6 of this ordinance.

H. The registration statement may include any additional information that the Public Officer may reasonably require.

### **SECTION 3. Restoration.**

Any Owner of Vacant Property who plans to restore the property to productive use and occupancy during the twelve-month period following the date of the initial registration of the property shall file a sufficiently detailed statement of the Owner's plans for restoration of the property with the registration statement. Any Owner who within the initial registration period completes restoration of the property whereby the property no longer is defined as a Vacant Property may request a pro-rated refund of the Vacant Property registration fee from the Code Enforcement Office upon presentation of a certificate of occupancy who shall forward the request to the Public Officer for approval.

### **SECTION 4. Access.**

The Owner of any Vacant Property registered under this Ordinance shall provide access to the Borough to conduct exterior and interior inspections of the building to determine compliance with municipal codes, upon reasonable notice to the property Owner or the designated agent. Such inspections shall be carried out on weekdays during the hours of 9:00 a.m. and 4:00 p.m., or such other time as may be mutually agreed upon between the Owner and the Borough.

### **SECTION 5. Responsible owner or agent.**

A. An Owner who meets the requirements of this Ordinance with respect to the location of his or her residence or workplace in the State of New Jersey may designate himself or herself as agent or as the individual responsible for maintaining the property.

B. By designating an authorized agent under the provisions of this section the Owner consents to receive any and all notices of code violations concerning the registered Vacant Property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any Owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the Owner notifies the Borough in writing of a change of authorized agent or until the Owner files a new annual registration statement.

C. Any Owner who fails to register a Vacant Property under the provisions of this Ordinance shall further be deemed to consent to receive, by posting on the building, in plain view, and by service notice at the last known address of the Owner of the property on record with the Borough by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

### **SECTION 6. Owner and/or Creditor requirements.**

The Owner and /or Creditor of any structure that has become Vacant Property, and any person responsible for maintaining any such building that has become vacant shall, within 30 calendar days of the structure becoming vacant or within 30 calendar days of the Owner taking title to the property, do the following:

A. Board and secure the structure and all unattached accessory structures, garages or similar structures as provided for in the applicable codes of the

Borough or as set forth in rules and regulations promulgated by the Construction Code Official.

B. Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well maintained and free from trash, debris, loose litter, and grass and weed overgrowth.

C. Post a sign, affixed and protected from the elements, to the structure indicating the name, address and telephone number of the owner and the owner's authorized agent for the purpose of service of process, and the name, address and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. The sign shall include the words "No Trespassing" and "to report problems with this building, call...", shall be of sufficient size and shall be placed in a location where it is clearly visible from the nearest public street or sidewalk, whichever is nearer. The sign shall be no smaller than eight (8) inches by ten (10) inches.

D. Continue to maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied, demolished, or until repair and/or rehabilitation of the building is complete.

E. A Creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property in the Borough shall, within 10 days of serving the summons and complaint notify the Borough Clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against the property. The notice shall contain the name and contact information for the representative of the Creditor who is responsible for receiving complaints of property, maintenance and code violations and shall be provided by mail, or electronic communication at the discretion of the Borough clerk. The Borough clerk shall forward a copy of the notice to the public officer to or shall otherwise provide to any other local official responsible for administration of any property maintenance or public nuisance code. In the event that the property being foreclosed upon is an affordable unit pursuant to the Fair Housing Act, N.J.S.A. 52:27. D - 301 et seq., then the creditor shall identify that the property is subject to the Fair Housing Act. The notice shall also include the Street address, lot and block number of the property and the full name and contact information of an individual located within the State who was authorized to accept service on behalf of the Creditor. The notice shall be provided to the Borough clerk within 10 days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property. The Notice shall also provide the name and contact information of an in-state representative or agent who shall be responsible for the care, maintenance, security and upkeep of the exterior of the property if it becomes vacant and/or abandoned.

F. The Owner of any Vacant Property shall acquire and otherwise maintain liability insurance, in an amount of not less than \$300,000 for buildings designed primarily for residential use, and not less than \$1,000,000 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building or property subject to the provisions of this ordinance. Said insurance shall provide a rider for payment of all demolition costs should the vacant building become abandoned and require the Borough to demolish the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the Public Officer within 30 calendar days of any lapse, cancellation or change in coverage. The Owner shall attach evidence of the insurance to the Owner's registration statement. Any registration statement submitted that does not include such evidence shall be deemed to be an invalid registration. Insurance must name Borough of Buena as party or payee for demolition costs should the Borough deem demolition is required.

G. In the event the Owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated as defined herein or if a residential property becomes vacant at any point subsequent to a Creditor filing the Summons and Complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the Creditor or any Third Party, and/or the property is found by the Public Officer or other authorized Borough Official to be a nuisance, in violation of any applicable State or Local Code regarding the care, maintenance, security or insurance requirements of this Ordinance, then the Public Officer or other authorized Borough Official shall cause a notice to be sent by certified and regular mail notifying the Creditor of the violation and directing the Creditor to correct the same. The Creditor shall be obligated to abate the nuisance or correct the violations in the same manner and to the same extent as the title Owner of the property, to such standards or specifications as may be required by State Law or Borough Code. The notice shall advise the Creditor that the nuisance or violations must be abated or corrected within thirty (30) days of the receipt of the notice or within ten (10) days of the receipt of said notice if the violation presents an imminent threat to public health and safety. The issuance of a notice pursuant to this paragraph shall constitute

proof that the property is "vacant and abandoned" for the purposes of N.J.S.A. 2A:50-73.

**SECTION 7. Rules and Regulations issued by Public Officer.**

The Public Officer may issue rules and regulations for the administration of the provisions of this Ordinance. Such administratively promulgated rules and regulations shall be in writing and shall be provided to the Owners and/or Creditors of properties registered under this Ordinance or their designated agents within 30 calendar days of their effective date.

**SECTION 8. Fees.**

The registration and renewal fee for each building shall be as follows:

- A. Initial registration: \$500.00 or prorated amount per Section 2 of this ordinance.
- B. First renewal: \$1,500.00
- C. Second renewal: \$3,000.00
- D. Subsequent renewal: \$5,000.00

**SECTION 9. Violations and penalties.**

A. An out-of-state Creditor found by the Buena Borough Municipal Court or any other Court of Competent Jurisdiction to be in violation of the requirement to appoint an in-state representative or agent pursuant to Section 6 E of the Ordinance shall be subject to a fine of \$2,500.00 for each day of the violation Any fines imposed on a Creditor in accordance with this Paragraph shall commence on the day after the ten (10) day period set forth in Section 6 E of this Ordinance.

B. Any Creditor found by the Buena Borough Municipal Court or any other Court of Competent Jurisdiction to be in violation of the requirement to correct a nuisance, care, maintenance, security, insurance or upkeep violation listed in a notice issued pursuant hereto shall be subject to a fine of \$1,500.00 per day for each day the violation remains unabated.

Any fines imposed in accordance with this Paragraph shall be subject to a fine of \$1,500.00 for each day the violation remains unabated. Any fines imposed in accordance with this paragraph shall commence thirty-one (31) days following receipt of the notice except if the violation present an imminent risk to public health and safety, in which case any fines shall commence eleven (11) days following receipt of the notice.

**BE IT FURTHER ORDAINED** that if any section, subsection, paragraph, sentence or other party of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

**BE IT FURTHER ORDAINED** this Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**RESOLUTION 57-16      RESOLUTION TO ADOPT 2016 MUNICIPAL BUDGET**  
**M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**RESOLUTION 58-16      A RESOLUTION DETERMINING THAT CERTAIN ITEMS OF PERSONAL PROPERTY OWNED BY OR FORFEITED TO THE BOROUGH OF BUENA ARE NOT NEEDED FOR PUBLIC USE, AND AUTHORIZING THE SALE OF SAID ITEMS AT PUBLIC AUCTION TO THE HIGHEST BIDDER.**  
**M \_\_\_\_\_ S \_\_\_\_\_**

WHEREAS, the Borough of Buena has recently determined that the items of personal property which are set forth in the list annexed to this Resolution are not needed for public use; and

WHEREAS, the Borough Council has further determined that it would be in the best interest of the Borough to sell said items of personal property at public auction to the highest bidder; and

WHEREAS, the Borough Council has determined to authorize T.J. Sullins, an auctioneer, to sell said property at public sale to be held on June 11, 2016 at Newfield Auction Sales, 7 Salem Avenue, Newfield, NJ 08344 commencing at 9:00 o'clock a.m. after due notice and publication of said sale.

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

1. The Council of the Borough of Buena hereby determines that the personal property described on the attached listing, which were either forfeited to or purchased by the Borough are not needed for public use, and has determined that it is in the public interest that said property be sold at public sale to the highest bidder.

2. The Council has designated as the Borough's representative to sell the personal property described on the annexed list for sale to the highest bidder, at public auction to be held on June 11, 2016 at Newfield Auction Sales, 7 Salem Avenue, Newfield, NJ 08344 commencing at 9:00 o'clock a.m

3. The personal property to be sold at public auction on the attached listing shall be sold for not less than the minimum price indicated for each item, or where no minimum price is indicated for a particular item of personal property, then at the highest bid which is received on each item of personal property.

4. After the receipt of bids on a particular item of personal property, the Auctioneer conducting the auction is hereby authorized to finalize the sale to the highest bidder, provided that the minimum price listed for said item of personal property has been met, to collect the amount bid form the highest bidder and to deliver the item of personal property to the bidder. In the event no minimum bid is provided for as item of personal property, the Auctioneer is authorized to finalize the sale on the basis of the highest bid presented and to deliver the item of personal property upon payment.

5. No special conditions or restrictions on the use of the personal property set forth on the annexed list are imposed beyond those established by law, unless indicated on the attached listing. There is no assurance that any property sold at public auction is fit for any particular purpose, and the Borough Council makes no warranties as to the nature or condition of any item of personal property set forth on the annexed list.

6. The Borough is authorized to pay the Auctioneer named herein a fee of not to exceed 10% of the purchase price for each item sold at auction in accordance with this Resolution, and the Auctioneer is authorized to deduct said fee from the purchase price before remitting the balance to the Borough of Buena.

7. The Clerk of the Borough of Buena is hereby authorized and directed to publish in a newspaper circulating in the Borough of Buena, in accordance with the provisions of N.J.S.A.40A:12-13(a), a Notice of Public Sale setting forth the date, time and place of sale, and publishing the list of items to be sold.

LIST OF ITEMS TO BE AUCTIONED OFF

1. 850 JOHN DEERE
2. GENERATOR
3. MISCELLANEOUS ITEMS

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**RESOLUTION 59-16 TO CANCEL OUTSTANDING CHECKS**  
**M \_\_\_\_\_ S \_\_\_\_\_**

**WHEREAS**, there exists a few outstanding checks in the Borough of Buena Payroll Account #1310000169814;

**WHEREAS**, it has been determined that these outstanding checks should be cancelled;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Members of Council of the Borough of Buena, in the County of Atlantic, New Jersey, that the list of outstanding checks be cancelled as of May 9, 2016;

*Payroll Checking Account #1310000169814*

<u>CHECK</u>	<u>AMOUNT</u>
38399	27.82
38401	40.05
38702	195.24
38706	98.64
38914	22.06
39033	22.52
39059	1,546.84
<b>Total</b>	<b>\$1,953.17</b>

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**PERSONNEL:**

**ADMINISTRATORS' S REPORT:**

**ENGINEER' S REPORT:**

Kimberly Lane Storm Drain Pipe

Our office is working on project close-out.

FY2013 and FY2014 NJDOT Municipal Aid Project - Reconstruction of Flower Street

Our office is working on project close-out.

Resurfacing of Forsythe Street

Our office is working on project close-out.

FY2015 NJDOT Municipal Aid Project - Reconstruction of Plymouth Road

The NJDEP permit application for the culvert replacement was submitted. We are waiting for a response from the NJDEP.

FY2016 NJDOT Municipal Aid Project - Reconstruction of Forest Grove Road

The Borough received \$196,000.00 in FY2016 NJDOT funding. Our office will be preparing and submitting a proposal for engineering services.

**SOLICITOR'S REPORT:**

**COMMITTEE REPORTS:**

- ROADS/RECYCLING..... CHAIRMAN JEFFREY MAROLDA  
JOSEPH MANCUSO, GREG MCAVADDY
- RECREATION.....CHAIRMAN MATTHEW WALKER  
ROSALIE M. BAKER, JEFFREY MAROLDA
- FINANCE.....CHAIRWOMAN ROSALIE M. BAKER  
ROBERT JAMES, MATTHEW WALKER
- PUBLIC SAFETY/STREET LIGHTS..... CHAIRMAN ROBERT JAMES  
GREG MCAVADDY, JEFFREY MAROLDA
- ECONOMIC DEVELOPMENT.....CHAIRMAN JOSEPH MANCUSO  
ROSALIE M. BAKER, ROBERT JAMES
- BLDGS/GROUNDS/IMPROVEMENTS..... CHAIRMAN GREG MCAVADDY  
JOSEPH MANCUSO, MATTHEW WALKER

**PUBLIC PORTION OF MEETING:**

Anyone wishing to address Mayor and Council only, please step forward and give your name and address for the record.

**CLERK'S REPORT:**

Minutes of the regular meeting of April 25, 2016. If no corrections or additions, entertain a motion to approve M \_\_\_\_\_ S \_\_\_\_\_

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**CORRESPONDENCE:**

1. Our Lady of the Blessed Sacrament request for Raffle License dated for May 15, 2016.  
M \_\_\_\_\_ S \_\_\_\_\_

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

2. Ben Szturma requesting a four month extension for the placement of a temporary trailer located at 512 North West Boulevard to September 3, 2016.  
M \_\_\_\_\_ S \_\_\_\_\_

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**Need motion to file correspondence M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

**BILLS PAID AS LISTED: M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				

**NEXT MEETING: May 23, 2016**

**MEETING ADJOURNED: M \_\_\_\_\_ S \_\_\_\_\_**

	AYE:	NAY:	ABSTAIN:	ABSENT:
MAROLDA				
WALKER				
BAKER				
JAMES				
MANCUSO				
MCAVADDY				