

BOROUGH OF BUENA  
REGULAR MEETING  
MINUTES  
SEPTEMBER 13, 2021  
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**MEETING CALLED TO ORDER: 7:00 P.M.**

**MEETING ADJOURNED: 7:22 P.M.**

Mayor Zappariello called the meeting to order and asked for a moment of silence for those affected by COVID-19. Mayor Zappariello added the remembrance for the 20<sup>th</sup> Anniversary of the 911 Terrorist Attack on the United States and the memorial services of those lost their lives and families forever changed.

**ROLL CALL OF ATTENDANCE:**

| Council Member | Present | Absent |
|----------------|---------|--------|
| WALKER         |         | X      |
| D'ALESSANDRO   | X       |        |
| BAKER          | X       |        |
| MANCUSO        | X       |        |
| ALVAREZ        | X       |        |
|                | X       |        |

THE REGULAR MEETING OF MAYOR AND COUNCIL OF THE BOROUGH OF BUENA WAS HELD MONDAY, SEPTEMBER 13, 2021 COMMENCING AT 7:00 P.M. VIA TELECONFERENCING WITH MAYOR ZAPPARIELLO PRESIDING. MAYOR ZAPPARIELLO CALLED FOR A MOMENT OF SILENCE FOR THOSE AFFECTED BY COVID-19 AND ANNOUNCED THAT THIS MEETING WAS 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, THE DAILY JOURNAL AND THE ATLANTIC COUNTY RECORD ON DECEMBER 1, 2020 AS WELL AS BEING POSTED ON THE BULLETIN BOARD IN BOROUGH HALL AND ON THE BUENA BORO WEBSITE. WWW.BUENABORO.ORG

**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, The Daily Journal and The Atlantic County Record on DECEMBER 1, 2020, as well as having been posted on the bulletin board at Borough Hall.

**MAYOR'S REPORT:** Mayor Zappariello acknowledged that he had hoped to open the meetings to the public at this time but had reviewed the COVID numbers and considered in person for the next meeting. Mayor admitted that he recently contracted COVID and recommended COVID vaccines.

Mayor Zappariello asked for any updates from Road Supervisor, Bill Nimohay. Nimohay stated he had spoken to a resident of Cedar Lake Road concerning water issues but would need a road study. Nimohay will follow up with Robert Smith, Boro engineer. Also trees and brush would be trimmed for allowing passing vehicles on that road. Mayor Zappariello continued, asking Engineer Smith for added items prior to his report and Smith had nothing to report other than DOT

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drainage issues are to be reviewed.

**PUBLIC PORTION OF THE MEETING OPENED:**

Brian Fatcher, Kimberly Lane - Mr. Fatcher stated he had spoken to Councilman Walker concerning the Grove Road piping project and if there had been money left over to use to fix Kimberley Lane. Fatcher also stated Central Ave patching had left concave areas that created puddles and inquired of a timeline for the repairs of manholes.

Betsy García, 306 N.W.Blvd. - president of Buena Youth sports, a new nonprofit to youth recreation inquired on 110 Park Avenue Minotola/Landisville as it would be an ideal location for our organization and did not know whom to contact. Ms. Garcia was directed to contact the mayor's email.

**CLOSE PUBLIC PORTION CLOSED:**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     |     |     |         |        |        |
| BAKER          |    |     |     |     |         |        |        |
| MANCUSO        |    |     |     |     |         |        |        |
| ALVAREZ        |    |     |     |     |         |        |        |
|                |    |     |     |     |         |        |        |

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**PUBLIC HEARING OPENED ON:**

**ORDINANCE NO. 702 AN ORDINANCE ADOPTING A REVISION AND CODIFICATION OF THE ORDINANCES OF THE BOROUGH OF BUENA, COUNTY OF ATLANTIC, STATE OF NEW JERSEY.**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    | X   | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    |     | X   |     |         |        |        |
|                |    |     | X   |     |         |        |        |

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Be it ordained and enacted by the Mayor and Council of the Borough of Buena, County of Atlantic, State of New Jersey, as follows:

**§ 1-1. Code adopted; existing ordinances continued.**

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Borough of Buena of a general and permanent nature adopted by the Mayor and Council of the Borough of Buena, as revised and codified and consisting of Chapters 1 through 229, together with an Appendix, are hereby approved, adopted, ordained and enacted as the Code of the Borough of Buena, hereinafter referred to as the "Code." The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments. This ordinance and the Code adopted hereby shall supersede and replace the 1987 Code of the Borough of Buena (adopted 1-12-1987 by Ord. No. 329), as amended and supplemented.

**§ 1-2. Code on file; additions and amendments.**

- A. A copy of the Code has been filed in the office of the Borough Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance. Following adoption of this ordinance, such copy shall be certified to by the Clerk of the Borough of Buena by impressing thereon the Seal of the Borough, as provided by law, and such certified copy shall remain on file in the office of the Borough Clerk, to be made available to persons desiring to examine the same during all times while said Code is in effect.
- B. Additions or amendments to the Code, when adopted in such form as to indicate the intent of the Mayor and Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Borough of Buena" shall be understood and intended to include such additions and amendments.

**§ 1-3. Notice; publication.**

The Clerk of the Borough of Buena shall cause notice of the passage of this ordinance to be given in the manner required by law. The notice of passage of this ordinance coupled with filing of the Code in the office of the Borough Clerk as provided in § 1-2 shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-4. Severability.**

Each section of this ordinance and of the Code and every part of each section is an independent section or part of a section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

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**§ 1-5. Repealer.**

Ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Borough of Buena which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

**§ 1-6. Ordinances saved from repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-5 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to February 22, 2021.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Borough's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- I. The levy or imposition of taxes, assessments or charges or the approval of the municipal budget.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Chapter 150, Land Use, adopted by Ord. No. 395, as amended.

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- M. Any ordinance adopting or amending the Zoning Map.
- N. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.

**§ 1-7. Changes in previously adopted ordinances.**

- A. In preparing the revision and codification of the Borough's ordinances pursuant to N.J.S.A. 40:49-4, certain minor grammatical and nonsubstantive changes were made in one or more of said ordinances. It is the intention of the Mayor and Council that all such changes be adopted as part of the Code as if the ordinances so changed had been formally amended to read as such.
- B. In addition, the changes, amendments or revisions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

**§ 1-8. Titles and headings; editor's notes.**

- A. Chapter and article titles, headings and titles of sections and other divisions of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

**§ 1-9. Altering or tampering with Code; violations and penalties.**

It shall be unlawful for anyone to change, alter or tamper with the Code in any manner which will cause the laws of the Borough of Buena to be misrepresented thereby. Anyone violating this section shall be subject, upon conviction, to one or more of the following penalties: a fine of not more than \$2,000, imprisonment for not more than 90 days or a period of community service not exceeding 90 days, in the discretion of the Judge imposing the same.

**§ 1-10. When effective.**

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

**§§ 1-11 through 1-14. (Reserved)**

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**DISCUSSION: NONE**

**PUBLIC HEARING CLOSED:**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    | X   | X   |     |         |        |        |
|                |    |     | X   |     |         |        |        |

**ORDINANCE NO. 702 ADOPTED:**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    | X   | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    |     | X   |     |         |        |        |
|                |    |     | X   |     |         |        |        |

**RESOLUTION 81-21 RESOLUTION AUTHORIZING PAYMENT OF ATTORNEYS' FEES ON THE CASE OF AADARI v. BOROUGH OF BUENA.**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    | X   | X   |     |         |        |        |
|                |    |     |     |     |         |        |        |

**WHEREAS**, the African American Data and Research Institute (AADARI) filed a Government Records Council appeal of an OPRA request made to the Borough on July 28, 2018; and

**WHEREAS**, the Government Records Council awarded attorneys' fees to the Complainant and the parties were directed to attempt to amicably resolve the claim for attorneys' fees by way of Order dated July 27, 2021; and

**WHEREAS**, an amicable resolution was reached by the parties.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the Borough of Buena that the payment of attorneys' fees in the amount of \$3000.00 is



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**WHEREAS**, the Borough of Buena enacted Ordinance # 639-2016 titled Abandoned Real Property on June 27, 2016; and

**WHEREAS**, such ordinance was enacted as part of a countywide registry program implemented by the Atlantic County Improvement Authority who entered into a Shared Services Agreement with Pro Champs to track and register the properties for each participating municipality; and

**WHEREAS**, said Ordinance was enacted to regulate Vacant and Abandoned property and establishing a fee structure for registration of such properties; and

**WHEREAS**, on August 16, 2021, the Superior Court of New Jersey, Law Division in the case of McCormick, 106 LLC v. Community Champions held that municipalities do have a legitimate interest in passing regulations to address issues concerning vacant and abandoned properties, but struck the ordinances as arbitrary, capricious and unreasonable because they contain overly broad and unreasonable definitions of vacant and abandoned property; and

**WHEREAS**, on or about August 23, 2021, the Atlantic County Improvement Authority recommended that all municipalities who participate in the program and who have enacted these types of ordinances immediately suspend the application of the program.

**AND NOW THEREFORE, BE IT RESOLVED** by the Council of the Borough of Buena that the application and enforcement of Ordinance # 639-2016, found in Chapter 58 of Code of the Borough of Buena is immediately suspended.

**RESOLUTION 84-21      A RESOLUTION AUTHORIZING THE TAX COLLECTOR TO CANCEL OR APPLY OVERPAYMENTS AND UNDERPAYMENTS .**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    | X   | X   |     |         |        |        |
|                |    |     |     |     |         |        |        |

**WHEREAS**, there exists a number of tax overpayments and underpayments; and

**WHEREAS**, it has been determined by the tax assessor and collector that the overpayments and underpayments should be canceled or applied.



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**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Buena, in the County of Atlantic, State of New Jersey that the attached list be canceled or applied.

**RESOLUTION 85-21      A RESOLUTION ACCEPTING A CHANGE ORDER TO AMEND  
 A CONTRACT WITH SOUTH STATE, INC. FOR  
 RECONSTRUCTION OF FOREST GROVE ROAD.**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    | X   | X   |     |         |        |        |
| ALVAREZ        |    |     | X   |     |         |        |        |
|                |    |     |     |     |         |        |        |

**WHEREAS**, in accordance with the project, Reconstruction of Forest Grove Road, the Borough's Engineer, Remington and Vernick, has prepared a change order recommending an increase in the contract price by \$10,016.70

**NOW THEREFORE BE IT RESOLVED** by the Council of the Borough of Buena that the change order submitted by the Borough's Engineer, Remington and Vernick, providing for an increase in the contract amount of \$10,016.70 is hereby accepted and approved by the Council of the Borough of Buena, as an amendment to said contract, contingent upon a Certification of Availability of Funds from the Chief Financial Officer.

**BE IT FURTHER RESOLVED** that David Zappariello, Mayor of the Borough of Buena, is authorized to execute the change order.



**SOLICITOR'S REPORT:** NO REPORT

**ENGINEER'S REPORT:**

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The contractor has completed most of the punchlist items. Once the punchlist is complete, our office will close out the project and submit to the NJDOT for reimbursement.

**FY2021 NJDOT Municipal Aid Project – Reconstruction of South Boulevard**

Design of the project is essentially complete. South Jersey Gas has submitted a revised street opening permit application for replacement of their gas main in this area. Our office is reviewing the application with Mr. Nimohay to avoid any utility conflicts. The NJDOT grant funding is not sufficient to complete the project. We are reviewing with the CFO to determine if there is additional funding available.

**Expansion of the Commerce Center Redevelopment Area**

The public hearing is being scheduled in coordination with the new Board Solicitor.

**NJDEP MS4 Compliance Work**

The Stormwater Pollution Prevention Plan (SPPP) is complete and has been posted to the Borough's website.



**MINUTES OF THE SPECIAL MEETING OF MAY 26, 2021 FOR REAPPROVAL. IF NO CORRECTIONS OR ADDITIONS, ENTERTAIN A MOTION TO APPROVE:**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    | X   | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    |     | X   |     |         |        |        |
|                |    |     |     |     |         |        |        |

**MINUTES OF THE SPECIAL MEETING OF JULY 29, 2021 IF NO CORRECTIONS OR ADDITIONS, ENTERTAIN A MOTION TO APPROVE:**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    | X   | X   |     |         |        |        |
|                |    |     |     |     |         |        |        |

**MINUTES OF THE REGULAR MEETING OF AUGUST 9, 2021. IF NO CORRECTIONS OR ADDITIONS, ENTERTAIN A MOTION TO APPROVE:**

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| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     |     |     |         |        |        |
| BAKER          | X  |     |     |     |         |        |        |
| MANCUSO        |    |     |     |     |         |        |        |
| ALVAREZ        |    | X   |     |     |         |        |        |
|                |    |     |     |     |         |        |        |

**UNFINISHED BUSINESS:** Councilman D'Alessandro stated that he would have the Atlantic County Mitigation Plan for review at the next council meeting.

**NEW BUSINESS:** Mayor Zappariello brought before council Jim Heisler and John Peyton to be appointed to the Land Use Board.

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   | x  |     | X   |     |         |        |        |
| BAKER          |    | x   | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    |     | X   |     |         |        |        |
|                |    |     |     |     |         |        |        |

**BILLS PAID AS LISTED:**

| Council Member | By | 2nd | Aye | Nay | Abstain | Absent | Recuse |
|----------------|----|-----|-----|-----|---------|--------|--------|
| WALKER         |    |     |     |     |         | X      |        |
| D'ALESSANDRO   |    |     | X   |     |         |        |        |
| BAKER          | X  |     | X   |     |         |        |        |
| MANCUSO        |    |     | X   |     |         |        |        |
| ALVAREZ        |    | X   | X   |     |         |        |        |
|                |    |     |     |     |         |        |        |

**NEXT MEETING:** SEPTEMBER 27, 2021

**MEETING ADJOURNED:** M/BAKER S/ALVAREZ RCVU

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PAMELA JOHNSTON  
CLERK 1

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