

BOROUGH OF BUENA
MUNICIPAL UTILITIES AUTHORITY
P. O. BOX 696
MINOTOLA, NEW JERSEY 08341

The regular meeting of the BBMUA was held on May 27, 2020 at 7 p.m. This meeting notice was provided to The Daily Journal and the Atlantic County Record which are the BBMUA's official newspapers. Notices are also posted on the bulletin boards within the Municipal Building as well as the Borough of Buena and BBMUA's websites. The meeting took place via freeconferencecall.com phone in meeting software due to the COVID-19 pandemic and no one being allowed to gather in large groups in person per order of the Governor of the State of New Jersey and the President of the United States of America.

The meeting was called to order by Chairman Joseph Santagata.

Those present were:

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| R. Baker | J. Alvarez | S. Testa |
| B. Delano | C. Santore | Councilman Matthew Walker |
| J. Formisano | A. Zorzi | Robert Gillis 201 N. Harding Hwy. |
| J. Johnston | R. Smith | |
| J. Santagata | R. Casella | |

Chairman Santagata asked if anyone in the public would like to address the board. Mr. Robert Gillis the owner of 201 N. Harding Highway spoke to the board about that property. Mr. Gillis is asking the BBMUA Board to consider an abatement of the outstanding water and sewer charges owed in the amount of \$16,883.95 as of 05/27/2020. Mr. Gillis stated he went into bankruptcy in 2009. He turned the building over to the bank and did not know for three years that he still owned the building and the bank did not take possession of the building until he tried to obtain a home equity line of credit and was informed there was a lien on the building. Mr. Gillis spent several years trying to sell the building. He got one offer in 2014 for \$40,000.00 and the bank turned down the short sale and wanted \$60,000.00. He received another offer in 2018 for \$20,000.00 and the bank and the Borough accepted that offer for the taxes at that point, however, the buyer backed out of the deal after they re-inspected the building. Another offer was made in the amount of \$4,800.00. The bank has accepted as a settlement 3% of the \$120,000.00 mortgage in the amount of \$3,500.00. The Borough had agreed previously to accept about 3% or \$1,700.00 against the tax bill owed in accordance with what the bank had done. With the Coronavirus it took a long time to get everything done with the State and it took longer than the Borough appreciated. Mr. Gillis requested that the Borough renew the original agreement for the \$1,700.00 settlement for the taxes and then Mr. Gillis found out that he owed the BBMUA money. Therefore, he is asking the board to give him the same consideration the Bank gave him and the Borough is considering

giving him again. The buyer and the attorney for this sale called the Borough and assured them the sale is ready to go to settlement and they will tear the building down and build an ice cream stand there on that location. Right now the only thing preventing clear title is to come to an agreement with the BBMUA. Mr. Gillis is asking the BBMUA to consider taking a 3% settlement on what he owes the BBMUA in line with the bank and what Borough Council is considering again. Chairman Santagata asked if Mr. Gillis has any interest in the building at all. Mr. Gillis said he has zero interest in the property. He had to reinstate his defunct company to be able to sell the building. The bank did not take repossession of the property and put it on Mr. Gillis to sell the building. Chairman Santagata asked Secretary Treasurer Cheryl Santore how much is owed on that property. Ms. Santore stated there is currently \$5,400.79 owed for water and \$11,483.16 for sewer for a total of \$16,883.95. Chairman Santagata stated that personally he thinks 3% is out of the question but he needs to know how the other board members feel. Mr. Gillis stated that he understands and that he is just asking everyone stay in line with what the bank was willing to take and it is in nobody's interest to leave that building sitting any longer. After what has happened with the economy there is not going to be a buyer over the \$4,800.00. The \$4,800.00 will be dispersed with \$3,500.00 going to the bank, \$1,300.00 to go to the Borough for past taxes, and he will pay the additional \$400.00 and whatever the 2020 taxes are. The building is worthless and has to be torn down. There is no saving it. Chairman Santagata thanked Mr. Gillis for his input and stated that the board will discuss the matter now. Chairman Santagata asked if any of the board members had any thought on this matter. One of the members asked what 3% of the amount owed would be and Ms. Santore stated it would be \$506.49. Mr. Formisano asked what our Solicitor's opinion is. Mr. Robert Casella of Testa, Heck, Testa & White stated that he sees no reason why we can't compromise this if desired. Mr. Casella looked at the numbers that Mr. Gillis' attorney provided and everyone was taking 3% and if this was a bankruptcy sale of some sort they would enforce it and make everyone take the same percentage prorata. He feels you have to look at it as how much you would get out of it in the worst case if it went to sheriff's sale or the town took it vs. what is it worth to have a property get back on the roll to pay taxes and water and sewer. If it sits like it is and accrues arrears it will probably never get paid. Mr. Casella said that is just his thoughts and he is not a board member. This is business decision the board has to make. Chairman Santagata stated he still has a problem with the 3%. That is a lot of money to write off and he doesn't know if this has ever been done in the past. Ms. Santore stated it hasn't been done in the 13 years she has been here. Mr. Zorzi stated his concern is if we do this would this create a precedent for the future. Mr. Casella stated if this is a unique set of circumstances on a property that is so far under water and will never get out you are not setting a precedent for everybody that comes along and can't pay their bill. Chairman Santagata stated the worst case scenario is the Borough forecloses on it and we go from there. Mr. Casella said that is true but where will that get the BBMUA? Will that get the money that is owed or anything close to it? It all comes down to the absolute value of the property. Apparently Mr. Gillis went through bankruptcy and the bankruptcy trustee abandoned it because it had too many liens on it vs. the value of the property so there was no value to the trustee to pay the creditors. The bank didn't want the property because it is worth so much less than what is owed on it. Here it is eight years later and taxes and water/sewer have accrued with no payment. Again, Mr. Casella

stressed, this is a business decision to make that shouldn't be taken lightly but he also emphasized this is not one that you would make a common practice of by any means. If you believe this is a truly unique hardship case for the sake of getting it back on the rolls you can make that decision. Mr. John Formisano stated that we cannot set a precedent at the BBMUA for the future. We cannot continue to give 3%, 4%, 5%, etc. because we have a business to run here. Chairman Santagata agreed with Mr. Formisano. Robert Delano asked if the bank owns the property now. Mr. Casella stated no the bank does not and Mr. Gillis' company owns the property. Mr. Gillis stated that everyone has agreed there is no value to the property or the building beyond the \$5,000.00. Therefore the Borough does not really want to take it because they would be responsible for it. Chairman Santagata asked Mr. Gillis to let the board discuss the matter and only comment if called upon. Mr. Delano asked Mr. Casella if the bank has taken this back in foreclosure. Mr. Casella stated they have not and apparently the bank doesn't want it. Mr. Delano stated the bank refused to sell at \$60,000.00. It doesn't matter that it was five years ago. Since they refused the offer that means the cost should be on the bank shouldn't it? Mr. Casella stated they are taking a \$112,000.00 cut. Mr. Delano stated that is their business. Mr. Casella said that tells him they are convinced there is no value to the property. Mr. Delano wants to know if we are certain that the bank did not take ownership of the property during foreclosure. Mr. Casella stated that is correct. Mr. Delano stated the fact is if the bank was controlling the sale normally it would have gone through foreclosure of some sort. Chairman Santagata stated there has to be some value to the property, even if the building has no value the lot has to have some value. Mr. Delano stated that they are saying the lot is only worth \$5,000.00 and therefore has no value to the bank. The bank owes us and the city more than \$5,000.00 and that is the position they are taking. Mr. Delano feels there should be some recall against the bank for what they owe because they owe the taxes if they own the property. Mr. Casella stated the bank doesn't own the property. Mr. Delano feels they should have some degree of liability in this. Mr. Casella stated that's why the bank has not taken the property over because they do not want the liability. Mr. Delano said if the bank was controlling the sale of the property at the beginning of this process, standard retail practice is to begin to do foreclosure and he doesn't understand where that process stopped. Mr. Casella stated the bank is the only one that can answer that. Chairman Santagata stated that \$506.00 is not going to do us any good at all and his opinion is to leave it alone they owe the money. Mr. Delano said if we do that it will never get paid and never be made a viable property and no one will ever be able to collect any taxes or water/sewer on this property. Chairman Santagata asked if Mr. Delano would like to come up with an acceptable settlement number that the board can discuss. Personally the Chairman stated he does not want to give up anything and does not want to set a precedent. Mr. Delano feels the bank should be responsible to pay what is owed to get this off their books. Secretary Cheryl Santore asked Mr. Casella if the mortgage was previously owned by Cape Bank and OceanFirst Bank acquired Cape Bank and when doing so the loan for this property. She also asked if it is safe to assume that is one of the reasons that OceanFirst Bank isn't interested in paying the outstanding balances. Ms. Santore also wanted everyone to know that nobody ever contacted the office to see if there is any water and sewer owed on the property whether it be a bank or search company and the water and sewer bills have not come back to us so Infinity Fence has

been getting the bills all along. Nobody every called to say bankruptcy was filed and they do not own this property any longer. Chairman Santagata asked if anyone every called to ask for the water and sewer to be turned off because it wasn't being used. Ms. Santore stated the water was turned off because water was traveling down the street and the pipes had frozen and burst so the water was turned off at the street for that reason. But no one ever contacted us to say they wanted to disconnect the services and I do not want the services any longer. This has been accruing since 2009 and we have not had any payment. It was unable to be put on tax sale because of the bankruptcy which we never received paperwork for. So when I tried putting this property on tax sale the tax office said it was not able to be sold on tax sale because of the automatic stay from the bankruptcy. However, since the bankruptcy is complete the automatic stay has been lifted and it can now be sold on tax sale. Chairman Santagata said that property has to have a value greater than \$4,800.00 so if the bank foreclosed on it would have to be worth at least \$16,000.00. Mr. Formisano feels that corner property has to be worth more money than what they are trying to get for it. Chairman Santagata agrees with Mr. Formisano especially since it is on Route 40. Chairman Santagata asked if there is any other discussion and Mr. Delano said he doesn't think there is any other way we can get our money unless we hold for it. Mr. Delano stated he feels bad for Mr. Gillis but it is a very bad precedent for anyone to set. Mr. Delano made a motion to bill back to the bank for the money owed.

m/Delano s/Formisano to bill the water and sewer owed back to the bank for payment.
m/passed

Robert Smith of Remington & Vernick spoke on the proposal sent to Chairman Santagata from Edward Dennis for engineering services to complete a local limits evaluation for Zinc for the treatment plant. As part of the NJPDES permit renewal there is a new effluent limit for Zinc. Originally they were going to require influent and effluent sampling and analysis but one of Remington's engineers spoke to the NJDEP and they will allow Remington to use the sampling and analysis that was done in 2008 and at this point and time do no additional sampling and analysis. Remington & Vernick will prepare the local limits evaluation report summarizing all of the sampling results from the 2008 study and also reviewing the 2013 local limits study which involves limited headworks evaluation. Remington & Vernick's cost to do the data interpretation and the report preparation to satisfy the requirements of the headworks analysis will be a not to exceed cost of \$3,000.00.

m/Baker s/Formisano to approve the proposal from Remington & Vernick to prepare the local limits evaluation report for Zinc for the BBMUA for a cost not to exceed \$3,000.00.
m/passed

Robert Casella of Testa, Heck, Testa & White informed the board that an email was received from Matthew Robinson of Robinson Law LLC who is the attorney representing Mr. Frank Carpino for the Liberty Village project. Mr. Robinson had asked that the

sewer billing be recalculated based on the engineer's approval of the perfected plans and the economic position caused by the COVID-19 restrictions. The first bill was sent out in April 2020 for \$5,995.00 which was 18 months from connection which is the standard time to begin billing. Mr. Casella stated to him he doesn't see why there should be any deviation from that. The 18 months is the standard that is done. He doesn't see where they showed any hardship or anything because of final approval by the engineer. He doesn't know what that has to do with holding them up or causing them not to be able to pay this or delay the payment. Again this is a different situation than Mr. Gillis but they are asking for the same type of thing. Mr. Casella asked Secretary Santore if the 18 months is the beginning of the billing on this kind of a project and she stated yes it is. Mr. Casella stated he doesn't see a reason to vary from that but the board can certainly discuss this and make a decision. Chairman Santagata asked Ms. Santore if we normally do this and she said no. Mr. Formisano said he had the 18 months it is not our fault that he doesn't have any units in there to collect rent. If he is unable to collect money from the government because it's a government project it is not our fault. There is no reason we have to accept anything less. Mr. Delano asked if he has made any appeals prior to this. Ms. Santore stated that Mr. Carpino did not make any appeals before this to the office because this was the first bill he received for this property since paying the connection fees in October of 2018 for the 44 units. Mr. Carpino was informed when he came in to pay the connection fees that he would receive his first billing after 18 months for all 44 units. Mr. Carpino had asked at the time when he initially came before the board if he could pay for 4 or 5 units at a time because that is what he was planning on bringing up to speed. He was not planning to do all 44 units from the get go. At that time the board told him that this is an entire project and we normally make everyone pay for the entire project and if he chose to do only 4 or 5 at a time there may not be connections available to purchase for the rest of the project in the future. So when Mr. Carpino came in with his check for the water and sewer connections he was informed after 18 months he would receive his first bill. Plant Superintendent also stated that after the 18 months you have the option to start paying on the units or you can give the units back with the understanding that they may not be available at a later time or they may be available at a higher cost if the connection fees are changed. So Mr. Carpino can either give up the units or he has to start paying on them.

m/Delano s/Formisano to adhere to the 18 month rule that is in effect and the first billing of the sewer for the Liberty Village project is due by Mr. Carpino if he chooses to keep those 44 units for his project. m/passed

Steve Testa of Romano, Hearing, Testa & Knorr spoke with bond counsel regarding the NJ I-Bank Construction Financing Program and the credit policy in light of the COVID-19 pandemic. Because of COVID-19 economic disruption there would be material changes in the financial position of most applicants the I-Bank get. They are considering it a material event. Anyone who is going to closing on a loan is going to have to provide a significant amount of financial information to them to go to closing on the loan. The BBMUA has already closed on the construction loan for the project so the MUA doesn't have any closings currently in the mix. Mr. Testa expects the project will take at least a

year to a year and a half to complete so you will not go for final bond until that time. If they do request additional finance information it will be provided to them but there is nothing in the works right now. Bond counsel was going to be on a conference call with Rich Nolan who is the Bond Counsel for the NJ I-Bank but he has not heard back from him as of yet. Mr. Testa will provide the board with an update if necessary.

Steve Testa of Romano, Hearing, Testa & Knorr stated the 2019 Audit is underway remotely. The due date from the State of NJ for audits has been extended to June 30, 2020 due to COVID-19 but it doesn't seem realistic that they can stick with that date since the State of NJ pension and health benefits report that is needed to complete the audit has not been released by the State of NJ. Mr. Testa will keep the board posted as that progresses as well.

Conner Strong sent an email regarding the Annual JIF 2019/2020 Elected Officials Training Seminar. The deadline was extended to June 1, 2020 if any board members are interested in doing the training online. The BBMUA receives a credit of \$250.00 for each member attending on our Annual JIF bill. Ms. Santore provided the board members with directions on how to complete the training.

An email was received from Jon Ziman of the NJUAJIF regarding NJUA Securing Protection Services for member MUAs. The board did not feel this service was necessary at this time.

m/Baker s/Delano to approve the treasurer's report as read. m/passed

m/Formisano s/Alvarez to accept the minutes of the last regular meeting held on April 22, 2020. m/passed

m/Formisano s/Delano to accept the minutes of the last closed executive session meeting held on April 22, 2020. m/passed

Plant Superintendent Alan Zorzi informed the board that Joe D'Alessandro who lives on W. Arctic Avenue had a sewer issue about a year and half ago. The BBMUA employees repaired it the best they could. They had the line televised and found the pipe to be compromised deeper in the street. So at that time, in February, Mr. Zorzi solicited three quotes to repair it because of the depth. The low quote was from Garrison Enterprises. The quote was to saw cut the asphalt street, excavate, repair approximately 10 feet of sewer lateral, backfill and restore the road. The price was \$8,500.00 and that was the low quote. Mr. D'Alessandro had an issue this week. Mr. Zorzi has tried to wait to see what

would happen and check the problem every week. Mr. D'Alessandro asked when we can repair this because he wants to get it fixed.

m/Formisano s/Delano to hire Garrison Enterprises to repair the sewer lateral on W. Arctic Avenue in the amount of \$8,500.00. m/passed

Mr. Zorzi updated the board on the additional septage being taken at the plant. They are still accepting the extra septage. Mr. Zorzi looked today to try to see where we are and we are taking a lot more than last month. Our revenue has increased and we are doing well with that. Mr. Zorzi is going to extend the hours back to 6 pm on June 1, 2020 if we have to cut it back we will but as of right now we are ready to accept septage during normal hours.

m/Baker s/Delano to file all correspondence sent out for review without reading number 1 through number 8. m/passed

m/Baker s/Delano to pay all bills presented for the month of May 2020. m/passed

m/Delano s/Baker adopt Resolution R-16-2020 authorizing the meeting of the Borough of Buena Municipal Utilities Authority closed to the public to discuss matters that included possible litigation pursuant to N.J.S.A. 10:4-12(b)(7). m/passed

m/Baker s/Delano to open the executive closed session meeting at 7:48 pm. m/passed

m/Baker s/Formisano to close the executive closed session meeting and return to regular session at 7:51 pm. m/passed

The next regular meeting is scheduled to be held on June 10, 2020 at 7:00 p.m. and is subject to the correspondence that comes in between now and then. Otherwise the next regular meeting would be June 24, 2020 at 7:00 p.m.

m/Delano s/Formisano to adjourn the meeting 7:51 p.m. m/passed

Submitted by
Cheryl Santore-BBMUA Secretary