

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

The regular meeting of the BBMUA was held on August 24, 2022 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 in the large meeting room located in the Municipal Building, Minotola while practicing social distancing.

The meeting was called to order by Chairman Joseph Santagata.

Those present were:

J. Formisano	A. Zorzi
J. Johnston	R. Casella
J. Santagata	S. Testa
A. Abriola in at 7:12 pm	Matthew Robinson & Frank Carpino
C. Santore	

Chairman Santagata stated the first order of business tonight was the public portion. Matthew Robinson, Attorney for Frank Carpino provided a timeline and proposal for Mr. Carpino's Liberty Village II BBMUA accounts for water and sewer service for the BBMUA boards consideration. Mr. Robinson came before the board again to discuss Mr. Carpino's Liberty Village II BBMUA accounts for water and sewer service and made the request in their correspondence very simple. Mr. Robinson stated he and his client are requesting that Resolution R-09-2005, that was passed to protect the board from developers who would not be using connection fees and the developers would be charged after 18 months for minimum fees even without usage, be suspended during the two-year period of the pandemic utility moratorium that was passed by the Governor of the State of New Jersey. They think Mr. Carpino's project represents a very, very unique circumstance whereas he was coming up towards the end of the 18 months when the State essentially shut down to the wisdom of our Governor. For two years supply chains were shut down or delayed and they feel all parties involved agree that he was acting in good faith and proceeding accordingly and now we have the evidence of that. Since that time houses are coming online and things are moving along great. Therefore, the request is to waive the fees that accrued for unused connection fees during that two-year period of time. The bottom-line fees were included in the proposal they submitted and they very much appreciate the BBMUA Secretary/ Treasurer, Cheryl Santore, for doing an excellent breakdown that piggy backed off of the bottom-line figure submitted so there is a hard number proposal for water and for sewer that was presented to the board for its

consumption. Mr. Robinson and Mr. Carpino are happy to discuss that final number if it gets to that point. Chairman Santagata asked if there were any other comments. BBMUA Plant Superintendent, Alan Zorzi, stated that he had a few comments. Mr. Zorzi wanted to ask a few questions about the timeline. Mr. Zorzi stated he is putting this on record that the second bullet point which states "...However, he is told by BBMUA personnel, Alan Zorzi, that he is not permitted to lay any pipe on his own land and must first buy ALL 44 connection fees despite not having the Borough Engineer final approval for the site plan, or Atlantic City Electric approval for electricity to also run underground. Carpino objects and requests his attorney reach out to the BBMUA solicitor." is misleading and untrue. Mr. Zorzi stated that he explained to Mr. Carpino at that time the issues with the high flows. Mr. Carpino made the decision to proceed without approvals. Mr. Zorzi said he would never have suggested that. Mr. Zorzi stated he can prove right now that it was a very wise decision. Per the timeline, Mr. Carpino paid in October 2018. In November we were at 450,000 gallons which meant the BBMUA couldn't accept any new sewer connections. In December we were at 509,000 gallons which meant we couldn't accept any new sewer connections. This was the case right on through April of 2019 which put us into the cap that BBMUA Solicitor Michael Testa Jr. referred to that Mr. Zorzi was worried about. Mr. Zorzi's first report to the State with Mr. Carpino's project we were at -20,000 gallons with his 44 units. Per the Pinelands MOA and the NJDEP Permit the BBMUA agreed "to prohibit no new sewer connections beyond the current permitted flow of 400,000 gallons per day to its sewer treatment plant regardless of whether such connections will serve development located inside or outside the Pinelands." The next bullet point dated April 2020 states "Carpino receives an invoice from BBMUA for the minimum fee of 44 lots unused connection fees per Resolution R-09-2005 totaling \$5,995.00". Why at that time did Mr. Carpino not elect to come before the board about the 18-month ruling? Mr. Robinson stated on the highlighted and underlined text that "Mr. Carpino was NEVER given any such options per the email from the BBMUA Solicitor back in October 2019. He was told, in writing, he MUST buy all 44 connections at once." Mr. Zorzi stated this is not true. If you refer to Exhibit A in the October 9, 2018 email to the BBMUA Solicitor, Michael Testa Jr., Mr. Robinson stated that "This will help with the cash flow but also will help to avoid the 18-month deadline for when water/sewer bills accrue at the minimum rate." Mr. Zorzi feels this time line is false and untrue. Mr. Zorzi states he treats everyone the same in the Borough. Mr. Zorzi tried to advise Mr. Carpino for the allocation issue and that was it. Mr. Carpino elected to proceed and put the pipe in the ground. Mr. Zorzi wishes he would have waited so that way he could have saw what we require and what we have in our lines. Mr. Zorzi wanted to put on record that Mr. Carpino purchased those units not because Mr. Zorzi stated he had to purchase the units but it was Mr. Carpino's choice and it was a wise choice at that time. Chairman Santagata asked if Mr. Robinson had anything further and Mr. Robinson stated not at this time and would be willing to answer any other questions the Board may have. Chairman Santagata asked the board members if they had any other questions or comments. Chairman Santagata asked if anyone wanted to make a motion. BBMUA Member John Formisano stated that Mr. Carpino knew from the beginning what he signed and what he was going to get. He said there is no reason now to blame Covid or this one or that one. Two weeks ago, he stated he had 11 units connected but Mr. Formisano rode through there today and there are 18 houses. Mr. Formisano stated he

doesn't know if they are all occupied but at least he knows he will have income coming in from 18 homes every month. But as far as, like Alan Zorzi said, Mr. Carpino knew from the beginning what the rules were. If we do it for him, we will have to do it for everybody else that has been paying for years. It just doesn't make any sense. Chairman Santagata asked Mr. Formisano if he is clear in understanding that he will not make a motion to accept the proposal. Mr. Robinson stated he understands Mr. Formisano and Mr. Zorzi's point and that is why they have abandoned the position that they should get more time or another 18 months. They have used up their 18 months and that timeline is over. Mr. Zorzi stated we were just given this timeline and this timeline is not accurate. Mr. Robinson stated they are not asking for a new 18 months. They got to month 17 and March 2020 hit and they believe that the enforcement of Resolution R-09-2005 is not in the best interest during the two-year moratorium shut off with unused utility fees and interest being charged during that period of time. Mr. Robinson said they are not asking for a new 18 months and they are not asking for a new anything. They are simply asking that this Resolution that was passed by this board be suspended for the two-year pandemic moratorium utility shut off that was happening in New Jersey. Mr. Robinson stated Mr. Carpino did know what he signed up for in October 2018 but he did not know he was signing up for a global pandemic in March 2020. So, all they are asking is to pause the clock for that two-year period and Mr. Carpino will pay all of the fees and pay everything else and that is it. They are not asking for a new 18 months or asking for more time. They have abandoned that. They are just asking for the board to consider pausing the resolution they passed, and they have the authority to do that, during the pandemic in this unique circumstance with a large developer with 44 units right as the pandemic hit and he loses that opportunity. Member Jeff Johnston asked what the pandemic did to stop the project. Mr. Carpino stated that Atlantic City Electric had a delay but then when it was time for the houses to come there were no houses available. The factory that supplies Mr. Carpino with the houses was shut down for a long period of time and even when they tried to reopen during the pandemic, they had a very small workforce and they couldn't get any material. So, there were no houses available to them to put up. Mr. Zorzi asked when they speak about the moratorium if that had to do with billing. Secretary Cheryl Santore stated the moratorium had nothing to do with billing it had to do with interest charges on water not being allowed to be charged and we were not allowed to perform shut off of services. When January of 2022 came along, we received another update from the State of New Jersey which said we were not allowed to charge interest on sewer so we did not. In March 2022 we received another update from the State lifting the moratorium effective March 15, 2022 and we had to offer payment plan opportunities to residential customers not businesses and we were allowed to begin charging interest again from that point forward. Mr. Casella asked Mr. Robinson for clarification to understand him correctly in regard to the 18-month situation and get that part squared away. Mr. Casella stated Mr. Carpino was in the 17<sup>th</sup> month of the 18-month rule when everything shut down. So once the moratorium was lifted and he thinks you are using that as sort of a generalization, and Mr. Robinson stated just for context not to say binding on, that the time would begin to run in April 2022 and would have exhausted his 18 months and at the beginning of May Mr. Carpino would have to pay for all of the units. Mr. Robinson stated that is correct and Mr. Carpino understands that. Mr. Casella stated that Cheryl had prepare spreadsheets reflecting what had been paid and

what is owed which differs a little bit from what they have prepared in their package. Mr. Robinson said they are more than happy to adopt Cheryl's numbers. Ms. Santore asked if they want to go off the actual or off of 11 units because at the last meeting they had mentioned paying for 11. Mr. Robinson stated he appreciates that but he prefers basing it off of the actual numbers and he provided copies of all of the HUD certificates showing when the homes came online. Mr. Carpino asked what the difference is in the two numbers. Ms. Santore stated the difference is \$2,117.42 for water and for sewer the difference would be \$ 9,422.32. Mr. Robinson said they submit the board. This is a request they are making to the board and while they think they have a legal position for the purpose of this they are happy to either pick or split the difference. Whatever would be amenable to the board. Mr. Casella asked if Cheryl could calculate the amount if the 18 months expire in April and he began paying for all 44 beginning in May 2022 what that figure would be. Ms. Santore stated her figures reflect that but she was misunderstanding what Mr. Casella was actually asking. BBMUA Auditor Steve Testa asked Mr. Casella for clarification of his question. Mr. Casella wanted to know what would be owing if the board extended the 18 months and begin the billing in May of 2022 or whenever the next billing cycle would be. Mr. Casella wants to make sure the board understands what Mr. Robinson and Mr. Carpino are asking for relative to the 18 months and the arrears that they are asking to be waived and then when it would pick up again. It would actually pick up in May of 2022 through the present and moving forward rather than the entire time of the last two years. Mr. Robinson is saying that the overwhelming burden placed on not only his client but also his suppliers and utilities and the other people he had to deal with to put this project together stopped for that period of time and couldn't go forward even though he was diligently pursuing his application before Covid came. Mr. Robinson was happy to see the BBMUA Engineer Robert Smith echoed that and he doesn't think anyone disagrees that Mr. Carpino was full steam ahead. Mr. Casella stated he is not arguing for or against Mr. Carpino. He just wants to make sure that the board completely understands and that what Mr. Carpino is saying to the board is that this is his situation and it is a unique situation in the borough and to the MUA because of Covid and there were many, many factors that stopped that he otherwise could have used to promote and continue with his development and since restrictions have been lifted and businesses have picked up, suppliers have picked up, and Mr. Carpino has been moving along with constructing and occupying units. Mr. Casella stated that he informed the board at the last meeting that if you decide that you want to consider relief, given the unique circumstances of this applicant/individual who has come before the board it is not a precedent setting thing. This is weighing a unique individual's circumstance and doesn't modify the Resolution R-09-2005 that he is sighting here at all. It is strictly one on consideration before the board. Chairman Santagata just wants to be sure he understands what Mr. Carpino is asking for. He asked if they are asking to suspend the Resolution R-09-2005 and are looking for a refund also. Mr. Robinson said if the Resolution was suspended from March 2020 to March 2022, then any unused connection fees, interest/penalties that accrued during that period of time be waived and that is what Cheryl calculated but not for actual usage. Chairman Santagata asked if they are looking for actual money back. Mr. Robinson stated he is not receiving actual money back whatsoever. These are just punitive charges that accrued by way of the Resolution not by way of usage or services rendered to Mr. Carpino. These are just punitive charges

that are meant to hurt developers who aren't honest in their dealings and trying to pursue projects. So, not only is he not getting any money back he is going to have to write a large check for any remaining balance due immediately. Mr. Zorzi stated that Resolution was not just written for people who were buying connections and holding on to them it was written for the allocation issue because the connections are recorded as unused gallons and included in our allocation. Member Jeff Johnston stated that he does a lot of large commercial projects as a plumbing/heating/HVAC contractor on multi-million-dollar jobs but none of his projects stopped because of the pandemic. There were challenges that happened during that period of time but business did not stop. He does not think that rules that have been in place should be changed because of the pandemic. Mr. Carpino stated that just to be clear he could not get any houses and he is still begging to get houses from the manufacturer. Mr. Carpino is just asking for concessions during the pandemic and he is willing to pay everything else. Chairman Santagata asked if anyone is willing to make a motion to provide relief to Mr. Carpino as requested. Mr. Formisano was asked if this project was approved by the Borough of Buena Land Use Board. Mr. Carpino stated it was but he was asked to pay his connection fees 5 or 6 months prior to the approval being granted from the municipality. Mr. Formisano asked if this is a HUD project and Mr. Carpino stated yes. Mr. Robinson asked for the board to make a resolution in the negative if they are not willing to do this so they have a record of what transpired here tonight. Chairman Santagata asked if anyone wants to make a motion to deny the request. No motion was made and the Chairman said it is obvious that he can't get a motion. Mr. Robinson said that he wants a record of what occurred this evening. He feels that is fair enough. They have been before the board two times and folks have said no and had some strong words and that is fine. They would just like a resolution that they are denying the request so they can have a record of what occurred and they have a resolution as such so they can preserve their record for action that they need to take after this. Chairman Santagata asked again for a motion to deny the request. A motion to deny the request was made by Mr. Formisano and a second was made by Mr. Johnston. A roll call was taken and the roll call result was as follows: Formisano – yes; Johnston – yes; Abriola – Abstain; Santagata – yes. Mr. Robinson asked if the board would indulge them a few minutes more. He stated that Mr. Carpino approached Cheryl a few weeks back about the reality if the board might deny this request and, in that circumstance, he is still here holding x amount of units, whatever they may be 11 or 14 or whatever we are up to now. The balance remaining in the ordinance allows for him to have that balance refunded to him. He brought this up to Cheryl and she told him he would have to ask for the board's approval. Mr. Robinson doesn't know why that would have to be but they are in front of the board now so they are asking now for the Board to approve Mr. Carpino's unused connection fees be returned to him as he sees fit. Mr. Zorzi asked if he wants the 18 months now. Mr. Robinson said no they aren't talking about the 18 months. He said he would read the Resolution which states "Be it therefore resolved that the owner of sewer unit(s), after a period of 18 continuous unoccupied months be given the opportunity to be refunded original amount paid for each sewer unit not being utilized." Therefore, they are asking the board to resolve to allow Mr. Carpino if he so chooses to follow the board's own Resolution to then allow him to surrender the unused units back and they will take it from there. Because bills are going to keep adding up and they are going to keep going in circles and relief isn't coming. Mr. Zorzi said that

is what he was asking. Mr. Zorzi asked if the request is it to be done at the end of the 18 months or any time after that. Michael Testa is the one who wrote this Resolution. Mr. Casella stated he needed to read the Resolution again. Cheryl Santore said she included it in the packet with the spreadsheets she prepared. Mr. Zorzi stated in 18 months he could have had his 4 or 5 units and could have requested his money back for the remaining units. Mr. Robinson said he understands that but they were hopeful that they didn't just sit on it for two years they did submit requests when the meetings were virtual asking for help during the pandemic. Now they want to exercise their rights under the Resolution which says "Whereas, the owner of said unit(s), after a continuous period of 18 unoccupied months, will have the opportunity to begin payment of the minimum fee equivalent to one domestic unit for each unoccupied unit; and Whereas, the Authority will revoke and refund the connection fee paid at the time of purchase of unit for each sewer unit not being utilized by the owner of any unit that is unoccupied for a continuous period of 18 months, where the owner of said unit has chosen not to pay the minimum fee equivalent to one domestic unit. Now, therefore be it resolved that the BBMUA will begin to assess the minimum fee on all sewer connection fees after a period of 18 unoccupied months in all instances where the owner of said unit(s) has chosen not to be refunded the original amount paid representing the initial connection fee. Be it further resolved that the owner of sewer unit(s), after a period of 18 continuous months be given the opportunity to be refunded original amount paid for each sewer unit not being utilized." They would like their money back for the connection fees. Mr. Robinson also stated that he checked with Cheryl Santore and she verified that the current connection fee is identical now that it was then when Mr. Carpino paid in 2018. Knowing that and knowing that they heard from Mr. Zorzi and Mr. Smith at the last meeting that allocation is no longer an issue we will come back when the time is ready and they won't sit on their hands and have bills continue to keep wracking up and keep getting stuck so they choose to go that route rather than keep banging their heads against the wall. Mr. Casella stated as he is reading the Resolution as it is written, if the owner chooses not to pay the minimum fee after the 18 months the Authority can revoke any unused units and refund whatever was paid for those units to in this case Mr. Carpino. Mr. Robinson stated the initial connection fees which were \$4,256.00 per connection fee combined for water and sewer. Mr. Zorzi stated this Resolution R-09-2005 only covers sewer not water. Ms. Santore said the sewer connection fee is \$3,500.00 for each sewer unit and \$756.00 for each water unit. She stated the BBMUA would have to ask the Solicitor since there is only one line, the pipes are in and there is one meter. Mr. Zorzi stated we would have to find a way to seal the unused units off. Mr. Robinson stated they are getting billed roughly \$8,000.00 per quarter just punitive for no services rendered just penalty money. So, they asked Cheryl Santore if they could do this and she stated they have to ask the board. Therefore, the number of unused units they have unused which is 25 times the \$4,256.00 is \$106,400.00. Mr. Robinson would like to submit this on his letterhead and that is what they would like to do. Mr. Zorzi stated the Resolution does not refer to water just sewer and Mr. Robinson said he will refer to the solicitor. Mr. Robinson stated he doesn't believe they need board action. The Resolution says what it says and the board just rendered their opinion that the Resolution is paramount and we all have to follow it. Mr. Casella stated that it appears the way he reads it is the Authority will revoke and refund and you have chosen not to make payments on those units so the Authority has the

ability to revoke and refund the connection fees. Mr. Robinson stated the next paragraph also allows the owner of the units to be given the opportunity. Mr. Casella stated the way he reads that after 18 months you have a decision to make on whether to turn back in the unused units or begin paying the fees so you have chosen not to pay so the Board can revoke them and take them back for payment of what was paid. Mr. Robinson said he and Mr. Casella can talk about that in the details but he wants to know if you have to have board approval to purchase connection fees. Mr. Casella said no he doesn't believe so. Cheryl Santore stated that is not true. In the past any large project has always come before the board and asked for the allocation. If it is a single-family home no they have not. If it was a large project they have always come before the board for board approval and buy the connection fees. Mr. Carpino said he did not come before the board to purchase his connection fees. Mr. Robinson stated that he wants to have this resolved tonight so when they all break tonight and Mr. Carpino comes to the window tomorrow for his refund Ms. Santore doesn't say sorry, I can't help you. Mr. Robinson said everyone said there is a Resolution and the Resolution is good as gold and we follow this Resolution so they want to confirm that if they choose to go down this road, they go down this road. Because if he is waiting on houses and they come once every 18 months you are going to wrack up another \$50,000 of penalty fees that they want to avoid. Mr. Casella said he doesn't look at it as being quite that way to be done. At this point he is not paying them and it is up to the board to revoke the remainder of them and set up a schedule to pay him back for the unused units. I don't think it's a matter where Mr. Carpino shows up at the window and gets paid. The board would take an action to memorialize that there is no payment and he is not using them and they would revoke them and refund the 25 units. Mr. Robinson asked if he needs to do a correspondence to Mr. Casella and then Mr. Casella can present it to the Board. Chairman Santagata asked Mr. Robinson to allow the BBMUA to review this further when they have a full board on our own and they will discuss this further. Mr. Robinson took a minute to speak with his client. After speaking with his client, they want to confirm with Mr. Zorzi that as he and Mr. Smith stated at the last meeting that they don't see allocation currently being a problem so that whatever it is a year from now or whenever and things turn back around and the supply chain isn't so up in the air that as of today's date there is an abundance of allocation. Mr. Robinson asked is that accurate. Mr. Zorzi stated they are still permitted for 400,000 gallons. Currently our average flow is down because of the dry weather. They have to reach a certain point before we are allowed to go to 600,000 gallons in our current permit. That permit expires in another year. That permit could be revoked it could stay in he doesn't know. He can't put on record that the allowance is available. As of today's date, it is available. Mr. Carpino asked how much allocation is available. Mr. Zorzi said to give him an accurate answer he would have to look at the 12-month average flow. Mr. Robinson stated that is all they have for the board tonight. Chairman Santagata asked if they are ok with us discussing that amongst ourselves when we have a full board and discuss this further and get back to them. Mr. Robinson said that is fine and he will send communication to counsel so it is formal. Chairman Santagata stated they may want to reconsider any of the options previously presented. Mr. Robinson said they reasonable and happy to discuss any resolution. Chairman Santagata asked Cheryl Santore to put a closed session resolution on the agenda for the next meeting.

Steve Testa of Romano, Hearing, Testa & Knorr informed the board that the 2023 budget will begin to be prepared in the next month or so and that the 2021 Audit has not yet begun.

m/Johnston s/Abriola to approve the treasurer's report as read. m/passed

Secretary Cheryl Santore provided the board with a copy of the letter received from the State of New Jersey Department of Environmental Protection Division of Water Quality Municipal Finance and Construction Element regarding the final construction inspection for the project to upgrade the sanitary sewer pump stations #1, #2, & #3 and the grit removal system. The letter states as a result of the inspection the construction and restoration is now acceptable to the NJDEP and a 1-year performance certification is due to be submitted March 11, 2023.

Ms. Santore distributed an email received from Karen Burris of the Association of Environmental Authorities providing an article that was published in the Philadelphia Inquirer regarding the sale of water systems by municipalities and the effect on the consumers that she feels every mayor and council member in NJ municipalities should read.

m/Formisano s/Johnston to accept the minutes of the last regular meeting held on July 27, 2022. m/passed

Plant Superintendent Alan Zorzi provided the board with a copy of the letter received from New Jersey One Call regarding rule changes having to do with electronic positive response. Mr. Zorzi stated that this will be more detailed than the current requirements pertaining to mark outs and how they are reported. Mr. Zorzi also stated that the computer that this is recorded on is old and needs to be replaced and he will contact our IT company Barber Consulting for a quote for a new computer.

Plant Superintendent Alan Zorzi obtained three quotes for 3 new DO Probes that control treatment in the wastewater plant. The lowest quote was received by Hach at a cost of \$2,727.95 per probe for a total of \$8,183.85. Mr. Zorzi asked for the board to approve the purchase.

m/Abriola s/Johnston to approve the purchase of a 3 new DO Probes from Hach in the amount of \$8,183.85. m/passed



m/Abriola s/Johnston to file all correspondence sent out for review without reading number 1 through number 4. m/passed

m/Johnston s/Formisano to pay all bills presented. m/passed

The next regular meeting will be held on September 14, 2022 at 7:00 p.m.

m/Johnston s/Formisano to adjourn the meeting 7:56 p.m. m/passed

Submitted by  
Cheryl Santore-BBMUA Secretary