

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

The regular meeting of the BBMUA was held on December 9, 2015 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.

The meeting was called to order by Chairman Joseph Santagata.

Those present were:

R. Baker	J. Alvarez	S. Testa
R. Delano	M. Feaster	D. Pittaro for Lincoln Ave LLC
J. Formisano	C. Santore	
J. Santagata	M. Testa Jr. in @ 7:13 pm	
S. Woshnak	R. Smith	

Chairman Santagata informed the board a resolution had to be adopted to appoint Mary Fenselau to the position of Clerk Typist for 2016.

m/Baker s/Woshnak to adopt resolution R-21-2015 appointing Mary Fenselau to the position of Clerk Typist in the Borough of Buena Municipal Utilities Authority effective January 1, 2016 through December 31, 2016. m/passed

The board received a copy of Joseph Mancuso Jr.'s resignation letter resigning from the BBMUA board effective November 23, 2015. A copy of the Borough of Buena's resolution R-112-15 accepting the resignation was also provided.

A copy of the Borough of Buena's resolution 113-15 appointing John Formisano to the BBMUA board effective November 23, 2015 to fill the unexpired term of Joseph Mancuso Jr. was provided to the Board.

A copy of the Borough of Buena's resolution 114-15 appointing Robert Delano to the BBMUA board effective November 23, 2015 to fill the unexpired term of Francisco Soto was provided to the Board.

A copy of the Borough of Buena's resolution 115-15 appointing Jorge Alvarez to the BBMUA board as Alternate #1 effective November 24, 2015 to fill the unexpired term of John Formisano was provided to the Board.

Daniel Pittaro attended this meeting to speak on behalf of Timothy Bell of Lincoln Avenue LLC. Lincoln Avenue, LLC is the owner of Block 5501, Lots 21 & 22 in Buena Vista Township. They are requesting sewer and water connections for a potential 76 age restricted home development on the above listed site. Previously the BBMUA had approved site connection in 2009, however in 2013 all funds were requested to be returned and the water and sewer connections were returned to the BBMUA with the understanding that if they were to move forward with a project that required water and sewer in the future they would have to reapply for the connections at that time. Lincoln Avenue LLC has received preliminary approval from Buena Vista Township. Mr. Pittaro was told that due to the written approval granted the township for the IGI expansion as well as the units that were purchased by John Caselli there are only 53 units remaining toward the allocation for Buena Vista Township per the MOA. Therefore, the board's suggestion was to go back to Buena Vista and ask if they would be willing to grant them permission to utilize the remaining allotment for their project. Mr. Pittaro was in agreement and stated that he would be back in touch with us.

Robert Smith of Remington, Vernick and Walberg informed the board that an email was received from Kim Curtin of Solis Partners by Ben Parvey of Blue Sky Power requesting copies of the list of bidders and copies of the bids for the BBMUA solar RFP. The BBMUA Solicitor, Michael Testa Jr. stated that the bids are open public record and it is ok to provide Mr. Curtin that information.

Mr. Jim Brown of EZENERGY called requesting information on when the RFP for the Solar PPA will be rebid. Mr. Smith asked Ben Parvey of Blue Sky Power to respond to Mr. Brown.

Robert Smith of Remington, Vernick & Walberg forwarded an email from Ben Parvey of Blue Sky Power advising the BBMUA board that there will be an additional cost for redrafting the RFP for Solar. The price will include cost of conducting site visits, and prebid meetings, etc. The additional cost will be \$6,250.00. Mr. Parvey stated that this cost will not be paid by the Authority but paid by the selected bidder afterward.

A letter was received from Buena Vista Township Mayor, Chuck Chiarello giving approval for the 5,400 gdp sanitary sewer flow allocation for the IGI Laboratories/Teligent, Inc. expansion. The board approved that 5,400 gallons at a previous meeting contingent upon the approval from Buena Vista Township allowing IGI to utilize a portion of their 15,000 gallon allotment.

Chairman Santagata wants to resolve the unfinished business of the roof repair on the compost shed at the plant. He stated that the work was done, that Alan Zorzi said the work was satisfactory and that he had attempted to get quotes before and wasn't able to get any. There was money allotted for the repair which was a lot more than \$3,850.00. Chairman Santagata made a motion to authorize repayment to John Formisano of Formisano Farms in the amount of \$3,850.00. Solicitor Michael Testa Jr. said he would comment after the motion and second. Richard Baker made the motion and Sharon Woshnak seconded the motion. Mr. Testa then stated that he was asked to give a legal opinion on more than one occasion in regard to this matter and as much as he would like Mr. Formisano to be reimbursed, unfortunately pursuant to New Jersey Local Public Contracts Law he cannot say that it is advisable to make that payment. Of course the board is allowed to not follow his advice and interpretation of the law. As an attorney he has to put on record that the decision to reimburse Mr. Formisano would be a violation of at least the New Jersey Local Public Contracts Law. Sharon Woshnak asked Mr. Testa why. He stated that there are a multitude of reasons as to why. Number one even though it is below the bid threshold the understanding is that if it were performed by a licensed contractor in the State of New Jersey it would be over the bid threshold. Number two the person that performed the work was not a licensed contractor in the State of New Jersey. Mr. Testa stated that he could write a legal memo 4 to 5 pages long explaining the issues that arise out of this. Does Mr. Testa feel it was done in bad faith? Absolutely not, but the trouble is it absolutely violates the New Jersey Public Contracts Law. Mrs. Woshnak then asked if the contractor performed the work already and was told by Chairman Santagata yes the work was done and that is why he wants to get this resolved because it has been hanging out there. Mr. Testa said that he did speak with the BBMUA Auditor Steve Testa and they tried to find ways around this, however, unfortunately as an attorney he is bound by the law. The law is the law and there is no other way to interpret it. This individual should have never performed the work on the roof, was not licensed or authorized to do the work, the board never acted to authorize that individual to do the work. So in Mr. Testa's opinion there is a plethora of issues that arise out of allowing that individual to have done the work that he did and reimbursing a board member for paying for the work. Mrs. Woshnak asked is there a warranty for the work that was done. Mr. Testa stated there is not a warranty. Steve Testa stated that there is a hand written invoice for the work that was performed which states there is a 20 year warranty. However, the individual is unable to be found so it is not likely there is a warranty or the ability to enforce it even if he can be found. Steve Testa then stated that since we are having a discussion and so the board members can vote with a clear conscious so they know exactly what they are voting on here are the issues:

- a) The cost for the work performed is over the quote limit. There were quotes to do something else on that roof. However it was not the same thing (not apples to apples) so we do not have the quotes for it. This could be a minor infraction but is an infraction none the less.
- b) Because it is over the quote limit, the Authority is required to obtain a New Jersey Business Registration Certificate for that vendor in order to conduct business with that vendor. If a vendor does not have a business registration certificate, you are not allowed to conduct business with that vendor. The individual does not have a

business registration certificate through the state of New Jersey and therefore did not supply one. That is another infraction and violation of local public contracts law.

- c) The vendor did not sign a Claimant's Certification on an Authority voucher because a purchase order and voucher were not done. This is a violation of the local fiscal affairs law. Secretary/Treasurer, Cheryl Santore, stated that a purchase order was not generated with a Claimant's Certification for signature because the individual was told he could not perform the work unless he produced the necessary paperwork to us prior to anything being done. The individual stated that he understood and performed the work without anyone's knowledge.
- d) If an Authority does public work including contracted type work which includes repairs the limit is \$2,000.00. If the cost exceeds \$2,000.00 the contractor would be required to pay his employees prevailing wage. We have no knowledge if there were workers and if there were if they were paid prevailing wage per the prevailing wage act. If any of that type of work is performed in addition to the Business Registration Certificate the vendor would have to obtain and provide a public works contractor certificate.

Since the Authority has not been able to get in touch with the individual via the cell phone number provided or via certified mail to the post office box provided we cannot rectify this situation in the proper manner. Steve Testa also stated that (as the solicitor stated he cannot as an attorney recommend repayment) he as a CPA with his license cannot recommend repayment and violating the law. The board can still override the decision of its professionals, just be aware that it is being advised that it would be violating several laws of the State of New Jersey. Mr. Formisano stated that he got caught in the middle. He said he brought the individual here. The individual was supposed to give all of the information to the office. Alan Zorzi called Mr. Formisano around 6:30 pm at night and said they are painting the roof. Mr. Formisano said he said "he is? I didn't give him permission to do it. I didn't know he was doing it." The individual came to Mr. Formisano and asked if he could pay him and get reimbursed by the Authority. Mr. Formisano paid the individual for the work. Mr. Formisano stated that Alan was there to approve the job when the individual first came. Cheryl Santore then said that Alan and Jeff both informed her that when the individual was brought to the plant he was told that he cannot perform any work until the necessary paperwork has to be provided or he cannot do the job. That is when Alan came and explained what transpired to Debbie. Mr. Formisano then brought the individual to the office. Debbie explained what needed to be provided to him and he stepped out of the room. Debbie explained everything that she explained to Mr. Formisano to the gentleman. He said "I understand ma'am." and the next thing you know she was told the guy is on the roof and is doing the job. Chairman Santagata then said the job was done and that Alan said the job is satisfactory and John in good faith paid the guy. Michael Testa Jr. stated that he just wanted to be clear on what his position is in regard to following the law. Cheryl Santore then said that her position is that she does not feel comfortable signing that check. She stated that now her neck that is on the line. She stated that she will be the one who will get written up in the audit for it and she did not authorize it. She stated that she was not even here that day and the person that was here did not authorize the work to

be done without presenting the proper paperwork. Sharon Woshnak stated that the individual who did the work did the job on his own. Ms. Santore said she understands that the work has been performed and she feels bad that Mr. Formisano paid the man the \$3,850.00 however, he should have never paid the man. Mr. Formisano stated he understands and he should have never paid it. He stated that if there is an audit from the state that he would testify that this is not a payoff it is just a transaction. Steve Testa then said if it gets pulled in the audit that it would have to be reported as a finding and that a corrective action plan would have to be submitted to the state. Ms. Santore said that there hasn't been any findings and recommendations in the eight years she was here and there weren't any for years prior to that. Member Robert Delano then asked Michael Testa Jr. what position it places the members in to say yes or to say no. Mr. Testa said that is the great unknown in the legal world. He said can't prognosticate it because he has never been faced with a situation like this. There probably isn't one thing on the books in any of the laws where a situation like this occurred. He stated he is pretty confident in that because he has looked it up and that is why he knew what the prevailing wage issue was. Does Mr. Testa feel that the State would do anything to harm the MUA absolutely not. Mr. Delano wants to know where this binds us on other matters going forward. Or does it? Mr. Testa doesn't believe it would. He doesn't know. The state could possibly come down and make sure it doesn't happen in the future. Steve Testa then stated in the past when you put it in the audit report and file the corrective action report you have to publish it in the newspaper and file it with the State. The MUA doesn't receive money from the state so they won't withhold money from you. Could the state do something? They could because it is a violation. But it has never happened before. Michael Testa stated again that we are treading in new territory. Sharon Woshnak feels that we need to eat this. She feels that it is a situation where "I know now that I shouldn't have done it...slap my hand...it will never happen again". Chairman Santagata said we are going to call for a vote and John Formisano is not to say anything and Jorge Alvarez will become a voting member on this matter only. All members voted unanimously to reimburse Mr. Formisano.

m/Baker s/Woshnak to authorize payment to John Formisano of Formisano Farms in the amount of \$3,850.00 for reimbursement of the roof repair of the compost shed at the plant. m/passed

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

The BBMUA will be awarded a 2015 dividend from the NJUAJIF in the amount of \$8,503.12. This is an increase of \$2,540.32 from the dividend awarded in 2014.

The board approved issuing safety incentive gift certificates to the BBMUA employees from the annual JIF dividend for 2015. The amount of the gift certificates will be \$100.00 due to good safety experience ratings.

m/Delano s/Baker to award safety incentive gift certificates in the amount of \$100.00 per employee. m/passed

A letter was received from Cathleen Kiernan of the NJUAJIF regarding a claims sweep for the public officials/employment practices liability claims. The fund will be changing carriers and want any and all claims to be reported by December 18, 2015. At this time the BBMUA does not have any claims to report.

m/Baker s/Woshnak to approve the 2016 MIS service contract with Barber Consulting Services LLC in the amount of \$1,500.00. m/passed

Secretary/Treasurer Cheryl Santore informed the board that the 2016 water/sewer budget has been approved by the State. Therefore, we will be adopting the budget as scheduled.

m/Baker s/Formisano adopt resolution R-22-2015 the adopted resolution for the BBMUA's Water/Sewer Operation for the fiscal year from January 1, 2016 to December 31, 2016; whereas the Annual Budget for water as presented for adoption reflects Total Revenues of \$770,114.00, Total Appropriations, including any Accumulated Deficit if any, of \$970,354.00 and Total Unrestricted Net Position utilized of \$200,240.00. And whereas, the Annual Budget for sewer as presented for adoption reflects Total Revenues of \$1,548,665.00, Total Appropriations, including and Accumulated Deficit if any, of \$1,879,140.00 and Total Unrestricted/Undesignated Net Position utilized of \$330,475.00. m/passed

m/Baker s/Woshnak authorize the advertisement for the Solicitation of Professional Services Contract Appointments (RFQ's) for the February 1, 2016 through January 31, 2017 time period. m/passed

A memo was received from Kris Kristie regarding elected officials seminars that are being offered. If anyone would like to attend the seminar on February 10, 2016 at Merighi's Savoy Inn, please let the BBMUA Secretary, Cheryl Santore, know so she can remit the registration forms to Ms. Kristie. Due to the conflict of this seminar the BBMUA reorganization meeting will be pushed back a week to Wednesday, February 17, 2016 at 6 pm.

A letter was received from Michael Donato for Siracusa-Kaufmann Insurance Agency regarding the 2016 Risk Management Proposal. Per Chairman Santagata's request Mr. Donato submitted this proposal. I notified both Mr. Santagata and Mr. Donato stating that we currently have a signed Risk Management Agreement with Mr. Nick Cashan at BCA Insurance Group that is good for three years from the first day of January 1, 2015. It has always been past practice to sign a three year agreement with our Risk Management Consultant as it coincides with our JIF renewal. A copy of the signed agreement was provided to the board for their review. Chairman Santagata stated that when this comes up for renewal we should do a request for qualification proposal.

m/Baker s/Woshnak to approve the minutes of the regular meeting held on November 11, 2015. m/passed

m/Baker s/Woshnak to approve the 2016 AllMax Software, Inc. support contract through January 31, 2017 in the amount of \$1,760.00. m/passed

Three quotes were attempted in all of the lab testing and chemical quotations. The vendors listed below came in with the lowest quotations.

m/Baker s/Delano to have Group A Lab Testing performed by Atlantic County Utilities Authority in the amount of \$4,800.05. m/passed

m/Baker s/Woshnak to have Group B Lab Testing performed by Eurofins QC Laboratories in the amount of \$5,587.00. m/passed

m/Baker s/Woshnak to purchase Citric Acid from Univar in the amount of \$70.00/bag (50lb. bag) m/passed

m/Baker s/Formisano to purchase Sodium Hypochlorite from Buckman's Inc. in the amount of \$97.50/drum (55 gal. drum) + \$40.00 refundable drum deposit (on top of drum charge) m/passed

m/Baker s/Woshnak to purchase Micro C from Coyne Chemical in the amount of \$1,075.50/225 gal. tote. m/passed

m/Baker s/Formisano to purchase Chlorine Gas from Univar in the amount of \$174.00/cylinder (150lb. cylinder) m/passed

m/Baker s/Formisano to purchase Chlorine Tablets from Univar in the amount of \$120.45/pail (55 lb. pail) m/passed

m/Baker s/Woshnak to purchase Sulfuric Acid from PVS Mini Bulk in the amount of \$1.995/gal. m/passed

m/Woshnak s/Formisano to purchase Zeta Lyte 21 polymer from CET in the amount of \$187.00/box m/passed

Please Note: Coyne Chemical bench tested several of their polymers in 2013. It was found that the equivalent dosage to the Zeta Lyte 21, their Zetag 8125 provided a larger faster flock and yielded a faster free-water release with far lower filtrate solids. Coyne provided the MUA with a sample in December 2013. After trying the product in use with our belt filter press it was found to be non-compatible with our process.

m/Baker s/Woshnak to file all correspondence sent out for review without reading number 1 through number 23. m/passed

m/Baker s/Delano to pay all bills presented for the month of December 2015. m/passed

The next regular meeting will be held on January 13, 2016 at 7:00 p.m. The meeting for Wednesday, December 23, 2015 is being cancelled due to the Christmas Holiday.

m/Woshank s/Delano to adjourn the meeting 7:55 p.m. m/passed

Submitted by
Cheryl Santore-BBMUA Secretary