

Borough Clerk

From: Rick Tonetta <solicitor@buenaboro.org>
Sent: Tuesday, November 21, 2023 4:07 PM
To: Nelsen, Donald [DCA]; richard braslow
Cc: David Zappariello; Douglas Adams; Patricia Andaloro; Marina Barsuglia; Jorge Alvarez; Joseph Fabrizio; Ernest Merighi; Maryann Coraluzzo; Pam Johnston; Sasdelli, Edward [DCA]
Subject: RE: ***EXTERNAL*** Buena Borough and Minotola Fire Company

Dear Mr. Nelson,

I am unaware of any issues, so if you could enlighten me, I can better advise the governing body. The only issues of which I was aware involved the adoption of the Fire Company Bylaws. I initially copied the by laws word for word regarding qualifications of the fire chief, deputy chief and middle managers. I was then instructed to change the by laws by reducing the certification requirements as the existing chief, deputy chief and middle managers did not meet those qualifications. I was also instructed to limit the number of volunteer members which has no logical reasoning. I will send under separate cover the version I was advised to prepare by the Fire Company and the redlined changes after reading the Administrative Code. You will also see the clean copy. If the issue has anything to do with lowering the standards for Chief and other officers contrary to the law, I will not do it. If the issue is a limitation of volunteers, unless someone can tell me why that is in the best interest of the Borough, I am happy to discuss. If the issues are something else, please advise.

Please note that Council intends upon introducing the Ordinance at the next Council Meeting which is November 27.
Rick

Richard P. Tonetta, Esq.
Solicitor, Borough of Buena
717 Elmer Street
Vineland, New Jersey 08360
[Tel:609-364-4159](tel:609-364-4159)
e-mail Solicitor@BuenaBoro.org

From: Nelsen, Donald [DCA] <Donald.Nelsen@dca.nj.gov>
Sent: Tuesday, November 21, 2023 12:27 PM
To: Rick Tonetta <solicitor@buenaboro.org>; richard braslow <braslowesq6@gmail.com>
Subject: ***EXTERNAL*** Buena Borough and Minotola Fire Company

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Sirs,

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We had thought the transition after dissolving the fire district was more or less set, but apparently details are arising contrary.

I have been authorized by the Division of Fire Safety to proffer a meeting between the Mayor and Council and Fire Company Leadership, in closed session, to all meet in person and hopefully alleviate these issues and concerns before it goes further.

Would you please poll your clients so we may coordinate the meeting particulars?

Thank you for your anticipated cooperation.

Very truly yours,

Donald Nelsen
Senior Planner, Emergency Management – Fire
Shore Region Fire Coordinator
Fire Threat Task Force – South
NJ Division of Fire Safety
(609) 477-9346
Donald.Nelsen@dca.nj.gov



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Senior Planner, Emergency Management – Fire
Shore Region Fire Coordinator
Fire Threat Task Force – South
NJ Division of Fire Safety
(609) 477-9346
Donald.Nelsen@dca.nj.gov



Borough Clerk

From: Suarez, Jacquelyn [DCA] <Jacquelyn.Suarez@dca.nj.gov>
Sent: Sunday, November 26, 2023 11:23 PM
To: Rick Tonetta
Cc: Meade, Michele [DCA]; David Zappariello; Douglas Adams; King, Kia [DCA]
Subject: ***EXTERNAL*** RE: Buena Borough Dissolution of Fire Commissioners
Attachments: 20231124142657235.pdf

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Mr. Tonetta,

Thank you for the congratulations and kind words. I agree that every elected official should attend and/or participate in ethics seminars.

Please accept this email as confirmation of receipt of your correspondence. I'm copying Kia King, our Chief of Staff, and ensuring you have Deputy Director Meade's correct email address. We'll review the attached and be in touch as appropriate.

Sincerely,

Jacquelyn A. Suárez
Acting Commissioner, Department of Community Affairs
Director, Division of Local Government Services

New Jersey Department of Community Affairs
PO Box 800
101 South Broad Street
Trenton, NJ 08608
(609) 913-4417



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From: Rick Tonetta <solicitor@buenaboro.org>
Sent: Friday, November 24, 2023 2:20 PM
To: Suarez, Jacquelyn [DCA] <Jacquelyn.Suarez@dca.nj.gov>
Cc: michelle.meade@dca.nj.gov; David Zappariello <mayordave@buenaboro.org>; Douglas Adams <douglas.adams@buenaboro.org>
Subject: [EXTERNAL] Buena Borough Dissolution of Fire Commissioners

Dear Commissioner Suarez,

First let me congratulate you on the appointment.

Second, I attended the Local Government Official Ethics seminar at the League of Municipalities. Excellent presentation. Every elected official should attend.

Third and most important, kindly see the attached correspondent on behalf of the Mayor and governing body of the Borough of Buena, Atlantic County.

Thank you for your attention to this matter.

Richard P. Tonetta, Esq.
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717 Elmer Street
Vineland, New Jersey 08360
[Tel:609-364-4159](tel:609-364-4159)
e-mail Solicitor@BuenaBoro.org

From: tonettaesq@comcast.net <tonettaesq@comcast.net>
Sent: Friday, November 24, 2023 2:06 PM
To: Rick Tonetta <solicitor@buenaboro.org>
Subject: ***EXTERNAL*** Suarez letter last draft

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

LAW OFFICES
RICHARD P. TONETTA
717 ELMER STREET
VINELAND, NEW JERSEY 08360
609-364-4159
FAX (856) 405-4632
tonettaesq@comcast.net

November 24, 2023

Commissioner Jacqueline A. Suarez
New Jersey Department of community Affairs
101 South Broad Street
P.O. Box m800
Trenton, New Jersey 08625-0800

Re: Borough of Buena Dissolution of Fire Commissioners

Dear Commissioner Suarez,

As you may recall, I represent the Borough of Buena, Atlantic County (Borough). The Borough recently appeared before the Local Finance Board (LFB) while you were Chair to request consideration for the dissolution of a Board of Fire Commissioner for the Borough of approximately 4,200 residents. It was clear that the cost savings by doing so would amount to over \$50,000.00 per year which is a substantial savings for such a small community. The LFB adopted a resolution dated September 13, 2023 approving the dissolution after a Memorandum of Understanding (MOU) was executed by the Borough and Minotola Fire company (MFC), the existing volunteer fire company, which set forth the basic understanding regarding the continued operation of the fire company within the Borough. This was accomplished mainly with the assistance of Mr. Ed Sasdelli with Local Government Services.

As I am sure you have experienced, change, such as the dissolution of a fire district or any authority for that matter, is a difficult task from the perspective of those who do not want to accept change, even if for the best of the community. Amon the team with Mr. Sasdelli included Lou Kilmer, Rick Richardella, Richard Mikutsky and Donald Nelsen. Mr. Nesen is from the Division of Fire Safety.

During this process of dissolution, all parties, and mostly Mr. Sasdelli, were exceptional in assisting in the transition, except Mr. Nelsen. I must indicate, Mr. Nelsen was argumentative and posed issues where none existed. For example, Mr. Nelsen insisted that the Borough enter into an Agreement with MFC rather than an MOU. I explained to him that the Borough would have no authority to enter into a binding agreement while the Fire Commissioners existed as, in accordance with state statute, the fire commissioners, a duly elected board with taxing authority, are solely authorized to provide fire

services to the Borough. This became an argument and it became clear to me at that time that Mr. Nelsen had an obvious relationship with one or more members of MFC.

Despite that, the President of MFC agreed and we finally entered into an MOU which triggered the approval of the LFB. I then began preparing the Ordinance which would set forth the duties and responsibilities of the MFC as it related to the use of the Borough owned and insured fire apparatus and fire house. In preparing the Ordinance, I utilized ordinances from other municipalities, including the Borough of Newfield, an adjacent community and more importantly, the town that was involved in the matter of Newfield Fire Co. No. 1 v Borough of Newfield, (439 N.J. Super. 202 (App. Div. 2015)). This case law remains the authority regarding the ability of a municipality to exercise supervision and control over a volunteer fire company, designated as its official firefighting organization. Mostly, the Borough Ordinance deals with the operation and use of fire Borough fire equipment and buildings, which are insured through the Borough's Joint Insurance Fund.

Discussions took place with the MFC prior to the submission of the Ordinance for first reading despite the fact that, in accordance with Newfield nothing requires any discussions before the adoption of an Ordinance defining the conditions it requires of any volunteer fire company designated as the Borough's fire company. Only two issues existed; the first was the attempt by MFC to limit the number of volunteers, which was illogical especially in this day and age where volunteers are few and far between. In the Borough's opinion, the more qualified volunteers protecting the residents and property, the better. The second issue was the fact that the present Chief of the MFC did not meet the qualifications of a Chief under the company's own by-laws. Based on that, I researched the Official Website of the State of New Jersey , www.nj.gov/dca/divisions/dfs/pdf and found "New Jersey Division of Fire Safety Fire Officer Requirements" a copy which is attached. As the qualifications of the Command and General Staff are of the utmost importance for the protection of life and property including the lives of our first responders, the minimum mandatory requirements for Chief and General Staff was part of the Ordinance. Clearly, the members are considered employees and entitled to Workers Compensation in the event of injury and minimum standards would be required by the JIF and therefore the Borough must assure that the Command and General Staff meet the minimum standards.

The Mayor and Governing Body of the Borough were moving forward with the adoption of the Ordinance, a copy which is attached, when I received an e-mail from Mr. Donald Nelsen on Tuesday, November 21, 2023. The e-mail, a copy which is attached, states "The Division of Fire Safety has become aware of some issues between Buena Borough's governing body and the Minotola Fire Company...I have been authorized by the Division of Fire Safety to proffer a meeting between the Mayor and Council and Fire Company Leadership, in closed session, to all meet in person and hopefully alleviate these issues and concerns before it goes further." He further directs me to "poll your clients so we may coordinate the meeting particulars?" At this time, I have many concerns including whether the "issues" meet the standards for a closed meeting of the governing body. Further it is interesting that Mr. Nelsen copies attorney Richard Braslow. While I know Mr. Braslow represented the now dissolved fire commissioners, I was not advised of his involvement at this time.

The email was surprising as I was unaware of any "issues" or any reason to hold any meeting in closed session with MFC. I wrote to Mr. Nelsen advising him that the only two issues of which I was

aware were the MFC wishing to limit membership and the qualifications of the Chief and command staff. As a courtesy, I also sent to Mr. Nelsen a copy of the proposed Ordinance scheduled for first reading November 27, 2023. I asked Mr. Nelsen to advise me of the "issues" to which he spoke and what involvement within the mission of the Division of Fire Safety it would entail. My e-mail is attached.

Immediately after I sent my e-mail to Mr. Nelsen, I received a rather disturbing and confrontational response from Mr. Nelsen. In his e-mail he accuses the Borough through its Ordinance of "municipal overreach" He states, "A cursory review of the drafts you sent illustrate municipal overreach in those areas." Again, a legal opinion to which Mr. Nelsen has no authority to present. He advises of his familiarity of the Newfield as the basis for his "legal opinion" but it is wrongfully applied.

Mr. Nelsen then in his third paragraph tries to expound on his knowledge by stating that the guidelines set forth on the Department of Community Affairs website is outdated, although his description of the requirements for Chief of any department within the State is vague at best. I do appreciate any assistance regarding the basic requirements for a volunteer Chief and Staff, however based on Mr. Nelsen's description, no such minimum qualifications exist because they change constantly.

It is the balance of the e-mail that has caused me, the Mayor and members of the Governing Body extreme ire. It seems that Mr. Nelsen has taken up the representation of the MFC on matters that have nothing to do with my Ordinance and are matters that should be discussed, not with the Governing Body, but with the Director of Public Safety, including some concern for the need for the Chief to sign a document. These are management issues and not anything that should involve Mr. Nelsen. His attempted involvement in the governance of the Borough is quite disturbing and beyond the mission of the Division of Fire Safety.

Mr. Nelsen then advises in the third paragraph of page two of his e-mail that in his legal opinion it is overreach for the Public Safety Director to provide permission for the use of Borough owned fire apparatus for matters beyond their intended purpose. Clearly an insurance issue. In his legal opinion, Mr. Nelsen feels the volunteers should have no restrictions on the use of government property and the Borough should have no control. His demand for a closed session is, at this point, baseless and clearly his involvement, even if one was allowed, would be destructive, argumentative and confrontational at best.

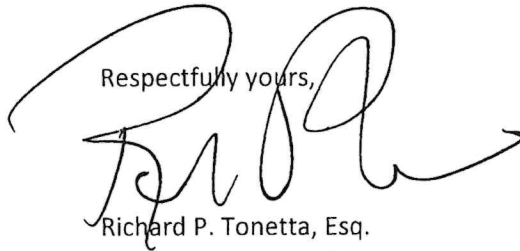
Mr. Nelsen then asserts that "Arguably there are Rice considerations, amongst others, which would not benefit a hostile promulgation of such an ordinance in that manner." Clearly, Mr. Nelsen has no idea to what he speaks regarding the need for a Rice Notice, however his obvious threats and combative approach is not acceptable. This action is clearly based upon some relationship Mr. Nelsen has with one or more members of the fire company. None of his accusations are appreciated.

At this point, I hope I am able to rebuild the bridge between the Mayor, Council and the fire company that has been torn down by Mr. Nelsen. I am respectfully requesting you instruct Mr. Nelsen to completely remove himself from the matters related to the governance of the municipality and restrain from issuing legal opinions. The mission of the Division of Fire Safety is to address public education programs, firefighter training, incident reporting and fatality investigations. I would submit, it

is Mr. Nelsen who is overstepping his authority. (see Mission Statement Division of Fire Safety). I would suggest that Mr. Sasdelli be assigned in his place should anyone be needed to assist.

Finally, The Borough of Buena fully intends upon complying with the LFB application approval Resolution and the Borough's ordinance to continue to provide for fire suppression services to the taxpayers of the Borough while ensuring proper internal financial controls required by the Local Budget Law N.J.S.A. 40A:4-1 et. Seq. I am available should you wish to further discuss this matter.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'R. Tonetta', with a large, sweeping flourish extending to the right.

Richard P. Tonetta, Esq.
Solicitor, Borough of Buena

Cc. Mayor Zappariello
Members of the Governing Body
Dep. Dir. M. Meade

NEW JERSEY DIVISION OF FIRE SAFETY

FIRE OFFICER REQUIREMENTS

N.J.A.C. 5:73-1.6 states, that no person shall be promoted, assume or assigned (including elected) any fire service position, the duties of which include the management of emergency operations. Unless, that person has obtained, at a minimum, Incident Management Level 1 Certification issued by the Division of Fire Safety.

In order to qualify for Incident Management Level 1 Certification, a person must meet the following requirements:

- Obtained Firefighter 1 Certification issued by the Division of Fire Safety;
- Have three years of documented experience in the fire service. (This means three years as a firefighter and does not include time spent in an Explorer or Junior Firefighter Program);
- Attended a 12 hour classroom based Basic Incident Management Course (I-200) offered or approved by the Division of Fire Safety.

A certification application must be submitted to receive the Incident Management Certification. This means that every fire officer, career and volunteer MUST have, at a minimum, Incident Management Level 1 Certification issued by the Division of Fire Safety. We have heard a number of times that some volunteer fire departments believe that these requirements do not apply to them. This is incorrect. Failure to comply may result in violations being issued to the fire company, municipality and the individual holding the office.

In order to ensure compliance with NIMS, which may be required to receive Federal and/or State Homeland Security Grants, the Division of Fire Safety recommends the following:

Fire Officer Requirements

- Entry Level First Responders, including but not limited to, firefighters, engineers, driver operators, fire police and support personnel; I-100 and IS-700.
- First Line Supervisors, including but not limited to, Lieutenants and Captains, Acting Lieutenants and Captains, Lead Dispatchers; I-200 and IS-700.
- Middle Managers, including but not limited to, Battalion Chiefs, Acting Battalion Chiefs; I-300 and IS-700. It is also recommended that IS-800, Introduction to the National Response Plan be completed. Completion of these courses and holding the prerequisite of Incident Management Level 1 Certification will qualify the individual for Incident Management Level 2 Certification issued by the Division of Fire Safety.
- Command and General Staff, including but not limited to, the Chief of Department or Acting Chief of Department, the second in command such as Deputy Chiefs, Acting Deputy Chiefs or Assistant Chiefs and Acting Assistant Chiefs; I-400. It is also recommended that both the IS-800 and IS-701, Introduction to Multi-Agency Coordination Systems

be completed. Completion of these courses and holding the prerequisite of Incident Management Level 2 Certification will qualify the individual for Incident Management Level 3 Certification issued by the Division of Fire Safety.

Combination and volunteer departments need to determine how to comply with ICS when their certified officers are not available. This can be accomplished by determining what other members of your department may be asked to assume a command position, and ensure that they have the proper level of training. Another way is to adopt SOG's or mutual aid agreements that address utilizing certified officers from other departments or county/regional Incident Management Teams.

However, simply attending the above listed courses does not qualify someone for all ICS positions. There are many position specific training programs that are available through the Division of Fire Safety or the Emergency Management Institute including, "Staging Area Manager", "Strike Team Leader", "Resource Unit Leader" and "Division/Group Supervisor" that provide detailed training in these areas leading to a better understanding of how ICS is designed to work.

In addition, there are other requirements that are enforced by the New Jersey Departments of Labor and Health under the Public Employee Occupational Safety and Health (PEOSH) Program. These are contained in the Safety and Health Standards for Public Employers at N.J.A.C 12:100 and include the Standards for Firefighters at N.J.A.C 12:100 Subchapter 10. All PEOSH Standards including the PEOSH Act can be found at:

http://lwd.dol.state.nj.us/labor/lss/laws/peosha_law.html

Examples include the adoption of a respiratory protection program that stipulates how the employer will ensure compliance with an individual's ability to be medically cleared to wear a respirator; an annual respirator face piece fit test and a policy regarding facial hair when wearing a respirator. Another example includes the requirement that anyone who will be supervising an incident involving a hazardous substance above the awareness level needs to meet the requirements of On-Scene Incident Commander; and annual refresher training for blood borne pathogens, confined space and hazardous materials; as well as bi-annual Right-to-Know (RTK) training.

It is imperative that fire chiefs and municipal officials realize the responsibility they have to ensure compliance. If you have any questions or need assistance, please contact your regional fire coordinator directly or through the office at 609-292-4109. He will be happy to assist you in understanding how to ensure compliance. You may also contact Justin Baker, Assistant Chief of the PEOSH On-Site Consultation Unit at 609-292-2832 or at Justin.baker@dol.state.nj.us.

Lastly, the Division of Fire Safety recently attained national accreditation from IFSAC and Pro-Board for Fire Officer 1 and 2. Fire Officer 3 and 4 are currently being pilot tested, and once released, will be submitted for accreditation as well. Fire Departments, Fire Districts and Municipalities should consider requiring these comprehensive certifications based on the specific officer levels within their department.

If you need assistance or have questions, please contact the Office of Fire Department Preparedness at 609-292-4109.

From: Nelsen, Donald [DCA] <Donald.Nelsen@dca.nj.gov>
Sent: Tuesday, November 21, 2023 12:27 PM
To: Rick Tonetta <solicitor@buenaboro.org>; richard braslow <[REDACTED]>
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- image002.png (71 KB)
- image006.jpg (11 KB)
- image003.jpg (9 KB)

Rick Tonetta <solicitor@buenaboro.org>

11/24/2023 9:42 AM

FW: *EXTERNAL*** Buena Borough and Minotola Fire Company**

To Richard P. Tonetta Esq. <solicitor@buenaboro.org>

From: Rick Tonetta

Sent: Tuesday, November 21, 2023 4:07 PM

To: Nelsen, Donald [DCA] <Donald.Nelsen@dca.nj.gov>; richard braslow <richard.braslow@buenaboro.org>

Cc: David Zappariello <mayordave@buenaboro.org>; Douglas Adams <douglas.adams@buenaboro.org>;

Patricia Andalaro <patricia.andalaro@buenaboro.org>; Marina Barsuglia <marina.barsuglia@buenaboro.org>;

Jorge Alvarez <jorge.alvarez@buenaboro.org>; Joseph Fabrizio <joseph.fabrizio@buenaboro.org>; Ernest

Merighi <ernest.merighi@buenaboro.org>; Maryann Coraluzzo <administrator@buenaboro.org>; Pam Johnston

<pam.johnston@buenaboro.org>; Sasdelli, Edward [DCA] <Edward.Sasdelli@dca.nj.gov>

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Solicitor, Borough of Buena

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Subject: ***EXTERNAL*** Buena Borough and Minotola Fire Company

FW: *EXTERNAL*** Re: Buena Borough and Minotola Fire Company**

To Richard P. Tonetta Esq. <[REDACTED]>

From: Nelsen, Donald [DCA] <Donald.Nelsen@dca.nj.gov>

Sent: Tuesday, November 21, 2023 4:56 PM

To: Rick Tonetta <solicitor@buenaboro.org>; richard braslow <[REDACTED]>

Cc: David Zappariello <mayordave@buenaboro.org>; Douglas Adams <douglas.adams@buenaboro.org>;

Patricia Andaloro <patricia.andaloro@buenaboro.org>; Marina Barsuglia <marina.barsuglia@buenaboro.org>;

Jorge Alvarez <jorge.alvarez@buenaboro.org>; Joseph Fabrizio <joseph.fabrizio@buenaboro.org>; Ernest

Merighi <ernest.merighi@buenaboro.org>; Maryann Coraluzzo <administrator@buenaboro.org>; Pam Johnston

<pam.johnston@buenaboro.org>; Sasdelli, Edward [DCA] <Edward.Sasdelli@dca.nj.gov>

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Good afternoon Mr. Tonotta,

As you should be aware, the Newfield case law specifically grants the municipal governing body oversight of their fire companies with the exception of 3 areas: election/appointment of the Fire Chief, day to day operations of the fire company, and their constitution and bylaws.

A cursory review of the drafts you sent illustrate municipal overreach into those areas.

The 2012 memo you utilized is outdated and has been superseded by annual memo's on those matters since approximately 2018. Some current examples are: Fire Officer certifications are not mandatory, IS-800 National Response Plan is mandatory through Gubernatorial Executive Order 248 as is IS-700 National Incident Management Systems and ICS-200 Basic Incident Command Systems of ALL emergency responders (police, fire, medical, hazmat, emergency management, dispatch, etc.). ICS-100 ICS Orientation or Introduction is model 1 of ICS-200. It is required under the Uniform Fire Code and PEOSH standards. However, separating it from ICS-200 is of no practical value as it is covered under the EO248 requirements and standards/directives supporting EO248. Your emergency management coordinator should have copies of all the orders and directives and other materials as it was promulgated under the various state agencies and chaired by State Police Emergency Management.

Being you are unaware of any other issues, I was going to put together an agenda for sharing before the meeting. That should make it easier.

Some of the other issues brought to our attention include asking/demanding the Fire Chief sign your Local EOP Fire Annex without even providing him a copy. FYI, at the local and county and state levels the fire service leadership is responsible for formulating those

annexes - county and state government refers to them as Emergency Support Functions and it's under Annex 4 Firefighting. I find it hard to imagine somebody else authored it without fire service leadership input and the Chief was told he had to sign it, without so much as a copy.

The large membership you mentioned is not large by any practical standard. 25 active members and 5 junior members is what I am told the Minotola VFC bylaws allow, and I was advised they have 29 of 30 positions filled at this time. This is actually small in comparison to similarly situated fire companies.

Another issue is municipal overreach by the Public Safety Committee Chairperson requiring his permission to utilize the fire apparatus for anything other than emergency response?

Another issue is the ordinance being represented as a contract, which the fire company had no negotiation or input. While the municipal governing body may enact any ordinance they desire, it is enforceable like any other ordinance as a contract, but it cannot be represented as a contract without negotiation of the parties. Then after requests were made, the fire company was purportedly advised that its a contract with personnel matters thus they could not attend the closed session for same. Arguably there are Rice considerations, amongst others, which would not benefit a hostile promulgation of such an ordinance in that manner.

There are other issues, this is a snapshot.

It seems there is a communication issue between the full governing body and the fire company leadership, I was hoping our meeting would bridge that gap and iron out these issues as soon as possible.

Thank you for your attention to this matter.

We look forward to working out whatever issues exist to put a great fire company on even better foundations.

Regards,

Donald Nelsen, Senior Planner EMF
Shore Region Fire Coordinator
Office of Fire Department Preparedness
Fire Threat Task Force
NJ Division of Fire Safety
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**BOROUGH OF BUENA
COUNTY OF ATLANTIC**

ORDINANCE NO.

**AN ORDINANCE AMENDING ORDINANCE NO. 22,
CHAPTER 18 OF THE CODE OF THE BOROUGH OF
BUENA ENTITLED FIRE COMPANIES**

WHEREAS, on February 26, 1961, the Borough Council adopted Ordinance 22 an Ordinance establishing two separate Boards of Commissioners, and two separate fire districts in accordance with N.J.S.A. 40A:14-70, known as Fire District Number 1 and Fire District Number 2; and

WHEREAS, Borough Council considered an Ordinance to dissolve Fire District Number 2 and after approval of the dissolution by the Department of Community Affairs, Local Finance Board on July 14, 2021, Council thereafter adopted an Ordinance dissolving Fire District Number 2; and

WHEREAS, the Borough Council received and considered a petition to dissolve all fire districts and commissioners so as to allow the Borough Council act as and for the supervision of all fire suppression and prevention services within the Borough and after approval of the dissolution by the Local Finance Board, Borough Council considered the cost savings to the taxpayers in dissolving the fire district and Commissioners and adopted an Ordinance dissolving the last fire district in accordance with N.J.S.A. 40A:14-68; and

WHEREAS, as the Borough Council shall now take over the duties and obligations previously held by the Fire Commissioners, it is necessary to consider the amendment of Ordinance 22, Chapter 18 of the Code of the Borough of Buena to reflect the dissolution of the fire districts and commissioners and establish the Fire Department under the Borough of Buena.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Buena that Ordinance 22, Chapter 18 of the Code of the Borough of Buena entitled Fire companies be deleted in its entirety and replaced as follows:

Chapter 18. Fire Department

Article I. Fire Suppression/ Prevention Services

Section 18-1 ESTABLISHMENT AND FUNDING

- A. The Council of the Borough of Buena shall supervise and control all fire suppression and prevention services within the Borough of Buena and recognizes the Minotola Volunteer Fire Company (MFC)

as and for its sole fire suppression and prevention company with no other firefighting organization to be formed within the Borough without the consent of the Borough Council.

- B. The Borough Council shall appropriate such sums of money as shall be deemed necessary to aid MFC in performing its duty on behalf of the Borough.

Section 18-2 FIRE CHIEF

- A. There shall be a Fire chief elected by the membership of the MFC that are eligible to vote pursuant to the by-laws of the MFC. The Fire Chief shall serve for a one (1) year term
- B. The Fire Chief shall have all of the following qualifications in order to serve:
 - 1. Must be qualified to serve as an active firefighter in the MFC and documented experience in fire service for at least 3 consecutive years.
 - 2. Must be in good standing at the time of nomination
 - 3. Must have the ability to read, write and speak the English Language
 - 4. Must have a valid New Jersey Drivers License during the entire term of service as Chief
 - 5. Must have New Jersey Division of Fire Safety Fire Officers Requirements
 - a. I-100, I-200, I-300, I-400 IS-700. While IS-800 is not required, it is recommended.
 - b. Incident Management Level 1 and Incident Level 2 Certificates issued by the State of New Jersey Division of Fire Safety
 - c. Compliance with current State of New Jersey Division of Fire Safety Fire Officer Qualifications.

Section 18-2 LINE OFFICERS

- A. There shall be one (1) Deputy Chief; One (1) Assistant Chief, not more than three (3) Captains as determined by the Borough Council upon recommendation of Fire Chief and not more than three (3) Lieutenants as determined by the Borough Council upon recommendation of Fire Chief.
- B. The Deputy Chief, and Assistant Chief shall have all of the following qualifications in order to serve:
 - 1. Must be qualified to serve as an active firefighter in the MFC and documented experience in fire service for at least 3 consecutive years.
 - 2. Must be in good standing at the time of nomination
 - 3. Must have the ability to read, write and speak the English Language
 - 4. Must have a valid New Jersey Drivers License during the entire term of service as Deputy Chief and Assistant Chief
 - 5. Must have New Jersey Division of Fire Safety Fire Officers Requirements
 - a. I-100, I-200, I-300, I-400 and IS-700. While IS-800 is not required, it is recommended.
 - b. Incident Management Level 1 and Incident Level 2 Certificates issued by the State of New Jersey Division of Fire Safety

- c. Compliance with current State of New Jersey Division of Fire Safety Fire Officer Qualifications.
- C. The Captains and Lieutenants shall have all of the following qualifications in order to serve:
 - 1. Must be qualified to serve as an active firefighter in the MFC and documented experience in fire service for at least 3 consecutive years.
 - 2. Must be in good standing at the time of nomination
 - 3. Must have the ability to read, write and speak the English Language
 - 4. Must have a valid New Jersey Drivers License during the entire term of service as Chief
 - 5. Must have New Jersey Division of Fire Safety Fire Officers Requirements
- a. I-100, I-200 and IS-700
- b. Incident Management Level I Certificate issued by the State of New Jersey Division of Fire Safety
- c. Compliance with current State of New Jersey Division of Fire Safety Fire Officer Qualifications.

Section 18-3 MEMBERSHIP AND JUNIOR MEMBERSHIP

- A. Membership applications shall be open to all persons and application forms approved by the Director of Public Safety shall be completed. No person shall be discriminated against including race or gender, who shall have acquired I-100 and IS-700 qualifications. All applications shall present a New Jersey Motor Vehicle Commission Drivers Abstract which shall be reviewed by the MFC trustees and recommendations to accept or reject a candidate shall be made to Borough Council within 30 days of receipt of applications. Borough Council shall finally approve or disapprove all members to MFC. All potential members shall undergo background investigations and physical evaluations. No person shall be approved as a member should there be a criminal conviction on their record or physically unable to perform the duties of firefighter.
- B. On a yearly basis all members shall be evaluated in March by the MFC trustees to determine if a member has maintained an activity level of 20 LOSAP points for two consecutive years and to confirm that no member has been convicted of any criminal activity.
- C. There shall be established the Junior Fireperson's Auxiliary per N.J.S.A. 40A:14-95. Qualifications and eligibility for said membership shall be in accordance with N.J.S.A. 40A:14-96
- D. Exempt Members. Any MFC member who holds a Borough issued exempt certificate or a qualifying certificate issued by the New Jersey State Firemen's Association shall be entitled to be an exempt member of the MFC. Exempt members shall have all of the rights and privileges of active membership.
- E. Honorary Members. Upon a vote of 2/3 of the membership, a MFC member may be granted an honorary membership who is an exempt member and who holds a qualifying certificate or who has been a member of the MFC for 20 years or more. Honorary Members shall not be required to comply with fire duty attendance requirements, except such member shall not qualify for LOSAP unless he/she has met the LOSAP point requirements as set forth herein.

Section 18-4 APPROVAL OF BY-LAWS

It is recognized that the membership of the MFC are also considered quasi-employees of the Borough of Buena when acting in their capacity as firefighters and therefore, the By-Laws of MFC shall be submitted for the approval of Borough Council and review by the Borough Solicitor and Insurance Carrier. Any amendments recommended by the MFC Trustees shall be submitted to the Public Safety Director and Borough Council for review and approval.

Section 18-5 OWNERSHIP OF BUILDINGS AND EQUIPMENT

- A. Building Ownership and Use. The land and improvements within which the MFC operates is and shall remain the property of the Borough of Buena. The Borough shall maintain insurance thereon including liability and property damage coverage as provided through the Borough insurance carrier. Notwithstanding said ownership, no person shall be permitted in any area of the building not otherwise open to the public without first notifying the Chief or his representative and without being accompanied by or having special permission by the Chief or his representative. The Borough may utilize other portions of the building for public purposes provided it does not substantially interfere with proper firefighting services. No use of the building or grounds shall be permitted for private purposes without express consent of the Public Safety Director and Borough Council and only upon notification to and with the approval of, the Borough's insurance carrier.
- B. Firefighting Equipment, Clothing and Apparatus. All firefighting equipment, clothing, apparatus purchased by the Borough, or the predecessor Fire Commissioners shall remain the property of the Borough of Buena. Except as may be authorized by Borough Council, no person shall use any fire equipment or apparatus for any private purpose. No person shall willfully and without authority take away or conceal any asset specified herein.

No fire apparatus of the Borough shall be permitted to leave the Borough of Buena without the consent of the Chief and Borough Public Safety Director except in response to a call for in a neighboring community business relating to firematic services, including training. No apparatus is to leave the Borough on official business except in response to a fire call without the consent of the Chief and Public Safety Director, but in no event shall any equipment be permitted outside of the Borough if in the judgment of the Chief, in doing so would jeopardize the protection of the Borough and its residents.

The use of fire equipment and apparatus for Borough sponsored events, such as Parades or public relations events is permitted provided it is first approved by the Chief and Public Safety Director and the Borough's insurance carrier.

- C. Location and Storage of Fire Equipment and Apparatus. Except for gear assigned to each firefighter, all Borough equipment and apparatus shall be safely and conveniently housed by the MFC at the Minotola Fire Station, or such other building as approved by Borough Council and the Fire Chief.
- D. The Borough has one or more "Command Vehicles" authorized by Borough

Council and the Public Safety Director which are used solely by the Chief and such Line Officers assigned to said vehicle by the Chief. Command Vehicles are vehicles used solely for the purposes of transportation to and from fire scenes or for official fire business and are permitted to be taken by the Chief and Line Officers to their home and other locations to allow for immediate response to fire calls, however the Command Vehicles shall not be used for personal use. Command Vehicles may also contain such equipment as is necessary for proper operation of the MFC.

Section 18-6 DUTIES AND RESPONSIBILITIES OF OFFICERS

A. **Chief of Department.** In addition to all of the duties and responsibilities of all members of the MFC, the Chief shall:

1. Timely review and submit all NFIRS Reports as required by the State of New Jersey
2. Develop a schedule of the testing and certification of the following:
 - a. SCBA Training (January)
 - b. RTR Training (January)
 - c. Cascade Training (January)
 - d. Fit-testing (January)
 - e. Blue Light Awareness refresher (January)
 - f. Emergency Action Plan (EAP) review/awareness (January)
 - g. Bloodborne Pathogens/HazMat Awareness (February)
 - h. SOG/SOP Review (March)
 - i. Ladder Testing
 - j. Hose Testing
 - k. Pump Testing
 - l. SCBA Air Testing
 - m. SCBA Equipment Testing Hydro-Static Testing for SCBA (as required)
 - n. Apparatus Maintenance (as required)
 - o. Monthly Drill Schedule
 - p. Aerial Testing
 - q. CPR Training/Certification (as required)
 - r. CPR Training/Certification (as required)
 - s. Turn-out gear Inspection (as required)
 - t. Turn-out gear Cleaning/Maintenance (as required)
 - u. Any other required testing/certifications of any new equipment purchased.

Scheduling of testing and certifications set forth herein above may be modified subject to scheduling and availability in the discretion of the Chief provided said scheduling does not impact the proper operation of the MFC and its members.

of the
operation of

3. The Chief shall submit the Schedule of testing and certification to the Director of Public Safety for submission to Borough Council
4. The Chief shall have general supervision of the MFC at all times, including but not limited to responding to an alarm at drills and at such other times when the MFC membership is assembled. The Chief shall always take prompt and efficient measures to control the fire scene and shall have full power and control and command over all apparatus and members of the MFC and all fire, rescue. In the absence of the Chief, the command shall devolve as per the by-laws of the MFC.

5. The Chief shall keep and maintain all records as to attendance at all alarms and drills for each member. The Chief shall also be responsible to certify LOSAP points for all members to the Borough for qualification for LOSAP
 6. The Chief shall provide monthly reports on the second Monday of each month during the regular meeting of Borough Council of all matters regarding the maintenance and operation of MFC as well as all reports of alarms and attendance to calls. Written reports shall be submitted to the Director of Public Safety prior thereto.
 7. The Chief shall provide an annual report with recommendations, if any, for the improvement of the effectiveness of the MFC.
 8. The Chief shall transmit to the Borough Council and Chief Financial Officer on or before November 1 of each year a proposed annual budget in the form as presented by the CFO.
- B. **Deputy Chief and Assistant Chief.** The Deputy Chief and Assistant Chief are directly responsible to the Chief and shall have general supervision at all fire calls, alarms, hazardous material emergencies and fire drills in the absence of the Chief.
- C. **Captains and Lieutenants.** The Captains and Lieutenants shall be directly responsible to the Chief and shall have general supervision at all fire calls, alarms, hazardous material emergencies and fire drills. Captains and Lieutenants shall have such other duties as required in the MFC by-laws.

Section 18-7 LENGTH OF SERVICE AWARD PROGRAM (LOSAP)

- A. **Program Established.** Whereas, the Commissioners of Fire District No 1 and No 2, now dissolved, have adopted Resolutions creating the Length Of Service Award Program (LOSAP) to provide tax deferred income benefits from the Borough to active volunteer members of the existing fire companies within the Borough and have created a points system that reflects the range of volunteer services that may be provided to the MFC and Landisville Fire Company members. Upon the dissolution of Fire District No. 1 and its Commissioners, evaluation and redistribution of annual LOSAP qualification points was assigned to Fire District No. 2. The following sets forth the established criteria which shall be adopted as follows:
- B. **Criteria.** The LOSAP shall provide for annual contributions to each eligible member who meets the criteria as follows:
- (1) Eighty (80) points are required for a member to be eligible for an annual contribution.
 - (2) Five (5) years of service are required for vesting.
 - (3) The annual contribution per member shall be \$1,504.74.
- C. **Categories, Distribution and Assignment of Annual Qualification Points.** The Commissioners of Fire District No.2 adopted Resolution 2020-016 setting forth the categories, distribution and assignment of LOSAP annual qualification points. The

following sets forth the established criteria which shall be adopted as follows.

- (1) **Incidents.** One and one half (1.5) points shall be awarded for each fire call member response between the hours of 0700hrs-2259hrs and two and one half (2.5) points shall be awarded for each fire call member response between the hours of 2300hrs-0659 hrs No Max.
- (2) **Drills.** Two points shall be awarded for each drill attended. No Max
- (3) **Training.** One point shall be awarded for the first hour of training and on quarter (.25) points foreach additional one-half hour attended 30 point max.
- (4) **Meetings.** One point for each meeting attended 10-point max.
- (5) **Special Assignments.** One point for the first hour of the special assignment and one quarter (.25) points for each additional one-half hour attended 10 points max
- (6) **Any person completing Firefighter II after January 1, 2021** shall be eligible to receive eighty (80) points upon successful completion of the course and receipt of State Certification. Said points shall be awarded once in the year attaining such certification.

BE IT FURTHER ORDAINED that all Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, are and the same are hereby repealed.

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

Passed First Reading:

Passed Second Reading:

BOROUGH OF BUENA:

DOUGLAS ADAMS, PRESIDENT

COUNCIL BOROUGH OF BUENA

APPROVED BY THE MAYOR

DAVID ZAPPARIELLO, MAYOR

ATTEST:

MARYANN CORALUZZO, CLERK