

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, OCTOBER 16, 2012, AT 7:00 PM, IN THE CITY HALL, 525 HIGH STREET, BURLINGTON, NJ, PURSUANT TO THE OPEN PUBLIC MEETINGS ACT.

The Deputy Municipal Clerk advised the public of the location of the two fire exits; one on the left after exiting the Council Chamber and the other being the entrance to the building.

Members present: Mr. Babula, Mr. Conaway, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard.  
(6) Absent: Mr. Ghaul. (1)

Also present: Mayor Fazzino, Municipal Attorney- George Saponaro, Director of Housing- David Ballard, Mgt. Assistant- Robin Snodgrass, Director of Public Works- Carl Turner, Lt. Snow.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on October 16, 2012 at 7:00 PM, prevailing time at the City Hall Building, 525 High Street, Burlington, N.J. 08016.

Cindy A. Crivaro, RMC  
Municipal Clerk

### **SALUTE TO FLAG**

### **UNFINISHED BUSINESS**

None.

### **CONSENT AGENDA**

Councilwoman Hatala, moved that all Consent Agenda items be approved. It was seconded by Councilwoman Woodard. All were in favor. Absent: Ghaul.

### **APPROVAL OF INVOICES\***

Approved by Consent Agenda. All were in favor. Absent: Ghaul.

### **ORDINANCE(S) - SECOND READING & FINAL DISPOSITION**

BOND ORDINANCE NO. 02-2012 OF THE CITY OF BURLINGTON AUTHORIZING STREET RECONSTRUCTION IN AND FOR THE CITY OF BURLINGTON, COUNTY OF BURLINGTON, NEW JERSEY, APPROPRIATING THE SUM OF \$400,000; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE CITY OF BURLINGTON, COUNTY OF BURLINGTON, NEW JERSEY IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$380,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

**BE IT ORDAINED** by the City Council of the City of Burlington, County of Burlington, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

**Section 1.** The purpose described in Section 7 hereof is hereby authorized as a general improvement to be made or acquired by the City of Burlington, County of Burlington, New Jersey ("City").

**Section 2.** It is hereby found, determined and declared as follows:

- (a) the estimated amount to be raised by the City from all sources for the purpose stated in Section 7 hereof is \$400,000;
- (b) the estimated amount of bonds or bond anticipation notes to be issued for the purpose stated in Section 7 hereof is up to \$380,000; and
- (c) a down payment in the amount of \$20,000 for the purpose stated in Section 7 hereof is currently available in accordance with the requirements of Section 11 of the Local Bond Law, N.J.S.A. 40A:2-11.

**Section 3.** The sum of up to \$380,000, to be raised by the issuance of bonds or bond anticipation notes, together with the sum of \$20,000, which amount represents the required down payment, is hereby appropriated for the purpose stated in this bond ordinance ("Bond Ordinance").

**Section 4.** The issuance of negotiable bonds of the City in an amount not to exceed \$380,000 to finance the costs of the purpose described in Section 7 hereof is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law.

**Section 5.** In order to temporarily finance the purpose described in Section 7 hereof, the issuance of bond anticipation notes of the City in an amount not to exceed \$380,000 is hereby authorized. Pursuant to the Local Bond Law, the Chief Financial Officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this Bond Ordinance is made. Such report must include the

amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

**Section 6.** The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, N.J.S.A. 40A:2-20, shall not exceed the sum of \$80,000.

**Section 7.** The improvement hereby authorized and the purpose for which said obligations are to be issued; the estimated costs of said purpose; the amount of down payment for said purpose; the maximum amount obligations to be issued for said purpose and the period of usefulness of said purpose within the limitations of the Local Bond Law are as follows:

	<u>Estimated Total Cost</u>	<u>Down Payment</u>	<u>Grant Funding</u>	<u>Amount of Obligations</u>	<u>Period of Usefulness</u>
<b><u>Purpose</u></b>					
A. Reconstruction of James Street in the City, together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto	\$400,000	\$20,000	\$0	\$380,000	10 years

**Section 8.** Grants or other monies received from any governmental entity, if any, will be applied to the payment of, or repayment of obligations issued to finance, the costs of the purpose described in Section 7 above.

**Section 9.** The supplemental debt statement provided for in Section 10 of the Local Bond Law, N.J.S.A. 40A:2-10, was duly filed in the office of the Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. The supplemental debt statement shows that the gross debt of the City, as defined in Section 43 of the Local Bond Law, N.J.S.A. 40A:2-43, is increased by this Bond Ordinance by \$380,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

**Section 10.** The full faith and credit of the City are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance, and to the extent payment is not otherwise provided, the City shall levy ad valorem taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

**Section 11.** The applicable Capital Budget is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Clerk and available for inspection.

**Section 12.** The improvements authorized hereby are not current expenses and are improvements that the City may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefitted thereby.

**Section 13.** The City hereby declares its intent to reimburse itself from the proceeds of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code"), for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the City prior to the issuance of such bonds or bond anticipation notes.

**Section 14.** The City hereby covenants as follows:

(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

**Section 15.** All ordinances or parts of ordinances, inconsistent herewith are hereby repealed to the extent of any such inconsistency.

**Section 16.** In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

Upon the motion of Councilman Babula, seconded by Councilwoman Woodard, the foregoing ordinance was introduced.

**Public Comments**

None.

**Council Comments**

None.

This ordinance was then adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (5) NAYS: (0); Absent: Mr. Ghaul. (1) Abstain: Mr. Conaway. (1)

**RESOLUTIONS**

**Resolution No. 219-2012**

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING AMENDMENT NO. 1-2012 TO THE AGREEMENT FOR PROFESSIONAL SERVICES, CONTRACT #12-007, FOR M. LOU GARTY, ESQ. FOR PROFESSIONAL SERVICES AS COUNSEL FOR SELF INSURANCE LITIGATION MATTERS

WHEREAS, on January 3, 2012, the City of Burlington duly appointed M. Lou Garty, Esq., as special self-insurance litigation counsel, Resolution #12-2012; and

WHEREAS, there have been a higher than usual volume of active litigation matters this year resulting in higher than usual defense costs for the City of Burlington; and

WHEREAS, there are matters still being actively litigated that require a defense to protect the City's interest;

NOW, THEREFORE BE IT RESOLVED, that the Common Council of the City of Burlington, hereby authorizes the Mayor and Municipal Clerk to execute an amended agreement with M. LOU GARTY, ESQ., 1236 Brace Road, Suite F, Cherry Hill, NJ 08034 in the amount of \$30,000.00, making a revised total contract amount of \$60,000.00.

Upon the motion of Councilwoman Mercuri, seconded by Councilwoman Hatala, the foregoing resolution was introduced.

On the question, Councilwoman Woodard asked if this will be the last request for an increase.

Mr. Saponaro stated we had a lot of litigation this year and this should actually be on the high side; it will probably come in lower than this figure.

Councilwoman Woodard- is the City liable at this time?

Mr. Saponaro- no, not at this time.

Mayor Fazzone- we are trying to minimize exposure and cost.

Mr. Saponaro- several will be dismissed this year.

Councilman Conaway- has the original contract been exceeded?

Mr. Saponaro- yes.

The Resolution was then adopted by the following roll call vote: AYES: Mr. Babula, Mr. Conaway, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (6) NAYS: (0); Absent: Mr. Ghaul. (1)

Resolution No. 220-2012

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON  
ADOPTING CHANGES TO PERSONNEL POLICIES AND PROCEDURES FOR THE CITY OF  
BURLINGTON

WHEREAS, upon recommendation by the Mayor, any revisions, additions, or deletions shall be submitted to the Common Council by Resolution for approval;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington, in the County of Burlington and State of New Jersey that the updates to the Personnel Policies and Procedures Manual attached hereto are hereby adopted.

BE IT FURTHER RESOLVED that this manual is intended to provide guidelines covering public service by City employees and is not a contract. The provisions of this manual may be amended and supplemented from time to time without notice and at the sole discretion of the City.

BE IT FURTHER RESOLVED THAT the Business Administrator and all managerial/supervisory personnel are responsible for these employment practices. The Directors and Municipal Attorney shall assist the Business Administrator in the implementation of the policies and procedures in this manual.

BE IT FURTHER RESOLVED that the Business Administrator shall create and/or cause to be created an updated Employee Manual/Handbook from their Personnel Policies and Procedures Manual for distribution to employees of the City of Burlington.

This Resolution shall take effect immediately.

Upon the motion of Councilwoman Woodard, seconded by Councilwoman Mercuri, the foregoing resolution was introduced.

On the question, Councilman Conaway spoke of page 116, Reimbursement for Expenses; should look at using the State guidelines under GSA Government for more flexibility.

Councilwoman Woodard- the policy on page 116, is it based on the State?

Mr. Saponaro- it is a local policy, drafted along the guidelines; suggested this resolution be pass tonight and amendment could be made later if needed.

The Resolution was then adopted by the following roll call vote: AYES: Mr. Babula, Mr. Conaway, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (6) NAYS: (0); Absent: Mr. Ghaul. (1)

#### Resolution No. 221-2012

A Resolution providing for a meeting not opened to the public in accordance with the provisions of the New Jersey Open Public Meetings Act. N.J.S.A. 10:4-12: Therefore be it resolved by the Common Council, of The City of Burlington, assembled in public session on October 16, 2012, that an Executive Session Closed to the Public shall be held on October 16, 2012, in the Council Meeting Room, for discussion of matters relating to the specific items designated in this resolution:

- Real Estate / Contracts N.J.S.A. 10:4-12(7) Lyceum Hall

The nature of the discussion conducted in closed session and or the result thereof may be disclosed to the public in an open public meeting held in October of 2012 or shortly there after.

Upon the motion of Councilwoman Hatala, seconded by Councilman Babula the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Conaway, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (6) NAYS: (0); Absent: Mr. Ghaul. (1)

#### EXECUTIVE CONFERENCES

- Lyceum Hall- George Saponaro, Esq.

#### RESOLUTION

##### Resolution No. 222-2012

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING A CONTRACT WITH DAN-MOR MECHANICAL FOR THE PURPOSE OF AN AIR BALANCE AND EFFICIENCY TEST AT LYCEUM HALL

WHEREAS the City of Burlington owns and operates Lyceum Hall; and

WHEREAS, the City of Burlington is presently in litigation with the architect, engineer and contractor, who performed work for the refurbishing of Lyceum Hall; and

WHEREAS in the course of litigation, it has been discovered that certain deficiencies were made in the installation of line sets, as well as other installations of H-VAC materials in the Lyceum Hall by

the contractors and/or subcontractors; and

WHEREAS, the City of Burlington previously retained the services of Dan-Mor Mechanical to ensure proper testing during a background review of the systems as installed at Lyceum Hall; and

WHEREAS, it has been recommended by the City's Engineer, as well as professionals and other contractors that an air balance and efficiency test is needed prior to the resetting, reconfiguring and other repairs to the present line sets and other installations of the H-VAC systems at Lyceum Hall;

NOW THEREFORE, BE IT RESOLVED by the Common Council for the City of Burlington as follows:

1. The Common Council for the City of Burlington hereby authorizes a contract with Dan-Mor Mechanical for the purpose of an air balance and efficiency test in an amount not to exceed \$7,500.00;
2. The Common Council for the City of Burlington, subject to attorney review, hereby authorizes the execution of a contract with Dan-Mor Mechanical for an amount not to exceed \$7,500.00 in conjunction with their quote and proposal submitted in the context of this litigation.

Upon the motion of Councilwoman Woodard, seconded by Councilman Babula, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Conaway, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (5) NAYS: (0); Absent: Mr. Ghaul, Ms. Hatala.. (2)

### **PUBLIC COMMENTS**

Sammy Cohen, 180 Riverbank- the Burlington County Historical Society is getting \$10,000; it will be awarded in November.

Samuel Richter, 400 Wood Street- spoke of concerns with the exercise equipment on the promenade; it should be removed before someone gets hurt.

President Lollar ask that Dave Ballard look into this.

Emma-Jean Morgan, 1517 Chestnut Street- spoke of the safety of the exercise equipment on the promenade.

Dan Kiple, 843 Woodland Avenue- spoke of the relocation of the City Recycling Center; spoke in opposition of this being in his neighborhood.

Elaine McClammy, 561 Uhler Avenue- spoke in opposition of the City Recycling Center being moved into her neighborhood; spoke of the conditions of the park and the geese; asked Council to consider the children.

Charlie Kimble, 923 Highland Avenue- spoke in opposition of the City Recycling Center being



moved into his neighborhood.

**COUNCIL COMMENTS**

Councilwoman Mercuri- is there a date for a Conference to be held regarding the Recycling Center?

President Lollar- Administration is still exploring this; it has not come before Council; spoke of the City receiving grants based on have our own recycling center.

Mayor Fazzone spoke of considering Shared Services with other towns and other sites within the City.

Councilwoman Woodard suggested there will be notice and time for public comment on this issue.

Councilman Conaway spoke of upcoming events.

**CONFERENCES**

- Historic Preservation Commission Proposed Ordinance Changes- Kevin Rijs and Melvin Warren
- Bus Stops Proposed Ordinance Changes- Dave Ballard, Director of Housing & Community Development

**ORDINANCE - INTRODUCTION & FIRST READING-** added

AN ORDINANCE OF THE CITY OF BURLINGTON AMENDING SECTIONS 207-22 THROUGH 207-35 OF THE CODE OF THE CITY OF BURLINGTON (HISTORIC PRESERVATION)

Upon the motion of Councilman Babula, seconded by Councilwoman Woodard, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Conaway, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (6) NAYS: (0); Absent: Mr. Ghaul. (1)

**ADJOURNMENT**

Upon the motion of Councilwoman Woodard, seconded by Councilwoman Mercuri, this meeting of October 16, 2012 was adjourned.

---

Cindy A. Crivaro, RMC  
Municipal Clerk

