

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, DECEMBER 4, 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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) Absent: Ms. Hatala, Ms. Mercuri. (2)

Also present: Mayor Fazzino, Municipal Attorney- George Saponaro, Municipal Engineer - Frank Morris, Chief Financial Officer- Ken Mac MacMillan, Director of Housing- David Ballard, Police Chief- Anthony Wallace, Lt. Snow, Director of Public Works- Carl Turner, Officer Hatten, Officer Potts.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on December 4, 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

**INVOCATION**

Rev. Frederick Johnson of Christ Baptist Church

**SALUTE TO FLAG**

**UNFINISHED BUSINESS**

None.

**CONSENT AGENDA**

Councilman Conaway, moved that all Consent Agenda items be approved. It was seconded by Councilman Babula.

Councilman Ghaul requested that the Invoices be removed from the Consent Agenda to be considered separately.

All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

**PETITIONS AND COMMUNICATIONS\***

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

## **CORRESPONDENCE FOR NOVEMBER 2012**

### **NOTICES, AGENDAS, MINUTES, REPORTS, ETC. RECEIVED**

Reports from various departments received:

Monies collected by the Municipal Clerk's Office for the month of October 2012. \$ 1,105.00

### **AGENDAS RECEIVED FROM VARIOUS BOARDS**

11-01 November 2012 Historic Preservation Members  
11-02 Screening Schedule for November 2012  
11-03 Land Use Board Agenda, dated November 28, 2012  
11-04 Land Use Board Agenda, dated November 28, 2012

### **MINUTES RECEIVED FROM VARIOUS BOARDS**

11-10 Historic Preservation Commission, dated October 3, 2012  
11-11 Land Use Board, dated October 24, 2012

### **NOTICE TO PROPERTY OWNERS**

11-20 block 221 lot 3.04

### **PETITIONS OF APPEALS:**

11-30 block 227 lot 1, block 227 lot3 Block 228 lot 3  
11-31 block 222 lot 4.01 / block 222 lot 34

### **CORRESPONDENCE TO AND FROM WITHIN THE CITY AND CITY**

#### **ORGANIZATIONS:**

11-100 E-mail to Cindy Crivaro, Clerk from Chief Wallace, dated November 8, 2012  
NJ Division of Criminal Justice announce that we receive \$3,389.67 body armor Replacement.

### **COMMUNICATION TO AND FROM MUNICIPAL ENGINEER**

11-300 Pennoni Associates, dated November 12, 2012 Re: Sewer System Repair Project Phase 2  
11-301 Alaimo Group, dated November 21, 2012 Re: Tennis Court Construction  
11-302 Alaimo Group, dated November 15, 2012 Re: 316 York Street

### **CORRESPONDENCE TO AND FROM BURLINGTON COUNTY**

11-501 Burlington County NJLINCS-HAN, dated November 8, 2012 Re: Hurricane Sandy  
11-502 Board of Chosen Freeholders, dated October 24, 2012 Re: Supporting Joint Base

McGuire-Dix-Lakehurst /base enhancement-resolution

**CORRESPONDENCE TO AND FROM THE LEAGUE OF MUNICIPALITIES**

11-600 97<sup>th</sup> NJSLM Convention NJDEP Schedule/Booth Information

**MISCELLANEOUS CORRESPONDENCE**

11-800 New Jersey Conference of the Mayors, dated November 1, 2012

11-801 Endeavor Emergency Squad, Inc., Monthly Report

11-802 YMCA of Burlington & Camden Counties, Re: Opens Doors to neighbors w/o power-water

11-803 Kriger Consulting, Free Workshop Announcement

11-804 Library Company of Burlington, Re: Native American Indian Blanket Gift Giveaway

11-805 Library Company of Burlington, Re: Holiday Story Time, December 17, 2012

11-806 Library Company of Burlington, Re: Kids Movie Night & Craft, November 9, 2012

11-807 Library Company of Burlington, Re: Burlington Bookends Food Drive

11-808 Library Company of Burlington, Re: Toys for Tots until December 11, 2012

11-809 Doane Academy - 2012 Overview

11-810 PSE&G Notice to Customer

11-811 Christmas Holiday House Tour information

11-812 Mitchell Fire Company, Christmas Tree Sale

11-813 DVRPC dated October 31, 2012 Re: DVRPC 2012 Competitive Congestion Mitigation

11-814 Board of Education, Notice

11-815 Comcast, Notices dated November 29, 2012

11-816 Greater Burlington Chamber of Commerce, Re: Christmas Holiday Dinner, December 3, 2012

11-817 Christmas Holiday House Tour

11-818 Library Company of Burlington, Re: Family Night Out December 7, 2012

**APPROVAL OF INVOICES**

Councilman Babula, moved that Invoices be approved. It was seconded by Councilman Conaway.

On the question, Councilman Ghaul asked about Invoice No. 12-01418; asked why over \$900.00 was spent by the Fire Department.

Mr. Ballard explained that he had met with Fire Chief Viereck; this cost was due to Hurricane Sandy; also the Department had 16 fire fighters who went to shore area to help with fires.

Councilman Ghaul asked about Invoice No. 12-01450; why did an employee use their own money/credit card for a purchase that was so costly; feels this policy should be reviewed.

Invoices were then approved. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

**APPROVAL OF MINUTES\***

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

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

ORDINANCE NO. 18-2012 OF THE CITY OF BURLINGTON AUTHORIZING THE EXECUTION OF LEASE WITH NEW CINGULAR WIRELESS PCS, LLC, FOR THE PLACEMENT OF CELLULAR COMMUNICATIONS EQUIPMENT ON THE WATER TANK LOCATED WITHIN THE BURLINGTON COMMERCE SQUARE REDEVELOPMENT AREA

WHEREAS, pursuant to the Local Redevelopment and Housing Law (“LRHL”) (N.J.S.A. 40A: 12A-1 et seq.) a municipality may lease property to any other party without public bidding and at such prices and upon such terms as it deems reasonable, provided that the lease or conveyance is made in conjunction with a redevelopment plan, notwithstanding the provisions of any law, rule, or regulation to the contrary; and

WHEREAS, the property known as Block 1 Lot 1.01 on the official tax map of the City of Burlington (the “Property”), is located within an “area in need of redevelopment” as designated pursuant to LRHL, and the City has adopted a redevelopment plan for that redevelopment area; (the “Redevelopment Plan”); and

WHEREAS, the City wishes to lease portions of the Property for the purpose of advancing goals and objectives of the Redevelopment Plan; and

WHEREAS, specifically, the City wishes to lease portions of a water tank (the “Water Tank”) which is located on the Property to New Cingular Wireless PCS, LLC for the placement of cellular communications equipment; and

WHEREAS, on behalf of the City, Remington, Vernick & Arrango engineers have reviewed and approved the installation of said equipment on the water tank at Commerce Square from an engineering and stability aspect;

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Common Council of the City of Burlington, County of Burlington and State of New Jersey that the Mayor is hereby authorized to execute the Water Tank Lease Agreement for the Property with New Cingular Wireless PCS, LLC in the form attached hereto as EXHIBIT A and any other necessary legal documents to effectuate the transactions; and

BE IT FURTHER ORDAINED, that all documents prepared and executed in furtherance of these transactions are subject to the review and approval of the Solicitor; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance shall be provided to each of the following:

- a. New Cingular Wireless PCS, LLC
- b. City Administrator
- c. Chief Financial Officer

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon passage and publication in accordance with applicable law.

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

Public Comments

None.

Council Comments

Councilman Babula asked Mr. MacMillan to review the anticipated revenue for the 1<sup>st</sup> year.

Mr. MacMillan stated it will be \$2,300 per month.

This ordinance was then adopted by the following roll call vote: AYES: Mr. Babula, Mr. Conaway, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

ORDINANCE NO. 20-2012 OF THE CITY OF BURLINGTON AUTHORIZING THE VACATION OF AN ALLEY LOCATED IN BLOCK 148 PURSUANT TO N.J.S.A. 40:67-1 UPON COMPLIANCE WITH CHAPTER 306 ARTICLE IV SECTIONS §306-28 APPLICATION PROCEDURE AND §306-29 FEES

WHEREAS, the City of Burlington has established by Ordinance a procedure for Street Vacations under Section 306-28 of the Code of the City of Burlington;

WHEREAS, an application has been filed with the Municipal Clerk setting forth a description of the public property sought to be vacated;

WHEREAS, all adjoining property owners have signed a written statement setting forth that each adjoining property owner has received notice of the proposed vacation and stated their consent to the same;

WHEREAS, a copy of the said application has been provided to the City of Burlington Land Use Board, director of the Department of Public Works, Chief of Police and Fire Chief and each of these respective agencies has provided no objections or comments concerning the application;

WHEREAS, all requirements of the City of Burlington Code Section 306-28 have been deemed met by the application for the vacation of said properties;

WHEREAS, the Common Council for the City of Burlington finds that the public street (alley) as defined by the above-captioned Blocks and Lots has no public use, and that vacating the said street will be in the best interest of the citizens of the City of Burlington;

BE IT ORDAINED by Common Council for the City of Burlington that Block 148, Lots 14, 9, and 20 are hereby vacated.

BE IT FURTHER ORDAINED that the City Clerk and Administrative Departments are hereby authorized and directed to take all steps pursuant to N.J.S.A. 40:67-21 to take all further action necessary for the filing with the Clerk of Burlington County of this Ordinance.

BE IT FURTHER ORDAINED that this Ordinance shall take affect upon passage and publication as provided by law.

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, Mr. Conaway, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (4) NAYS: (0); ABSTAIN: Mr Conaway (1) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

**RESOLUTIONS / CONSENT AGENDA RESOLUTIONS\***

Resolution No. 232-2012

RESOLUTION TO AMEND ADOPTED BUDGET FOR “DRIVE SOBER OR GET PULLED OVER 2012 YEAR END STATEWIDE CRACKDOWN” GRANT FROM THE NJ DEPARTMENT OF LAW AND PUBLIC SAFETY

WHEREAS, N.J.S. 40A:4-87 provides that the Director of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality

when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount, and

WHEREAS, the City of Burlington received a **Drive Sober or Get Pulled Over 2012 Year End Statewide Crackdown Grant** in the amount of \$4,400.00 from the New Jersey Department of Law and Public Safety;

### **SECTION 1**

NOW THEREFORE, BE IT RESOLVED that the City of Burlington hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2012 in the sum of \$4,400.00 as follows which item is now available as a revenue from:

Miscellaneous Revenues - Section F: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Public and Private Revenues Offset with Appropriations:

**Drive Sober or Get Pulled Over 2012 Year End Statewide Crackdown Grant**        \$  
4,400.00

### **SECTION 2**

BE IT FURTHER RESOLVED that a like sum of \$ 4,400.00 be and the same is hereby appropriated under the caption of:

General Appropriations Operations-Excluded from "CAP"  
Public and Private Programs Offset by Revenues:

**Drive Sober or Get Pulled Over 2012 Year End Statewide Crackdown Grant**        \$  
4,400.00

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 233-2012

A Resolution of the City of Burlington Supporting the *Drive Sober or Get Pulled Over* 2012 Year End Statewide Crackdown

Whereas, impaired drivers on our nation's roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

Whereas, alcohol impairment is a factor in 25% of motor vehicle fatalities in New Jersey; and

Whereas, an enforcement crackdown is planned to combat impaired driving; and

Whereas, the season at the end of the year is traditionally a time of social gatherings which often include alcohol; and

Whereas, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the *Drive Sober or Get Pulled Over Year End Statewide Crackdown*; and

Whereas, the project will involve increased impaired driving enforcement from December 7, 2012 through January 2, 2013; and

Whereas, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways;

Therefore, be it resolved that the Common Council of the City of Burlington declares its support for the *Drive Sober or Get Pulled Over 2012 Year End Statewide Crackdown* from December 7, 2012 through January 2, 2013 and pledges to increase awareness of the dangers of drinking and driving.

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 234-2012

Common Council of the City of Burlington, hereby appoints the following Special Law Enforcement Officer, as per recommendation of the Administration for the year 2012:

Class II- Special Law Enforcement Officer

Clinton Potts

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms.



Mercuri. (2)

Resolution No. 235-2012

A RESOLUTION OF THE CITY OF BURLINGTON AUTHORIZING THE TEMPORARY ASSIGNMENT OF DUTIES

WHEREAS, the City of Burlington employs certain Code Officials with respect to inspections, including inspections which require various certifications; and

WHEREAS, the City's Code Official, Howard Wilkins, has become temporarily incapacitated as a result of a medical condition; and

WHEREAS the City's Code Official is expected to return upon his recovery from his medical condition; and

WHEREAS the City of Burlington requires temporary coverage to fill various inspection duties during such time as their Code Official recovers from his medical condition;  
NOW THEREFORE, BE IT RESOLVED by the Common Council for the City of Burlington as follows:

The Common Council for the City of Burlington hereby authorizes the Mayor and Administration to contract with outside inspectors for the purpose of providing temporary coverage for construction official duties and fire sub-code official duties;

The Common Council for the City of Burlington hereby authorizes the Mayor and Administration to contract with Tom Petto as a third-party inspector for fire sub-code official duties during the time the same is necessary and as required for the reasons set forth herein;

The Mayor and Administration are hereby authorized to contract with the Township of Burlington for reciprocal coverage with their construction official as necessary for construction official duties;

The Mayor and Administration are hereby authorized to contract for reciprocal coverage with the Township of Burlington and their fire code official, Matt Tomaszewski for any required fire official duties;

The Mayor and Administration are authorized to contract with any other required individuals for the purpose of providing temporary code, sub-code, construction code or fire code official contracting as may be required on this temporary and emergent basis.

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 236-2012

A RESOLUTION OF THE CITY OF BURLINGTON AUTHORIZING AMENDMENT NO. 1-2012 TO THE AGREEMENT FOR PROFESSIONAL SERVICES, CONTRACT #12-003, FOR PENNONI ASSOCIATES, INC. DUE TO UNFORESEEN CIRCUMSTANCES

WHEREAS, the City of Burlington operates a Wastewater Treatment Plant and associated pumping stations; and

WHEREAS, the City of Burlington entered into a Professional Services Agreement with Pennoni Associates, Inc., 515 Grove Street, Suite 2C, Haddon Heights, N.J. 08035, to serve as the Municipal Sewer Engineer for calendar year 2012; and

WHEREAS, due to unforeseen circumstances at the Wastewater Treatment Plant, specifically the rebidding of the Wastewater Treatment Plant emergency generator radiator repair project, additional engineering services were provided upon request; and

WHEREAS, the City has determined that this additional work was necessary, and additional monies should be added to the Sewer Engineer's professional services contract this calendar year, negotiated the payment terms, prepared the amendment and recommends approval of Amendment No. 1-2012 to the 2012 Professional Services Agreement with Pennoni Associates, Inc..

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 Pennoni Associates, Inc., 515 Grove Street, suite 2C, Haddon Heights, N.J. 08035 in the amount of \$8,334.00, for the Wastewater Treatment Plant, making a revised total contract amount of \$58,334.00.

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, Mr. Ghaul, Ms. Lollar,. (4) NAYS: (1)Ms. Woodard; ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 237-2012

Common Council of the City of Burlington, hereby authorizes Amendment No. 4-2012 to the General Engineering Services Professional Services Agreement for with the Alaimo Group, Contract #12-002, to provide for engineering services in connection with the FY 2012 NJDOT

Municipal Aid Program for James Street Road Improvements (Hulburt Avenue to 2<sup>nd</sup> Street), in an amount not to exceed \$64,000.00.

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. Ghaul, Ms. Lollar, Ms. Woodard. (4) NAYS: (0); ABSTAIN: Mr. Conaway (1) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 238-2012

Upon the recommendation of Adams, Rehmann & Heggan Associates, Inc., the Common Council of the City of Burlington hereby authorizes the Mayor and the Municipal Clerk to execute an amended agreement, Change Order #1, with Rogers Cipollono Electric, Inc. of Atco, NJ, for a reduction in the amount of \$3,000.00 for the elimination of buried conduit in connection with the replacement of the electrical substation at the City's Water Treatment Plant, making the total revised contract amount \$252,805.00.

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 239-2012

RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, there are certain 2012 budget appropriations which have been determined to be insufficient and there are other 2012 budget appropriations which are in excess of the amount deemed necessary to fulfill the purpose of such appropriations, and

WHEREAS, N.J.S.A. 40A:4-58 permits the governing body during the last two months of the fiscal year, by resolution adopted by not less than 2/3 vote of the full membership thereof, to transfer the amount of such excess to those appropriations deemed to be insufficient,

NOW THEREFORE BE IT RESOLVED by the Common Council that the following transfers between the 2012 budget appropriations be made:

<u>CURRENT FUND:</u>	<u>From</u>	<u>To</u>
Police – SW	\$ 48,500.00	
Planning Board – OE		\$ 6,000.00
Construction Code Official – OE		\$ 40,000.00

Municipal Court – OE

\$ 2,500.00

\$ 48,500.00

\$ 48,500.00

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 240-2012\*

A RESOLUTION OF THE CITY OF BURLINGTON CONSENTING TO THE PROPOSED WATER QUALITY MANAGEMENT PLAN (WQM) PLAN AMENDMENT ENTITLED: Burlington County Future Wastewater Service Area Map

WHEREAS, the City of Burlington desires to provide for the orderly development of wastewater facilities with Burlington County; and

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) requires that proposed wastewater treatment and conveyance facilities and wastewater service areas, as well as related subjects, be in conformance with an approved WQM plan; and

WHEREAS, the NJDEP has established the WQM plan amendment procedure as the method of incorporating and updating new or previously unplanned facilities and service areas into a WQM plan; and

WHEREAS, a proposed WQM plan amendment noticed in the New Jersey Register on September 4, 2012 for the Burlington County Future Wastewater Service Area Map has been prepared by the County of Burlington Department of Resource Conservation;

NOW, THEREFORE, BE IT RESOLVED on this 4<sup>th</sup> day of December, 2012, by the governing body of the City of Burlington that:

The City of Burlington hereby consents to the amendment entitled Burlington County Future Wastewater Service Area Map, and publicly noticed on September 4, 2012, prepared by the County of Burlington Department of Resource Conservation, for the purpose of its incorporation into the Tri-County Water Quality Management Plan.

This consent shall be submitted to the NJDEP in accordance with N.J.A.C. 7:15-3.4

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

Resolution No. 241-2012\*

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 December 4, 2012, that an Executive Session Closed to the Public shall be held on December 4, 2012, in the Council Meeting Room, for discussion of matters relating to the specific items designated in this resolution:

Litigation N.J.S.A. 10:4-12 (7) Tort Claim  
Personnel N.J.S.A. 10:4-12(8) Tax Assessor's Office  
Real Estate N.J.S.A. 10:4-12(7) McNeal Property

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 December 2012 or shortly there after.

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

Resolution No. 242-2012\*

Common Council of the City of Burlington, hereby authorizes the Municipal Clerk to issue a Mercantile License to Annie Gittens, 87 W. 6<sup>th</sup> Street, Burlington, N.J. to operate a business at 201 E. Federal Street t/a "Fitzgerald's Luncheonette."

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

**PUBLIC COMMENTS**

Ellen Bohem, Union Street- thanked the City for a job well done during Hurricane Sandy; stated she felt very safe.

Theresa Branham, 106 Stacy Court- complained of tv's out on the trash that need to be picked up; expressed concern about Library Street, many potholes; designated parking spaces numbers need to be painted.

Mr. Ballard stated that a work order has been submitted for repairing Library Street.

Richard Lee, 100 Gardenia Lane, Maple Shade- invited everyone to the Green Team's end of the year meeting.

Pam McKenna, 124 E. Union Street- reported a telephone pole leaning at the Burlington Meeting House.

Karen Robins- with Woolman Group working with the BOIM on the redevelopment of Burlington Island; asked why the City is considering an appraisal for the McNeal property.

Linda Morara, 934 Columbus Road- asked why there isn't any wellness supermarkets in the City, such as Wegman's or Whole Foods.

Don Vazques, 205 E. Union Street- spoke of several cars broken into and damaged in the neighborhood; asked for more police presence.

**COUNCIL COMMENTS**

Mayor Fazzone spoke of the Fire Department bills; the original reports indicated that the storm was going to come up the Delaware and the City was in danger; the City is putting in for reimbursements through FEMA.

Councilman Conaway spoke of trees that have come down and/or pushed up sidewalks as a result of Hurricane Sandy; asked if the residents will be responsible or the City.

Mayor Fazzone stated he will look into this; it may vary due to the circumstance of the storm.

**CONFERENCES**

Reassessment Report- Diane Hesley, Tax Assessor

**EXECUTIVE CONFERENCES**

Tax Assessor's Office

Tort Claim

McNeal Property

Court Office

**RESOLUTION**

Resolution No. 243-2012

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING A CONTRACT WITH SHARPE VALUATION SOLUTIONS FOR THE PURPOSE OF A REAL PROPERTY APPRAISAL OF BLOCK 203, LOTS 1 AND 2.02; BLOCK 226, LOTS 1.06, 1.07, 1.08 AND PART OF 1.02

WHEREAS the City of Burlington owns certain real property located at Block 203, Lots 1 and 2.02; Block 226, Lots 1.06, 1.07, 1.08 and part of 1.02 (the "Property"); and

WHEREAS, the City of Burlington is presently in the process of redeveloping the Property; and

WHEREAS in the course of redevelopment, the City of Burlington intends to sell the Property to the approved redeveloper; and

WHEREAS, in order to assure that a fair sale price can be reasonably determined, a current appraisal of the Property is necessary; and

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

The Common Council for the City of Burlington hereby authorizes a contract with Sharpe Valuation Solutions for the purpose of performing an appraisal of the Property in an amount not to exceed \$3,500.00;

The Common Council for the City of Burlington, subject to attorney review, hereby authorizes the execution of a contract with Sharpe Valuation Solutions for an amount not to exceed \$3,500.00 in conjunction with their quote and proposal submitted in the context of the redevelopment of the Property.

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 244-2012

A RESOLUTION OF THE CITY OF BURLINGTON AUTHORIZING SETTLEMENT OF PENDING LITIGATION IN THE MATTER OF CARLA CARR V. CITY OF BURLINGTON ET AL

WHEREAS, there exists certain pending civil litigation which was filed in the Superior Court of New Jersey, Burlington County, under Docket No. BUR-L-3613 -10, entitled Carla Carr v. City of Burlington, et al, in which a claim has been made against the City of Burlington by the Plaintiff, Carla Carr, in which the Plaintiff alleges that she suffered certain personal injuries and economic losses as the result of an accident which occurred on November 15, 2009 on certain City park property located at the promenade within the City of Burlington; and

WHEREAS, the City has defended this case in the litigation filed against the City and denies that it is responsible for the claimed losses; and

WHEREAS, the continuation of this litigation poses certain potential risks to the City and will also necessitate the expenditure of certain defined costs for the continuing to defend this litigation; and

WHEREAS, the City previously engaged by a contract its Special Self-Insured Litigation Counsel for the purpose of defending the within litigation; and

WHEREAS, while the City has vigorously defended this claim, in view of certain costs and potential risks in proceeding to the trial of the case, the City's litigation counsel has had the opportunity to negotiate and recommend certain terms for the settlement of the litigation; and

WHEREAS, through the negotiations of the attorneys of the respective parties and with the aid of the Court, the Plaintiff has agreed to accept the sum of \$49,500 as a compromised settlement for all of her claims for damages, including her claims for damages for personal injuries suffered, for all claims economic damages including lost wages, lost economic opportunity, medical expenses and the release from liability to the City for all claims for any medical expenses or liens asserted, for all expert fees, for all counsel fees, costs and expenses of litigation of the Plaintiff; and

WHEREAS, the settlement of the litigation will reduce the City's current costs in defending the action and its exposure to the risks of continuing the litigation including its own expert's fees, counsel fees and costs; and

WHEREAS, it is determined that it is in the best interests of the City of Burlington to settle this litigation for the aforesaid amount in order to avoid the risk and costs of continuing the litigation; and

WHEREAS, the settlement of the aforementioned litigation is not an admission of liability but is made in view of avoiding the cost and the risk of continuing the litigation; now, therefore,

BE IT RESOLVED by the Council of Burlington City that the settlement of this litigation is hereby authorized in the amount of \$49,500; and

BE IT FURTHER RESOLVED that Special Self-Insured Litigation Counsel is hereby authorized to execute such documents and court filings as are necessary to effect the settlement of this litigation consistent with the express terms for settlement stated herein.

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, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); ABSTAIN: (0) ABSENT: Ms. Hatala, Ms. Mercuri. (2)

### **ADJOURNMENT**

Upon the motion of Councilwoman Woodard, seconded by Councilman Babula, this meeting of December 4, 2012 was adjourned.

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Cindy A. Crivaro, RMC  
Municipal Clerk



