

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, March 7, 2023, AT 7:00 PM, IN THE CITY HALL, 525 HIGH STREET, BURLINGTON, NJ, PURSUANT TO THE OPEN PUBLIC MEETINGS ACT.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on March 7, 2023, at 7:00 PM, prevailing time at the City Hall Building, 525 High Street, Burlington, N.J. 08016.

Cindy A. Crivaro, RMC
Municipal Clerk

The 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.

Governing Body Members present: Dave Babula, Dawn Bergner-Thompson, George Chachis, Xavier Roque, Roosevelt Smith, Suzanne Woodard, Denise Hollingsworth

Also present: Administrator Johanna Conyer, Daniel DiGangi, Finance Consultant, Municipal Attorney Stuart Platt, Director of Housing Bill Harris, Director of Public Affairs John Alexander, Director of Public Works Bill Curry, Police Chief John Fine.

INVOCATION

Rev. Moses Flomo- St. Mary's Street United Methodist Church

SALUTE TO FLAG

PRESENTATIONS

Volunteers of America – Amanda Mackie

EXPLANATION OF ORDINANCES ON SECOND READING

Johanna Conyer, Administrator– 03-2023 & 04-2023; explanation was provided.

EXPLANATION OF RESOLUTIONS

Johanna Conyer, Administrator – 74-2023, 83-2023, 84-2023, 85-2023; explanation was provided.

PUBLIC COMMENTS

John Strydesky, 3 Abate Drive, Millstone, NJ – asked if there was an update on the US Pipe Site Redevelopment Project.

Nancy Curry, 1 E. Pearl Street, Event Coordinator for Pearl Pointe Apartments – spoke of the upcoming events: Food Truck Tuesdays, live music & art shows, Farmers Market.

Karen Richter, 816 Mount Road – asked for bucket/toddler swings for the playground in her neighborhood; spoke of many services offered by CONTACT of Burlington County and provided flyers.

Alycia Eck, 227 Wood Street- spoke of concerns with the water quality in Burlington Township; asked for Burlington City’s 2023 water quality report.

CONSENT AGENDA

Councilwoman Woodard moved that all Consent Agenda items be approved. It was seconded by Councilman Chachis. All were in favor.

PETITIONS AND COMMUNICATIONS*

Approved by Consent Agenda. All were in favor.

CORRESPONDENCE FOR FEBRUARY

REPORTS - VARIOUS CITY DEPARTMENTS

02-10 Monies collected by the Municipal Clerk’s Office for the month of January 2023 \$2,210

AGENDAS - VARIOUS BOARDS

02-20 HPC March 1, 2023 Agenda

CORRESPONDENCE FROM CITY ORGANIZATIONS

02-70 Police Press release 2/1/23 – BCHS trespass

02-71 RFP Construction official

02-72 Winterfest

CORRESPONDENCE FROM BURLINGTON COUNTY - VARIOUS DEPARTMENTS

02-80 BCHD Rabies clinics

CORRESPONDENCE FROM STATE OF NEW JERSEY - VARIOUS DEPARTMENTS

02-90 (2)NJHealth Weekly Covid update

02-91 NJHealth Alert artificial tears

02-92 NJDOT year in review

02-93 Legislative Bulletin 2022 No 3 from NJLM

MISCELLANEOUS CORRESPONDENCE

02-100 JIF School Pool mtg 2/10/23

02-101 Job Posting for Endeavor

02-102 Endeavor January report

FLYERS

02-300 Food Bank

02-301 Dressler Smith @ Lyceum

02-302 Arron Parnell Brown Trio 2/22/23 @7pm

APPROVAL OF INVOICES*

Approved by Consent Agenda. All were in favor.

APPROVAL OF MINUTES*

Approved by Consent Agenda. All were in favor.

ORDINANCE(S) - SECOND READING & FINAL DISPOSITION

ORDINANCE NO. 03-2023 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AMENDING AND SUPPLEMENTING CHAPTER 207 “LAND DEVELOPMENT”, ARTICLE VII “ZONING”, SECTION 207-71 “GENERAL REGULATIONS”, SUBSECTION P “CANNABIS INDUSTRIES”

WHEREAS, the City of Burlington previously enacted zoning for the general regulation of cannabis industries through its adoption of Ordinance No. 17-2021 on July 13, 2021; and

WHEREAS, the City of Burlington desires to amend and supplement its general regulation of cannabis industries to impose new limitations on the number of permitted Class 1 Cultivation Licenses, Class 2 Manufacturing and Processing Licenses and Class 3 Wholesale Licenses, in addition to the limitation of number of Class 5 Retail Licenses; and

WHEREAS, the City of Burlington desires to amend and supplement its general regulation of cannabis industries to impose an additional fee for the issuance of a municipal letter or Resolution of Support of issuance of a license for a particular cannabis business at a specific location by the New Jersey Cannabis Regulatory Control Commission;

NOW, THEREFORE BE IT ORDAINED by the Common Council for the City of Burlington, in the County of Burlington, State of New Jersey that it hereby amends and supplements Chapter 207 “LAND DEVELOPMENT”, Article VII. “Zoning”, Section 207-71 “General regulations.”, Subsection P “Cannabis industries” as follows:

SECTION 1. Chapter 207 “Land Development”, Article VII. “Zoning”, Section 207-71 “General regulations.”, Subsection P “Cannabis industries” shall be modified as follows:

(1) [No change]

(2) [No change]

(3) Unless otherwise authorized by the State of New Jersey pursuant to a license issued by the State of New Jersey based upon population and other state standards and requirements no more than three Class 5 cannabis retailers, one Class 1 cannabis cultivator facility, one Class 2 cannabis manufacturer/processor/packager, and two Class 3 cannabis wholesale distributors/transporters are to be licensed to operate within the City of Burlington.

(4) [No change]

(5) [No change]

(6) Performance standards.

(a) [No change]

(b) [No change]

(c) [No change]

(d) [No change]

(e) [No change]

(f) [No change]

[1] [No change]

[2] [No change]

[3] Letter or Resolution of Municipal Support of Cannabis License from the New Jersey Cannabis Regulatory Commission fee: \$500.

SECTION 2. Except as set forth in Section 1 above, the balance of Chapter 207 shall not be affected by this Ordinance.

SECTION 3. All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent they are inconsistent herewith.

SECTION 4. If the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph or subdivision, or clause of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon final passage and publication as required by law.

Upon the motion of Councilman Chachis, seconded by Councilman Smith, 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. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

ORDINANCE NO. 04-2023 TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Common Council of the City of Burlington in the County of Burlington finds it advisable and necessary to increase its CY 2023 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Common Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$ 163,319.27 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Common Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Common Council of the City of Burlington, in the County of Burlington, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2023 budget year, the final appropriations of the City of Burlington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$ 571,617.44, and that the CY 2023 municipal budget for the City of Burlington be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

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

Public Comments

None.

Council Comments

None.

This ordinance was then adopted by the following roll call vote: AYES: Ms. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (6); NAYS: Mr. Babula. (1); ABSTAIN: (0); ABSENT: (0).

RESOLUTIONS / CONSENT AGENDA RESOLUTIONS*

Resolution No. 74-2023 (TABLED 02/21/23)

RESOLUTION NO. 74-2023 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING CHANGE ORDER NO. 2 WITH JERRELL'S LANDSCAPES FOR THE ASSISCUNK CREEK LEVEE IMPROVEMENTS PROJECT – PHASE II

WHEREAS, the City of Burlington (the “City”) is organized as a Mayor-Council form of government pursuant to the Optional Municipal Charter Law, N.J.S.A. 40:69A; and

WHEREAS, it is the recommendation of City Engineer, Pennoni Associates, Inc., as per their letter dated January 26, 2023, that the Common Council of the City of Burlington authorize an amended agreement with Jerrell’s Landscapes in the form of Change Order No. 2, in connection with the Assiscunk Creek Levee Improvements Project – Phase II; and

WHEREAS, this Change Order No. 2 is a decrease in the amount of \$26,795.00, making a revised total contract amount of \$156,105.00.

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Burlington that the Mayor and Municipal Clerk are hereby authorized to execute a change order in a form acceptable to the City Solicitor, with Jerrell’s Landscapes for a decrease in the amount of \$26,795.00 in connection with the Assiscunk Creek Levee Improvements Project – Phase II.

Upon the motion of Councilman Roque, seconded by Councilman Smith, the foregoing resolution was REMOVED FROM THE TABLE by the following roll call vote: AYES: Mr. Babula, Ms. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

Upon the motion of Councilwoman Woodard, seconded by Councilman Smith, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

Resolution No. 83-2023

RESOLUTION NO. 83-2023 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING AN AGREEMENT WITH LIMBACH COMPANY LLC FOR HVAC INSPECTION SERVICES

WHEREAS, the City of Burlington (the “City”) is organized as a Mayor-Council form of government pursuant to the Optional Municipal Charter Law, N.J.S.A. 40:69A; and

WHEREAS, the City, pursuant to N.J.S.A. 40A:11-12(a) and N.J.A.C. 5:34-7.29(c), may by resolution and without advertising for bid proposals, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program for any contracts entered into on behalf of the State of New Jersey by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the City has the need for HVAC inspection services at the City Municipal Complex; and

WHEREAS, the City may enter into a contractual agreement with Limbach Company, LLC, a State Contract Vendor under State Contract #88689 in the amount of \$25,588.00 through this resolution and a properly executed contract, which shall be subject to all the conditions applicable to the current New Jersey Local Public State Contracts Law.

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Burlington authorizes the City Purchasing Agent to purchase HVAC inspection services from Limbach Company LLC through State Contract #88689 in the amount of \$25,588.00.

BE IT FURTHER RESOLVED, the City’s Chief Financial Officer has hereby certified to the availability of the funds.

BE IT FURTHER RESOLVED that the duration of the contract between the City of Burlington and Limbach Company, LLC shall be for the time period beginning upon execution of the contract and December 31, 2023 or until expiration of Limbach’s New Jersey State Contract, whichever shall occur first.

Upon the motion of Councilwoman Woodard, seconded by Councilman Roque, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

Resolution No. 84-2023

RESOLUTION AUTHORIZING TRANSFERS OF APPROPRIATION RESERVES

WHEREAS, various 2022 bills have been presented for payment this year, which bills were not covered by order number and/or recorded at the time of transfers between the 2022 Budget Appropriations in the last two months of 2022; and

WHEREAS, N.J.S. 40A:4-59 provides that all unexpended balances carried forward after the close of the year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allows transfers to be made from unexpended balances to appropriation reserves which are expected to be insufficient during the first three months of the succeeding year;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington that the transfer in the amount of \$15,000.00 be made between the 2022 Budget Appropriation Reserves as follows:

	<u>FROM</u>	<u>TO</u>
<u>Current Fund:</u>		
Administration:		
Other Expenses		\$ 10,000.00
Legal Services		\$ 5,000.00
Economic Development:		
Other Expenses	\$ 15,000.00	

Upon the motion of Councilwoman Woodard, seconded by Councilman Roque, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

Resolution No. 85-2023

RESOLUTION NO. 85-2023 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING AND APPROVING SETTLEMENT OF LEGAL PROCEEDING

WHEREAS, the City of Burlington (the “City”) is organized as a Mayor-Council form of government pursuant to the Optional Municipal Charter Law, N.J.S.A. 40:69A; and

WHEREAS, a lawsuit was filed in the Superior Court of New Jersey - Burlington County as City of Burlington v. Neighborhood Redevelopment Cooperative Solutions in the Superior Court of New Jersey, Burlington County Law Division, docketed as BUR-L-002379-20 (the “Legal Proceeding”) in relation to a contract for the redevelopment of the property located at 202 Barclay Street; and

WHEREAS, to avoid the uncertainty and expense of further litigation, the City and Neighborhood Redevelopment Cooperative have engaged in settlement negotiations; and

WHEREAS, as a result of those settlement negotiations, all controversies between the parties have been resolved such that the City will dismiss the Legal Proceeding.

WHEREAS, the City has determined that the negotiated settlement is in the best interests of the City.

WHEREAS, the parties agree to resolve the Legal Proceeding for no payment to resolve all claims relating to the Legal Proceeding, release the parties from any and all further rights or claims, and dismiss the Legal Proceeding with the understanding that by entering into the settlement neither party admits any liability and expressly denies it has committed any wrongdoing whatsoever.

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Burlington for the reasons set forth above that settlement of the Legal Proceeding is hereby authorized and approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to implement this Resolution and execute any documents necessary in connection therewith.

Upon the motion of Councilman Smith, seconded by Councilwoman Woodard, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

COUNCIL REPORTS

Councilman Smith, Land Use Board Representative & Historic Preservation Commission Liaison

Councilman Smith spoke of being a voting Member of the Land Use Board; the application process has recently been streamlined; lots of progress; spoke as a non-voting liaison to the Historic Preservation Commission; the Commission consists of Members and the HPC Consultant; the HPC is in need of a volunteer to fill a vacancy.

COUNCIL COMMENTS

Councilman Smith spoke highly of the Food Truck Tuesday's event; proposed the creation of an ordinance for open containers/alcohol on the promenade; announced the Clean-Up Day in town on April 8th.

Councilman Babula announced the passing of Board of Island Managers Member and Historian Michael Zalot.

Council President Hollingsworth spoke of March being Women's History Month; announce the birth of Councilman Roque's daughter, Amelia, on January 25, 2023.

RESOLUTION(S) FROM THE FLOOR

Resolution No. 86-2023

Whereas, the construction of the Homeland Security fence at City Hall eliminated East Federal Street's neighborhood overflow parking spaces; and

Whereas, the Common Council requests that the City Administration examine the feasibility of restoring the eliminated neighborhood overflow parking spaces by creating a parking lot the empty City owned lot located at East Federal Street and Lawrence Street also known as Block 137, Lot 31.

Now, Therefore Be It Resolved, that the City Administration examine the feasibility of creating a parking lot the empty City owned lot located at East Federal Street and Lawrence Street also known as Block 137, Lot 31 for overflow parking.

Upon the motion of Councilman Chachis, seconded by Councilwoman Woodard, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Bergner-Thompson, Mr. Chachis, Mr. Roque, Mr. Smith, Ms. Woodard, Ms. Hollingsworth. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

ADJOURNMENT

Upon the motion of Councilman Smith, seconded by Councilwoman Woodard, this meeting of March 7, 2023, was adjourned.

Cindy A. Crivaro, RMC
Municipal Clerk