

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, SEPTEMBER 1, 2009, 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 the left after exiting the Council Chamber and the other being the entrance to the building.

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

Also present: Business Administrator- Eric Berry, Municipal Attorney- Andrew Bayer.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on September 1, 2009 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**

Father Haynes of St. Mary's Episcopal Church

**SALUTE TO FLAG**

**UNFINISHED BUSINESS**

Councilwoman Hatala asked if the Police Department will be prepared for the 25 mph speed limit that will go into effect on Wednesday when school starts.

Mr. Berry stated that the police will be prepared.

**PUBLIC COMMENTS**

Col. Frank Caruso, 247 Elm Avenue- announced that the troops came back from Iraq; on September 19<sup>th</sup> at 2:00 there will be a parade; invited Council to take part in the procession.

Lovie Smith 218 E. Pearl Street- spoke of a car parked in a backyard located at Federal and York Streets; spoke of children in the streets and riding bikes without helmets; commended the City on grass cutting this summer; complained of weeds at the old water works; complained of tall grass on private properties.

President Ghaul asked the Administrator to look into a tree growing out of the top of the old water tower.

Teresa Branham, 106 Stacy Court- complained of grass not being cut at Stacy Court.

**CONSENT AGENDA**

Councilwoman Lollar, moved that all Consent Agenda items be approved. It was seconded by Councilman Epps. All were in favor.

**PETITIONS AND COMMUNICATIONS\***

Approved by Consent Agenda. All were in favor.

**CORRESPONDENCE FOR AUGUST 2009**

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

Reports from various departments received:

Monies collected by the Municipal Clerk's Office for the month of July 2009. \$ 4,005.00

Monies collected by the Court during the month of July 2009 . \$ 47,416.39

**AGENDAS RECEIVED FROM VARIOUS BOARDS**

08-01 Land Use Board, dated August 26, 2009

The following application(s) for parade permit(s) received and approved.

08-40 Slade Valentine Post, dated August 29, 2009

**CORRESPONDENCE TO AND FROM WITHIN THE CITY AND CITY ORGANIZATIONS:**

08-100 Walkable Community Workshop, WHY

08-101 Land Use Board Notice, Public Hearing

**CORRESPONDENCE TO AND FROM BURLINGTON COUNTY**

08-501 Burlington County Chamber of Commerce, dated August 7, 2009, Voice of Business

08-502 Burlington County NJLINC'S-HAN, to all Chain Members

08-503 Burlington County Chamber of Commerce, Main Street, Friday, September 11, 2009

08-504 Burlington County Animal Shelter, August 22, 2009, 10 to 3

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

08-600 NJLM, 2009 League Conference Resolution

08-601 NJLM, dated August 20, 2009, Educators Pandemic Influenza

**CORRESPONDENCE TO AND FROM THE STATE OF NEW JERSEY:**

08-700 New Jersey Local Governmental Units, dated August 10, 2009

08-701 State of New Jersey, dated August 22, 2009, Suspected Hazardous - 910 Wood Street

**MISCELLANEOUS CORRESPONDENCE:**

08-800 Ladies Night , Lilly Inn Bed and Breakfast  
08-801 Letter dated August 25, 2009 from Charlene M. Tinnick to Council  
08-802 NJ Transit, Notice of Availability

**APPROVAL OF INVOICES\***

Approved by Consent Agenda. All were in favor.

**APPROVAL OF MINUTES\***

Approved by Consent Agenda. All were in favor.

**ORDINANCE(S)- INTRODUCTION & FIRST READING**

AN ORDINANCE OF THE CITY OF BURLINGTON, AUTHORIZING THE VACATION OF AN ALLEY LOCATED WITHIN BLOCK 206, LOT 23 OF THE OFFICIAL TAX MAP OF THE CITY

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

AN ORDINANCE OF THE CITY OF BURLINGTON, AMENDING SECTION 3.20.100, ENTITLED “MUNICIPAL FEES” OF THE CODE OF THE CITY OF BURLINGTON TO ESTABLISH RENTAL RATES FOR LYCEUM HALL

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

AN ORDINANCE OF THE CITY OF BURLINGTON, AUTHORIZING THE ACQUISITION OF CERTAIN PROPERTY BY NEGOTIATED PURCHASE OR EMINENT DOMAIN LOCATED ON MECHANICS STREET, AS IDENTIFIED ON THE OFFICIAL TAX MAP OF THE CITY OF BURLINGTON AS BLOCK 138, LOT 37 - 44 AND LOT 57

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

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

**ORDINANCE NO. 15-2009 AMENDING SECTION 5.72 (ENTITLED SEXUALLY-ORIENTED BUSINESSES) OF THE BURLINGTON CITY CODE**

WHEREAS, on November 9, 2006, the Common Council of the City of Burlington adopted Ordinance 15-2006 regulating sexually-oriented businesses located within the City; and

WHEREAS, Ordinance 15-2006 (which was codified as Chapter 5.72 of the City Code)

provided that its licensing and regulatory provisions would become effective as to existing businesses one hundred eighty (180) days from the enactment of the ordinance (i.e. by June 6, 2007); and

WHEREAS, prior to the effective date of Ordinance 15-2006 as to existing businesses, Mattlind Inc., a New Jersey corporation doing business as Playhouse which operates a sexually-oriented business located within Burlington City, filed litigation entitled Matlind, Inc. et. al. v. City of Burlington, Docket No. BUR-L-1257-07 challenging the constitutionality of Ordinance 15-2006 (the “Litigation”); and

WHEREAS, the City agreed to stay the effective date of Ordinance 15-2006 as it related to the business operated by Mattlind, Inc. d/b/a Playhouse until the Litigation was finally resolved; and

WHEREAS, the City has re-examined the provisions of Ordinance 15-2006 (as codified in Chapter 5.72 of the City Code) and has determined that it is appropriate to amend some of these provisions in the manner set forth herein; and

WHEREAS, Mattlind d/b/a Playhouse has agreed that if Ordinance 15-2006 (as codified in Chapter 5.72 of the City Code) is amended in the manner set forth herein, it will dismiss the Litigation and release its claims against the City.

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 Section 5.72 (Sexually-Oriented Businesses) of the City Code is hereby deleted in its entirety and is replaced by the following revised Section 5.72 (Sexually-Oriented Businesses):

#### Chapter 5.72

#### SEXUALLY-ORIENTED BUSINESSES

##### Sections:

- 5.72.10 Purpose.
- 5.72.20 Definitions.
- 5.72.30 General regulations.
- 5.72.40 Applications for a license.
- 5.72.50 Issuance and/or renewal of a license.
- 5.72.60 Suspension of license.
- 5.72.70 Revocation of a license.
- 5.72.80 Notices.
- 5.72.90 Inspection.
- 5.72.100 Location of sexually-oriented businesses.
- 5.72.110 Additional regulations for escort agencies.
- 5.72.120 Additional regulations for nude model studios.
- 5.72.130 Additional regulations for adult theaters and/or adult motion picture theaters.

- 5.72.140 Additional regulations for adult motels.
- 5.72.150 Additional regulations for businesses offering massages and similar sexual encounter centers.
- 5.72.160 Penalty.
- 5.72.170 Severability.
- 5.72.180 Effective date.

5.72.010 Purpose.

A. The purpose and intent of this Chapter is to license and regulate sexually-oriented businesses to promote the health, safety, and general welfare of the citizens of the City of Burlington, as well as the patrons of such businesses, and to establish reasonable and uniform regulations to prevent the concentration of sexually-oriented businesses within the City of Burlington.

B. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative material or speech activity, including sexually-oriented materials or expressive speech activity.

C. The provisions of this Chapter have neither the purpose nor effect of restricting or denying access by adults to sexually-oriented materials or activity protected by the First Amendment, nor of denying access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.

D. It is not the purpose and intent of this Chapter to sanction any act or omission that constitutes a violation of any other provision of the Burlington City Code.

5.72.20 Definitions.

As used in this chapter:

“Adult arcade” means any place to which the public is permitted or invited wherein coin operated or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at one time where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

“Adult bookstore” and/or “adult video store” means a commercial establishment that has as one of its principal business purposes to offer for sale or rental for any form of consideration any one or more of the following: (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas;” and/or (2) instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”

“Adult entertainment establishment” means a nightclub, bar, massage or similar establishment, restaurant, or similar place of business or portion thereof which features: persons who appear in a state of nudity or semi- nude state; or live performances

characterized by the exposure of “specified anatomical areas” or by “specified sexual activities;” or films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

“Adult motel” means a hotel, motel, or similar commercial establishment that offers accommodations to the public for any form of consideration that: (1) provides patrons with closed-circuit television, transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;” and/or (2) which has a sign visible from a public right-of-way that advertises the availability of this type of photographic reproductions; and/or (3) offers a sleeping room for rent for a period of time that is less than ten (10) hours; and/or (4) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

“Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

“Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment that regularly features (1) persons who appear in a state of nudity or semi-nudity and/or (2) live performances that are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

“Applicant” means a person who must apply for a license as required by this chapter.

“Child care facility” means a building used as a day nursery, children’s boarding home, child placing agency, or other place for the care or custody of children under fifteen years of age.

“Church or place of religious worship” means a building in which persons regularly assemble for worship, intended primarily for purposes connected with faith, or for propagating a particular form of belief.

“Display” means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment, it is available to the public for handling.

“Display” includes when the cover or outside packaging on the item is visible to members of the public.

“Escort” means a person who, for consideration, agrees, offers to act as a companion, guide, or date for another person, or who agrees, or offers to privately model lingerie or to privately perform a striptease for another person.

“Escort agency” means a business association which furnishes, offers to furnish, or

advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

“Establishment” includes any of the following: the opening or commencement of any sexually-oriented business as a new business; the conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business; the addition of any sexually-oriented business to any other existing sexually-oriented business; and/or the relocation of any sexually-oriented business.

“House of prostitution” is any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management, or supervision of another as defined under N.J.S.A. 2C:34-1.

“License” shall mean a license issued to a person under this Chapter to operate a sexually-oriented business.

“Licensee” means the person or entity in whose name a license to operate a sexually-oriented business under this Chapter has been issued and, in the case of an entity, shall include all persons holding a 10% or greater interest in the entity applying for the license and/or operating the sexually-oriented business.

“Municipal clerk” means the municipal clerk of the City of Burlington.

“Nude model studio” means any place where a person who appears in a state of nudity or semi-nudity or who displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

“Nudity, semi-nude or a state of nudity” means the appearance of bare human buttocks, anus, male genitals, female genitals, pubic region or female breasts, or a state of dress that fails to opaquely cover human buttocks, anus, male genitals, female genitals, pubic region, or areolas of the female breast.

“Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

“Place of business” shall mean and/or includes any store, house, shop, tavern, bar, massage or similar establishment, restaurant, pool hall, bowling alley, amusement parlor, ice skating rink, theater, or premises wherein merchandise, food or drink is sold, or any combination or group of the foregoing, in which business is maintained within one building or structure open to the public.

“Police” means duly sworn law enforcement officers of this City, of the State of New Jersey, or of any governmental entity having jurisdiction.

“Prostitution” is sexual activity with another person in exchange for something of economic value, or the offer or acceptance of an offer made within view of a public place to engage in sexual activity in exchange for something of economic value.

“Public park” means a tract of land maintained by the federal, state, or local government for the recreation and/or enjoyment of the public.

“Residential district” means a single family, duplex, townhouse, multiple family, or mobile home district.

“Residential use” means a single family, duplex, multiple family, mobile home park, mobile home subdivision, and/or campground used as a residence.

“Sexual encounter center” means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration, massage, wrestling, tumbling and/or sexual activities when one or more of the persons are nude or semi-nude.

“Sexually-oriented business” means an adult arcade, adult bookstore, or adult video store, adult entertainment establishment, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, and/or sexual encounter center.

“Specified anatomical areas” shall have the same meaning as that term is defined in N.J.S.A. 2C:34-6(a)(2).

“Specified sexual activities” means and/or includes any of the acts listed as sexual activity in N.J.S.A. 2C:34-6(a)(2) and includes, without limitation, sexual intercourse, including genital-genital, oral-genital, anal-genital, and/or oral-anal conduct, whether between persons of the same or opposite sex; masturbation; touching of the genitals, buttocks, or female breasts; sadistic or masochistic abuse; and/or other deviant sexual relations.

“Transfer of ownership or control” of a sexually-oriented business means and includes any of the following: the sale, lease, or sublease of the business as a whole; the transfer of securities in a corporation or membership interests in an LLC or partnership that constitute more than a ten percent (10%) interest in the business, whether by sale, exchange, or similar means; and/or the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.

5.72.030 General regulations.

- A. License Displayed. The license when issued shall be posted and conspicuously displayed at or near the entrance to the sexually-oriented business so that it may be easily read at any time. The license shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business.
- B. Trash. All trash, refuse, articles, or any matter arising from sexually-oriented

materials to be disposed of shall be shredded, cut, or rendered in such a fashion so that the remains are not readable, legible, or discernible.

C. Signs. The sign requirements for any sexually-oriented business shall be the same as the sign requirements for other businesses located in said zone and in no event shall be more restrictive than for any such business allowed in such zone except as set forth herein.

1. No sexually-oriented business shall display more than two (2) exterior signs, consisting of one identification sign and one sign giving notice that the premises are off limits to minors.

2. Identification signs shall be no more than forty (40) square feet in size. Said identification sign shall be wall mounted. The sign shall be limited to lettering indicating the name and address of the facility only. Said sign shall be applied flat against the wall and shall not project beyond the side or top of the wall to which it is affixed, nor shall any signs described herein project more than fourteen (14) inches from the front of the wall to which they are attached. All flashing, moving, intermittently moving and/or illuminated signs, reflecting signs, luminous signs, and/or advertising devices shall be prohibited; however, backlighting of the principal sign may be permitted. No temporary signs made of paper, cardboard, canvas or other similar materials, banners, etc., are permitted. No signs or billboards shall be placed on the roof of any building housing or used as an accessory building to any sexually-oriented business. No off-premises signs of any kind shall be permitted. The provisions of this paragraph shall not apply to any sign which has been lawfully erected at a sexually-oriented business prior to the effective date of N.J.S.A. 2C:34-7.

3. Signs regarding display of sexually explicit material to minors. A person commits an offense if, in a sexually-oriented business establishment open to persons under the age of eighteen (18) years, he or she permits obscene material to be displayed or disseminated to persons under the age of eighteen (18) years pursuant to N.J.S.A. 2C:34-3 et seq. Display or permit to be displayed means at a height of less than five (5) feet or without a blinder or other covering placed or printed on the front of the material displayed. Pursuant to N.J.S.A. 2C:34-3.2, public display of the obscene material shall constitute presumptive evidence that the retailer knowingly made or permitted the display.

D. Licenses Not Transferable. The license to operate a sexually-oriented business shall not be transferable from person-to-person or from place-to-place. Any transfer of ownership or control of a sexually-oriented business licensed under this Chapter shall result in the automatic termination of its existing license and shall trigger an obligation on the part of the sexually-oriented business to apply for a new license under this Chapter; provided, however, that (i) in the event of a transfer in the ownership or control of a sexually-oriented business due to the death of any of the persons owning or controlling the sexually-oriented business, the sexually-oriented business may continue to operate under its old license for a period of up to sixty (60) days from the date of the death of the person holding an ownership or controlling interest in the sexually-oriented business, but must obtain a new license under this Chapter by the expiration of that sixty

(60) day period, and (ii) in the event of a transfer in the ownership or control of a sexually-oriented business for any reason other than the death of any of the persons owning or controlling the sexually-oriented business, the prospective purchaser of an ownership or controlling interest in the sexually-oriented business may apply for the license prior to acquiring such interest in order to avoid the closure of the sexually-oriented business while the licensure application is pending.

E. Other Licenses. The fact that a person possesses any other valid license required by law does not exempt him from the requirement of obtaining a sexually-oriented business license. A person who operates a sexually-oriented business and possesses an alcoholic beverage license shall comply with the requirements and provisions of this Chapter as well as the requirements and provisions of the laws concerning any other licenses.

F. Interior Layout Requirements.

1. The interior of all sexually-oriented businesses shall be configured in such a manner such that all patrons present within a sexually-oriented business are capable of being monitored by at least one employee of the sexually-oriented business and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Chapter. It shall be the duty of the owners and/or operator, and it shall also be the duty of any agents and/or employees present in the premises, to monitor patrons of the sexually-oriented business to ensure that patrons do not gain access to any area of the premises which has been designated as an area in which patrons will not be permitted and to ensure that patrons do not engage in any activities which violate applicable law or the provisions of this Chapter.

2. Restrooms may not contain video reproduction equipment or otherwise serve as viewing areas for patrons.

3. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access. It shall be the duty of the owners and/or operator, and it shall also be the duty of any agents and/or employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

4. For the prevention of the spread of sexually transmitted disease, no walls, partitions between subdivisions of a room, portion, or part of a building, structure, or premises may have an aperture that permits, or is designed or otherwise constructed to encourage or permit sexual activity between persons on either side of the partition.

5. All booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment shall:

a. have at least one side open to an adjacent public space or shall have the bottom fourteen (14) inches removed from any door between the booths, stalls, partitioned portions of a room, or individual rooms and the public space;

b. shall be monitored by at least one (1) employee either physically present outside the room or through the use of a security camera to confirm that no specified sexual activities are occurring within such booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment; and

c. shall be illuminated in such a manner that the area inside is visible to a person with ordinary vision in the adjacent public space. Such lighting need not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment. Notwithstanding the foregoing, translucent doors or curtains or such other doors or curtains which provide patrons with a modicum of privacy, but also permit the monitoring employee or any other person present in the adjacent public space to observe inside the room to confirm that no specified sexual activities are occurring, may be installed.

G. Compliance with Codes. All buildings used by a sexually-oriented business or as an accessory use with sexually-oriented businesses shall meet all applicable safety standards of the City of Burlington and the State of New Jersey, including but not limited to the Uniform Construction Code, and all property maintenance ordinances and codes adopted and/or currently in effect in the City of Burlington; provided, however, that non-compliance with this section shall not be a basis for the suspension of a license unless the licensee has been provided with written notice of such non-compliance and a right to cure and has failed to cure such non-compliance within thirty (30) days of its receipt of the written notice.

5.72.040 Applications for a license.

A. All sexually-oriented businesses are required to be licensed in order to operate within the City of Burlington. All licenses for the operation of a sexually-oriented business shall be granted by the Common Council and issued by the City of Burlington Clerk. An application for a sexually-oriented business license must be made on a form provided by the Municipal Clerk.

B. All employees of a sexually-oriented business are required to be listed on the application form, delineating each person's age and social security number. All employees must be at least eighteen (18) years of age. No person may work for any sexually-oriented business without having on his or her person, at all times while at work, an appropriate identification card establishing his or her age satisfactorily to the City of Burlington.

C. The annual fee for a sexually-oriented business license shall be one thousand dollars (\$1,000.00) to be submitted with the application.

D. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business.

E. If the person who wishes to operate a sexually-oriented business is an individual, he or she must sign the application for a license as applicant. If a person who wishes to operate a sexually-oriented business is a partnership, the partners' names must be listed on the application. If the applicant is a corporation, limited liability company, limited

partnership or any other business entity requiring registration with the State of New Jersey under applicable law, the name of the corporation or other business entity and the name and address of the registered agent, the names of each shareholder, member or other owner of the corporation holding at least a ten percent (10%) interest in the equity of such entity, and the name and address of the person or persons who are or will be primarily responsible for the management and/or operation of the sexually-oriented business must be listed on the application.

5.72.050 Issuance and/or renewal of a license.

A. The license shall be issued, renewed, and/or reissued annually effective January 1 of each year after payment of the required fees and submission of the application form to the Municipal Clerk and shall expire on December 31st of the year of issuance; provided, however, that the transfer of an ownership or controlling interest in a sexually-oriented business shall result in the automatic termination of its existing license and shall trigger an obligation on the part of the sexually-oriented business to apply for a new license as set forth within Section 5.72.040 of this Chapter. Upon receipt of payment of the required fees and submission of the completed application form, the Municipal Clerk shall forward copies of all documentation to each member of Common Council for review.

B. A license shall be deemed approved, issued and/or renewed by Common Council, and the Municipal Clerk shall issue same on the 35th day after the complete application is received by the clerk, or such longer time as may be mutually agreed upon between the City and the Applicant, unless the Common Council reports that it finds one or more of the following to be true:

1. The application is materially incomplete or the license fee required by this Chapter has not been paid.
2. Any applicant or employee is less than eighteen (18) years of age.
3. An applicant is overdue in payment of fees, fines, or penalties assessed against him or imposed upon him in relation to a sexually-oriented business, unless the applicant is challenging the imposition of such fees, fines, or penalties through an administrative or judicial proceeding.
4. An applicant has failed to provide information reasonably necessary for issuance of the license.
5. An applicant has falsely answered a material question or request for information on the application form.
6. An applicant and/or any owner or officer of the applicant and/or any of the individuals identified as a person responsible for the management or operation of the business has been convicted of a violation of a provision of this Chapter within two (2) years immediately preceding the application.
7. The premises to be used for the sexually-oriented business have been inspected by the Police, Zoning Officer, and/or the Building/Construction Code Inspector and have been found to be non-compliant with the requirements of this Chapter and/or with any other applicable laws, ordinances and/or regulations and the applicant has failed to cure such non-compliance within thirty (30) days of its receipt of written notification thereof; provided, however, that if an applicant's license is due to expire during the thirty (30) day period of time allotted for an

applicant to cure non-compliance with the requirements of this Chapter and/or with any other applicable laws, ordinances and/or regulations, the applicant's license shall be automatically extended for the length of the cure period and until such time thereafter that the Common Council rules upon the applicant's license application. Nothing herein shall prevent an applicant from curing any non-compliance with the provisions of this Chapter and/or with any other applicable laws, ordinances and/or regulations at a later date and from then filing a new application for a license under this Chapter.

8. The premises have been inspected by the fire subcode official and/or the County Fire Marshall and have been found to be non-compliant with applicable fire prevention and/or fire safety standards and the applicant has failed to cure such non-compliance within thirty (30) days of its receipt of written notification thereof; provided, however, that if an applicant's license is due to expire during the thirty (30) day period of time allotted for an applicant to cure non-compliance with the requirements of this Chapter and/or with any other applicable laws, ordinances and/or regulations, the applicant's license shall be automatically extended for the length of the cure period and until such time thereafter that the Common Council rules upon the applicant's license application. Nothing herein shall prevent an applicant from curing any non-compliance with the provisions of this Chapter and/or with any other applicable laws, ordinances and/or regulations at a later date and from then filing a new application for a license under this Chapter.

9. An applicant and/or any owner or officer of the applicant and/or any of the individuals identified as a person responsible for the management or operation of the business has been convicted of any of the following offenses as described in N.J.S.A. 2C:34-1 and/or 2C:34-2: prostitution; promotion of prostitution; aggravated promotion of prostitution; compelling prostitution; obscenity; sale, distribution, or display of harmful material to minor; sexual performance by a child; possession of child pornography; and/or criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses.

In all such cases, the Common Council shall notify the Municipal Clerk that the application has been denied, and the Municipal Clerk shall so advise the applicant in writing.

C. All applications for renewal of a sexually-oriented business license shall be filed with the municipal clerk not less than sixty (60) nor more than ninety (90) days prior to the expiration of the licensee's current license.

5.72.060 Suspension of license.

A. The Common Council shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee has:

1. Failed to comply with any portion of this Chapter; and/or
2. Knowingly permitted the rules and regulations of the New Jersey Division of Alcoholic Beverage Control to be violated while on the sexually-oriented business; and/or
3. Refused to allow an inspection of the sexually-oriented business premises

as authorized by Section 5.72.090 of this Chapter.

B. The Common Council shall have the power to suspend or revoke any license if and when the licensee:

1. Is convicted of any of the following offenses as described in N.J.S.A. 2C:34-1 and/or 2C:34-2: prostitution; promotion of prostitution; aggravated promotion of prostitution; compelling prostitution; obscenity; sale, distribution, or display of harmful material to minor; sexual performance by a child; possession of child pornography; and/or criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or

2. When the licensee violates any other ordinance, law, or regulation pertaining to the operation of a sexually-oriented business, or violates the provisions of this Chapter, and has been provided with written notice thereof and a right to cure and has failed to cure such violation within thirty (30) days of its receipt of such written notice.

C. Upon expiration of the period of suspension under this section, operation of the sexually-oriented business may resume without the necessity of obtaining additional approval of Common Council.

5.72.070 Revocation of a license.

A. Common Council shall revoke a license if it determines that:

1. Cause for suspension continues to exist for more than thirty (30) days from the license suspension date without remediation of the cause of suspension; and/or

2. A licensee gave materially false or misleading information in the documents submitted to the Common Council during the application process; and/or

3. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises of the sexually-oriented business; and/or

4. A licensee has knowingly allowed prostitution on the premises of the sexually-oriented business; and/or

5. A licensee has knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended; and/or

6. A licensee has been convicted of an offense listed in Section 5.72.050 (B)(9) of this Chapter and the licensee convicted of such offense has not divested himself of an ownership or controlling interest in the sexually-oriented business within sixty (60) days of such conviction; and/or

7. An employee or agent of the licensee has been convicted of an offense listed in Section 5.72.050(B)(9) of this Chapter and the licensee has not terminated the employment of such employee or agent within sixty (60) days of the date that the licensee is notified of such conviction; and/or

8. A licensee or an employee or agent thereof has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual activity to occur in or on the licensed premises. This subsection does not apply to adult motels as a ground for revoking the license unless the licensee or employee

knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

B. The fact that a conviction of an offense listed in Section 5.72.050(B)(9) of this Chapter is being appealed shall have no effect on the revocation of the license.

5.72.80 Notices.

A. If Common Council shall have reason to believe that there are grounds upon which to deny an application for a license or to suspend or revoke any such license, it shall cause a notice to be served in writing upon the licensee, the person in charge of the licensed premises, or the agent thereof, requiring an appearance before Common Council of the City of Burlington at such time and/or place as it shall designate, to show cause why the license should not be suspended or revoked.

B. The licensee shall be afforded a hearing before the Common Council prior to the suspension or revocation of his license.

C. Notice of the hearing is to be served at least ten (10) days prior to the date set for a hearing.

D. Service by regular and certified mail upon the address listed in the application shall be deemed valid and received as of three days from the date indicated thereon.

E. Violations of any provision of this Chapter are also subject to the jurisdiction of the City of Burlington Municipal Court, and/or all other such courts and tribunals that may assert jurisdiction.

5.72.090 Inspection.

A. An applicant or licensee shall permit representatives of the City of Burlington's zoning department, code enforcement department, building/construction department, police department and/or fire department to inspect the premises of a sexually-oriented business solely to ensure compliance with this Chapter at any time it is open for business; provided, however, that such representatives shall not inspect dressing rooms or bathrooms in the sexually-oriented business unless such dressing rooms or bathrooms are unoccupied or unless there is probable cause under applicable New Jersey law for the inspection of occupied dressing rooms or bathrooms.

B. A person who operates a sexually-oriented business or his or her agent or employee commits an offense if he or she refuses to permit a lawful inspection of the premises in accordance with Section 5.72.090 of this Chapter at any time it is occupied or open for business.

C. The provisions of Section 5.72.090 of this Chapter do not apply to areas of an adult motel that are currently being rented by a customer for use as a permanent or temporary habitation.

5.72.100 Location of sexually-oriented businesses.

A. A person commits an offense if he or she operates or causes to be operated a sexually-oriented business within one thousand (1,000) feet of: (1) a church or place of religious worship; (2) a public or private elementary or secondary school; (3) a childcare facility; (4) a public park; and/or (5) another sexually-oriented business.

1. For the purposes of this Chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually-oriented business is conducted, to the nearest property line of the premises of a church or place of religious worship, childcare facility or public or private elementary or secondary school or other sexually-oriented business, or to the nearest boundary of an affected public park, residential district, or residential lot.

2. Any sexually-oriented business lawfully operating on the effective date of this Chapter that would otherwise be in violation of this Article shall be deemed to be a nonconforming use and shall be permitted to continue unless the nonconforming use is abandoned, destroyed, or expanded (as such terms are interpreted by applicable New Jersey law).

3. Any sexually-oriented business that is lawfully operating at a particular site prior to the location of a church or place of religious worship, a public or private elementary or secondary school, a childcare facility, a public park, or another sexually-oriented business within one thousand (1,000) feet of that site may continue to operate at that site so long as it is licensed under this Chapter to do so; provided, however, that if the licensed sexually-oriented business is abandoned, destroyed, or expanded (as such terms are interpreted by applicable New Jersey law), then it will be treated as a non-conforming use and shall not be entitled to further licensure at that location.

B. The Zoning Officer must approve or disapprove all location requirements of this Chapter within thirty (30) days from the time that the application is filed.

C. Buffer zone. Every sexually-oriented business shall have a buffer zone as set forth by the Planning Board of the City of Burlington at least fifty (50) feet in width with plantings, fence, or other physical divider along the outside of the perimeter sufficient to impede the view of the interior of the premises in which the business is located. This subsection shall not apply to any sexually-oriented business lawfully operating as of the date of the adoption of this Chapter.

D. Parking. Parking shall be provided pursuant to the municipal land use ordinances of the City of Burlington and/or at a minimum shall have one parking space for each seat located in any sexually-oriented business plus one parking space for each employee working at any one time therein. Further, any sexually-oriented business shall be required to provide all handicap parking spaces as required by law. All of the requirements of the municipal land use ordinances of the City of Burlington regarding parking shall be applicable as the same are applicable in the zone where any said sexually-oriented business will be located. This subsection shall not apply to any sexually-oriented business lawfully operating as of the date of the adoption of this Chapter.

E. Off-site improvements. All off-site improvements such as curbs, gutters, sidewalks, driveways and/or streets shall be as provided in the municipal land use ordinances and/or other ordinances governing the City of Burlington.

F. Bulk requirements. The bulk requirements for any sexually-oriented business shall be the same as bulk requirements for businesses of a similar nature located in said zone and in no event shall be more restrictive than the most restrictive setbacks for any

such businesses allowed in said zones, including minimum site size, lot coverage, building height, front yard setback, side yard setback and/or rear yard setbacks.

5.72.110 Additional regulations for escort agencies.

- A. An escort agency shall not employ any person under the age of eighteen (18) years.
- B. A person commits an offense if he or she acts or agrees to act as an escort for any person under the age of eighteen (18) years.

5.72.120 Additional regulations for nude model studios.

- A. A nude model studio shall not employ any person under the age of eighteen (18) years.
- B. A person under the age of eighteen (18) years commits an offense if he or she appears in a state of nudity or semi-nudity in or on the premises of a nude model studio.
- C. A person commits an offense if he or she appears in a state of nudity or semi-nudity or knowingly allows another to appear in a state of nudity or semi-nudity in an area of a nude model studio premises that can be viewed from the public right of way.
- D. A nude model studio shall not place or permit a bed, sofa, or mattress in any room of the premises, except that a sofa may be placed in a reception room open to the public.

5.72.130 Additional regulations for adult theaters and/or adult motion picture theaters.

- A. A person commits an offense if he or she knowingly allows a person under the age of eighteen (18) years to appear in or on the premises of an adult theater or adult motion picture theater.
- B. A person under the age of eighteen (18) years commits an offense if he or she knowingly appears in or on the premises of an adult theater or adult motion picture theater.

5.72.140 Additional regulations for adult motels.

- A. Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and/or vacated two or more times in a period that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as defined in this Chapter.
- B. A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually-oriented business license, he or she rents or sub-rents the same sleeping room within ten (10) hours from the time the room was first rented. For purposes of Article XIV, rent and/or sub-rent mean the act of permitting a room to be occupied for any form of consideration.

5.72.150 Additional regulations for businesses offering massages and similar sexual encounter centers.

- A. Any business that offers a massage to any person is presumptively a sexual encounter center and/or sexually-oriented business governed by this Chapter, unless the

business rebuts the presumption by presenting to Common Council proof that the establishment is operated in accordance with the "Massage, Bodywork and Somatic Therapist Certification Act, " N.J.S.A. 45:11-53 et seq., or is otherwise authorized by statute.

B. Any person who knowingly conducts or maintains any premises, place, massage parlor, sexual encounter center, and/or resort as a house of prostitution, and/or as a place where obscene material, as defined in N.J.S.A. 2C:34-2 and N.J.S.A. 2C:34-3, is sold, photographed, manufactured, exhibited, or otherwise prepared or shown, in violation of N.J.S.A. 2C:34-2, N.J.S.A. 2C:34-3, and N.J.S.A. 2C:34-4 shall be in violation of this Chapter.

C. A massage or similar establishment shall not employ any person under the age of eighteen (18) years.

D. A person commits an offense if he or she performs or offers to perform a massage for any person under the age of eighteen (18) years unless the establishment is duly licensed by the State of New Jersey for such purposes.

5.72.160 Penalty.

A. For a violation of any provision of this Chapter, the maximum penalty, upon conviction, shall be a fine not exceeding the amount authorized in N.J.S.A. 40:49-5, imprisonment for a term not exceeding the term authorized in N.J.S.A. 40:49-5, and/or a period of community service not exceeding the period authorized in N.J.S.A. 40:49-5, or such combination of punishments as the Judge may, in his or her discretion, deem appropriate and/or just.

B. Separate violations. Each day in which a violation of any provision of this Chapter occurs or exists shall constitute a separate violation of this Chapter. Each violation of this Chapter that can be deemed severable from any other violation shall be deemed a separate violation.

C. Any building code or zoning officer and/or any law enforcement officers of the City of Burlington and/or State of New Jersey shall enforce this Chapter.

5.72.170 Severability.

A. In the event any Section or part of this Chapter shall be declared to be unconstitutional, invalid, or inoperative, in whole or in part, by a Court of competent jurisdiction, said Section or part shall, to the extent that it is unconstitutional, invalid, or inoperative, be of no force and effect, but no such determination shall be deemed to invalidate or affect the remaining Sections or parts of this Chapter or the Chapter as a whole.

B. All other Sections of the Ordinances of the City of Burlington, to the extent the same are not inconsistent with this Chapter, shall remain unchanged and in full force and effect until modified or repealed pursuant to law.

C. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

5.72.180 Effective date.

A. This Chapter shall take effect immediately upon final passage and/or publication as provided by law, and/or the approval of the State of New Jersey, Division of Alcoholic Beverage Control, where applicable.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

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

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

Public Comments

None.

Council Comments

None.

The ordinance was then adopted by the following roll call vote: AYES: Mr. Babula, Mr. Epps, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard, Mr. Ghaul.(7) NAYS: (0); Absent: (0)

**RESOLUTIONS / CONSENT AGENDA RESOLUTIONS\***

Resolution No. 195-2009\*

Common Council of the City of Burlington, hereby authorizes the Municipal Clerk or Deputy Municipal Clerk to conduct a Public Auction of impounded and abandoned bicycles on Saturday, September 26, 2009, at 8:00 AM, at Mitchell Avenue, Burlington, N.J., Rain or Shine.

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

Resolution No. 196-2009\*

Common Council of the City of Burlington, hereby authorizes the Municipal Clerk to issue a Mercantile License to Anthony Griffin, 34 Hackemore Street, Burlington, N.J. to operate a business at 350 High Street, t/a “Geneva’s.”

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

Resolution No. 197-2009\*

Common Council of the City of Burlington, hereby authorizes the Municipal Clerk to issue a Mercantile License to Sterick Ivey, 120 Drift Avenue, Burlington, N.J. to operate a business at 818 High Street, t/a "I & D Quick Mart."

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

Resolution No. 198-2009\*

A RESOLUTION OF CITY OF BURLINGTON APPOINTING MEMBERS OF THE SELECTION COMMITTEE FOR THE SELECTION OF NEW BATTALION CHIEFS PURSUANT TO MUNICIPAL CODE SECTION §2.28.220

WHEREAS, the term of office for current Battalion Chiefs of the City of Burlington Fire Department expires on December 31, 2009; and

WHEREAS, pursuant to Section 2.28.220 of the Municipal Code, Common Council will appoint a five member Selection committee not later than October 1, 2009; and

WHEREAS the Section Committee must consist of: two (2) former chiefs of the City of Burlington Fire Department; one (1) Chief Officer from another Fire Department; one (1) Civilian with management experience; and one (1) member of Common Council; and

Now, Therefore Be It Resolved by the Common Council of the City of Burlington that the following persons are hereby appointed to the Selection Committee for the selection of new Battalion Chiefs for the City of Burlington Fire Department:

Lee Daneker and Howard Wilkins as former Burlington City Fire Department chiefs;  
John Colucci, Deputy Chief of the Mt. Laurel Fire department as an outside fire chief;  
Claudine Conaway as the civil member; and  
Council Member Suzanne Woodard

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

Resolution No. 199-2009\*

Common Council of the City of Burlington, hereby authorizes the temporary closure of Tyler Street on Sunday, September 27, 2009 from 7:00 am to 11:30 am.

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

Resolution No. 200-2009\*

WHEREAS, the parcel identified herein was granted exempt status.

WHEREAS, an overpayment of the 2009 property taxes has occurred.

Resolved that the Common Council of the City of Burlington authorizes the Chief Financial Officer to issue checks for overpayment of 2009 taxes as follows:

<u>BLOCK</u>	<u>LOT</u>	<u>PROPERTY OWNER MAILING ADDRESS</u>	<u>AMOUNT</u>
137	46	The Salt & Light Company	
(10 E Federal St.)		P. O. Box 249 Mount Holly, NJ 08060	\$ 1,026.08

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

Resolution No. 201-2009\*

WHEREAS, the following parcels were acquired by the City of Burlington during the 2009 tax year; and

WHEREAS, as a political subdivision of the State of New Jersey, the City of Burlington is not subject to taxation.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington that the following 2009 taxes and any interest thereon are hereby cancelled in accordance with N.J.S.A. 54:4-3.3 laws of the State of New Jersey as follows:-

BLOCK	139	BLOCK	150
LOT	30	LOT	9
TAXES	\$ 1,588.32 plus Interest	TAXES	\$ 1,755.02

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

Resolution No. 202-2009

AMENDING THE CAPITAL BUDGET FOR 2009

WHEREAS, the City of Burlington, County of Burlington desires to amend the 2009 Capital Budget by inserting thereon or correcting the items therein as shown in such budget for the following reasons:

Changing the Estimated Cost for “Acquisition of Fire Police Van” from \$25,000 to \$26,000 based on estimates received and funding the total cost of \$26,000 from the Capital Improvement Fund.

NOW, THEREFORE, BE IT RESOLVED, by the City of Burlington, County of Burlington that the Capital Budget of the year 2009 is hereby amended as per the attached sheets 40b, 40c and 40d.

Upon motion of Councilman Epps, seconded by Councilwoman Woodard, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Epps, Ms. Hatala, Ms. Woodard, Mr. Ghaul. (4) NAYS: Ms. Lollar, Ms. Mercuri. (2); Absent: Mr. Babula. (1)

Resolution No. 203-2009

EMERGENCY RESOLUTION N.J.S. 40A:4-48

WHEREAS, an emergency has arisen with respect to funding housing code enforcement for emergency demolitions and emergency repairs to homes effecting the health and safety of the residents of the City, and no adequate provision was made in the 2009 budget for the aforesaid purpose, and N.J.S. 40A:4-46 provides for the creation of an emergency appropriation for the purpose above-mentioned, and

WHEREAS, the amount of emergency appropriation created including the appropriation to be created by this resolution is \$37,000.00 and three percent of the total operating appropriations in the budget for the year 2008 is \$367,500.54, and

WHEREAS, the foregoing appropriation together with prior appropriations does not exceed three percent of the total operating appropriations (including utility operation appropriations) in the budget for 2009,

NOW, THEREFORE, BE IT RESOLVED (not less than two-thirds of all governing body members affirmatively concurring) that in accordance with N.J.S. 40A:4-48:

1. Emergency appropriations be and the same are hereby made for:

Housing Code Inspections-Other Expenses	\$37,000.00
---	-------------

2. That said emergency appropriation shall be provided for in full in the 2010 Budget, and is requested to be excluded from CAPS, pursuant to NJS 40A:4-45.3.c(1).
3. That two (2) certified copies of this resolution be filed with the Director of the Division of Local Government Services within five (5) days of adoption.

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

Resolution No. 204-2009

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE STATE OF NEW JERSEY FOR THE INSTALLATION OF A FLASHING BEACON AT THE INTERSECTION OF ROUTE US 130 NB (M.P. 45.88) AND ROUTE US 130 SB (M.P. 46.67)

WHEREAS, a traffic condition exists at the intersection of Route U.S. 130 NB (M.P. 45.88) and U.S. 130 SB (M.P. 46.67), in the City of Burlington, in the County of Burlington, which required the installation and operation of a flashing beacon; and

WHEREAS, it is necessary to expedite the safe movement of vehicular traffic; and

WHEREAS, the State of New Jersey has indicated its willingness to install and maintain a flashing beacon installation at said intersection at its expense with the City of Burlington being responsible to provide through the utility company, the electric current necessary to the operation of the flashing beacon installation; and

WHEREAS, the State of New Jersey has proposed a form of Agreement pertaining to maintenance of said flashing beacon installation which has been deemed acceptable by the City Solicitor; and

NOW THEREFORE, be it resolved by the Common Council of the City of Burlington, in the County of Burlington and the State of New Jersey that the Mayor and Clerk are hereby authorized to enter into an Agreement with the State of New Jersey, acting through its Commissioner of Transportation, for the purpose of aforesaid, a copy of said agreement being attached hereto and made a part thereof.

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

Resolution No. 205-2009\*

A RESOLUTION FOR A REGIONAL IMPLEMENTATION GRANT

WHEREAS, the Governing Body of the CITY OF BURLINGTON and the CITY OF BEVERLY, TOWNSHIP OF BORDENTOWN, TOWNSHIP OF BURLINGTON, TOWNSHIP OF CINNAMINSON, TOWNSHIP OF DELANCO, TOWNSHIP OF DELRAN, TOWNSHIP OF EASTAMPTON, EASTAMPTON TOWNSHIP BOARD OF EDUCATION, TOWNSHIP OF EDGEWATER PARK, TOWNSHIP OF MAPLE SHADE, MAPLE SHADE TOWNSHIP BOARD OF EDUCATION, TOWNSHIP OF MOORESTOWN, TOWNSHIP OF MOUNT HOLLY, MOUNT HOLLY BOARD OF EDUCATION, RIVERSIDE TOWNSHIP, BOROUGH OF RIVERTON, TOWNSHIP OF SPRINGFIELD, TOWNSHIP OF TABERNACLE, TOWNSHIP OF WESTAMPTON, TOWNSHIP OF WILLINGBORO AS LEAD MUNICIPALITY, AND THE BOROUGH OF WRIGHTSTOWN, have agreed to apply for a *SHARE* (Sharing Available Resources Efficiently) Implementation Grant through the State of New Jersey Local *SHARE* Program in the amount of \$291,300.00; and,

WHEREAS, the TOWNSHIP OF WILLINGBORO has agreed to be the lead agency in this endeavor; and

WHEREAS, the Governing Body of the TOWNSHIP OF WILLINGBORO is acknowledging and accepting the responsibility of acting as applicant for this grant on behalf of CITY OF BEVERLY, TOWNSHIP OF BORDENTOWN, CITY OF BURLINGTON, TOWNSHIP OF BURLINGTON, TOWNSHIP OF CINNAMINSON, TOWNSHIP OF DELANCO, TOWNSHIP OF DELRAN, TOWNSHIP OF EASTAMPTON, EASTAMPTON TOWNSHIP BOARD OF EDUCATION, TOWNSHIP OF EDGEWATER PARK, TOWNSHIP OF MAPLE SHADE, MAPLE SHADE TOWNSHIP BOARD OF EDUCATION, TOWNSHIP OF MOORESTOWN, TOWNSHIP OF MOUNT HOLLY, MOUNT HOLLY BOARD OF EDUCATION, RIVERSIDE TOWNSHIP, BOROUGH OF RIVERTON, TOWNSHIP OF SPRINGFIELD, TOWNSHIP OF TABERNACLE, TOWNSHIP OF WESTAMPTON, AND THE BOROUGH OF WRIGHTSTOWN.

WHEREAS, the State of New Jersey has made *SHARE* grants available to assist local units to study, develop and implement new shared and regional services; and

WHEREAS, the purpose of this grant is to implement a Joint Purchasing Program among the above designated local units through the sharing of solid waste collection services that would be beneficial to all local units; and

WHEREAS, the purpose of the Joint Purchasing Program so implemented encompasses the acceptance into the Program of subsequent entities deemed qualified to enhance the cost leveraging and shared service benefits being achieved by all of the participating entities..

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the CITY OF BURLINGTON, that the CITY OF BURLINGTON does hereby join with the CITY OF BEVERLY, TOWNSHIP OF BORDENTOWN, TOWNSHIP OF BURLINGTON, TOWNSHIP OF CINNAMINSON, TOWNSHIP OF DELANCO, TOWNSHIP OF DELRAN, TOWNSHIP OF EASTAMPTON, EASTAMPTON TOWNSHIP BOARD OF EDUCATION, TOWNSHIP OF EDGEWATER PARK, TOWNSHIP OF MAPLE SHADE, MAPLE SHADE TOWNSHIP BOARD OF EDUCATION, TOWNSHIP OF MOORESTOWN, TOWNSHIP OF MOUNT HOLLY, MOUNT HOLLY BOARD OF EDUCATION, RIVERSIDE TOWNSHIP, BOROUGH OF RIVERTON, TOWNSHIP OF SPRINGFIELD, TOWNSHIP OF TABERNACLE, TOWNSHIP OF WESTAMPTON, TOWNSHIP OF WILLINGBORO AS LEAD MUNICIPALITY, AND THE BOROUGH OF WRIGHTSTOWN in applying for a grant for the purpose of implementing the results of the feasibility study recently completed; and

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

Resolution No. 206-2009

A RESOLUTION OF THE CITY OF BURLINGTON AUTHORIZING THE AWARD OF A CONTRACT FOR THE ENGLE AVENUE STORM SEWER REPLACEMENT PROJECT

WHEREAS, the City of Burlington (the “City”) issued an invitation to bid on a contract for the replacement of storm sewers on Engle Avenue within the City (the “Project”) in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City has determined that the lowest responsible bidder is R. Moslowski Excavating, Inc. (“R. Moslowski”) with a bid of \$22,119.92; and

WHEREAS, the City recommends that the contract be awarded to R. Moslowski as the lowest qualified bidder submitting a conforming bid; and

WHEREAS, the City Solicitor has reviewed R. Moslowski’s bid and finds it to be legally sufficient.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Common Council of the City of Burlington, in the County of Burlington and State of New Jersey that the contract for the replacement of storm sewers on Engle Avenue be and hereby is awarded to R. Moslowki and that the Mayor is authorized to execute a contract, in a form legally acceptable to the City Solicitor, between the City and R. Moslowski. in an amount not to exceed \$22,119.92; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds which is attached hereto, and that sufficient funds are available for said contract from Account Number 09-048; and

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

- a. R. Moslowski Excavating, Inc.
- b. Business Administrator
- c. Chief Financial Officer
- d. GluckWalrath LLP

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

Resolution No. 207-2009

A RESOLUTION REDUCTION OF PERFORMANCE BOND FOR COMPLETION OF SITE IMPROVEMENTS FOR THE WASHINGTON SQUARE PROJECT

WHEREAS, the City of Burlington has received a request for a Performance Bond Reduction for the Washington Square Project; and

WHEREAS, the City Engineer has performed a site inspection and recommends Performance Bond Reduction No. 2 for this project.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Burlington hereby approves the reduction of the Performance Bond in the amount of \$137,404.51.

BE IT FURTHER RESOLVED, that a copy of this Resolution be served on the party requesting acceptance, in accordance with N.J.S.A. 40:55D-53

Upon motion of Councilwoman Lollar, seconded by Councilwoman Mercuri, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Epps, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (4); NAYS: Ms. Hatala, Mr. Ghaul. (2); Absent: Mr. Babula. (1)

Resolution No. 208-2009

WHEREAS, The Mayor and Common Council of the City of Burlington hereby recognize the 90<sup>th</sup> Anniversary of the founding of the Captain James B. McFarland, American Legion Post 79 on September 12, 1919 at the Grand Army of the Republic Hall on Lawrence Street, Ninety charter members who served in World War One met and elected the following Officers: Major B. Stone, Commander, Lieutenant William Absalom, Vice Commander, Francis Morris, Post Adjutant; and Page Sholey, Financial Officer,

We hereby recognize the members of the Captain James B. McFarland Post 79 and all who have and will serve the United States of America in the past, present and future.

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

Resolution No. 209-2009

The Mayor and Common Council of the City of Burlington does hereby recognize the 20<sup>th</sup> Anniversary of the:

“National Alcohol and Drug Addition Recovery Month”

For their work for the treatment and long term recovery from substance use disorder, and renew the outlook on life for those who addicted and their families.

“Join the Voices for Recovery; Together We Learn, Together We Heal”

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

**ORDINANCE(S) - INTRODUCTION & FIRST READING**

AN ORDINANCE OF THE CITY OF BURLINGTON AUTHORIZING THE PURCHASE OF A VAN FOR THE FIRE DEPARTMENT AND APPROPRIATING THE SUM OF TWENTY-SIX THOUSAND DOLLARS THEREFOR

Upon the motion of Councilman Epps, seconded by Councilwoman Hatala, the foregoing ordinance was adopted by the following roll call vote: AYES: Mr. Epps, Ms. Hatala, Ms. Woodard, Mr. Ghaul.(5) NAYS: Ms. Lollar, Ms. Mercuri. (2); Absent: Mr. Babula. (1)

**COUNCIL COMMENTS**

None.

**ADJOURNMENT**

Upon the motion of Councilman Epps, seconded by Councilwoman Mercuri, this meeting was adjourned.

---

Cindy A. Crivaro, RMC  
Municipal Clerk

---

Douglas Ghaul, President  
Common Council

