

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, SEPTEMBER 16, 2008, AT 7:00 PM, AT THE CITY HALL BUILDING, 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. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Ms. Woodard. (7) Absent: (0)

Also present: Mayor Fazzone, Asst. Business Administrator- Robin Snodgrass, 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 16, 2008 at 7:00 PM, prevailing time at the City Hall Building, 525 High Street, Burlington, N.J. 08016.

Cindy A. Crivaro, RMC
Municipal Clerk

SALUTE TO FLAG

UNFINISHED BUSINESS

None.

PUBLIC COMMENTS

Ed Canivan, 205 Wood Street- spoke representing Main Street Burlington; spoke of a book he prepared regarding the History of Main Street and future plans; encouraged Council to review it; offered to meet with anyone who may have questions.

Nancy Measey-Kurts, 220 E. Union Street- asked Council to consider tennis courts in the up coming budget; encouraged Council to consider the renovations for Lyceum Hall; asked Council to continue to work with Main Street Burlington.

Chris Seiler, 130 W. Broad Street- Main Street Burlington is in their 4th year; there are many volunteers; Main Street helps merchants; spoke of the Transit Village designation; \$100,000 in funding was received because of Main Street; asked for Council's cooperation.

Mary Worth, 460 Locust Avenue- spoke of the rickshaws recently purchased by the City; asked where the money will come from; stated at \$5 a ride it will take 700 rides to cover the cost; asked about cost for insurance; spoke of the proposed miniature golf course; asked if there is a clear plan for Tourism; spoke of more employees and salaries; Main Street is a good program; asked that there be specific plans before monies are spent.

Sammy Cohen, 180 Riverbank- suggested there is no plan for the City; asked about the rickshaws that were purchased; it will take 700 rides a year to pay for them; suggested there is no snack cart for the kids; spoke of the Council Meet & Greet meetings to be held on September 23rd and 30th.

Lovie Smith, 218 E. Pearl Blvd.- complained of the neighbors weeds and trees; suggested new residents look into the local ordinances when they move into town.

Phil Agustyn, 307 High Street- spoke of the Wood Street Fair, it was successful, thanked everyone; stated that the back parking lots behind the stores were cleaned before the Wood Street Fair instead of after; encouraged Council to support Main Street.

Harry Heck, 116 E. Union Street- spoke in support of Blackbeard's Deli; encouraged Council to support Main Street; asked about the promenade sidewalk project.

Ms. Snodgrass stated that the sidewalks will be replaced from the flag poles to the Oneida.

Charles Smith, 41 West Union Street- encouraged Council to support Main Street; spoke the rickshaws and the hats worn while pulling them.

Donna Boone, 5 Hale Road- attended a riverfront redevelopment meeting with the Bucks Country Redevelopment Authority; many people in the group spoke highly of the changes that have happened in the City of Burlington over the past five years; spoke of the many great businesses downtown; Main Street has one staff person and many volunteers; without a manager all will be lost.

ORDINANCE(S) - INTRODUCTION & FIRST READING

AN ORDINANCE OF THE CITY OF BURLINGTON AUTHORIZING THE EXECUTION OF LEASE WITH AFFILIATED BUSINESS SOLUTIONS, INC. FOR 15,000 SQUARE FEET OF BUILDING SPACE LOCATED AT 302 COMMERCE BOULEVARD WHICH IS WITHIN THE BURLINGTON COMMERCE SQUARE REDEVELOPMENT AREA

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

AN ORDINANCE OF THE CITY OF BURLINGTON AMENDING TITLE 5 (“BUSINESS LICENSES AND REGULATIONS”) OF THE CODE OF THE CITY OF BURLINGTON TO INCLUDE CHAPTER 5.72 (“DONATION CLOTHING BINS”) REGULATING THE PLACEMENT AND USE OF DONATION CLOTHING BINS

Upon the motion of Councilwoman Woodard, seconded by Councilwoman Lollar, the foregoing ordinance was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Ms. Woodard, Mr. Ghaul. (7) NAYS: (0); Absent: (0)

AN ORDINANCE OF THE CITY OF BURLINGTON AMENDING TITLE 8 (“HEALTH AND SAFETY”) OF THE CODE OF THE CITY OF BURLINGTON TO INCLUDE CHAPTER 8.60 (“TRASH DUMPSTERS, STORAGE CONTAINERS, AND ROLL-OFF CONTAINERS”) REGULATING THE PLACEMENT AND USE OF TRASH DUMPSTERS, STORAGE CONTAINERS, AND ROLL-OFF CONTAINERS

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Woodard, the foregoing ordinance was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Ms. Woodard, Mr. Ghaul. (7) NAYS: (0); Absent: (0)

AN ORDINANCE OF THE CITY OF BURLINGTON AUTHORIZING THE EXECUTION OF LEASES WITH METRO PCS PENNSYLVANIA LLC AND CRICKET COMMUNICATIONS FOR THE PLACEMENT OF CELLULAR COMMUNICATIONS EQUIPMENT ON A WATER TANK LOCATED WITHIN THE BURLINGTON COMMERCE SQUARE REDEVELOPMENT AREA

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Woodard, the foregoing ordinance was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Ms. Woodard, Mr. Ghaul. (7) NAYS: (0); Absent: (0)

ORDINANCE(S) - SECOND READING & FINAL DISPOSITION

ORDINANCE NO. 17-2008 OF THE CITY OF BURLINGTON RESCINDING ORDINANCE 26-2007 AND AMENDING RELEVANT SECTIONS OF TITLE 15 (“BUILDINGS AND CONSTRUCTION”), CHAPTER 15.20 (“HOUSING CODE”), OF THE CODE OF THE CITY OF BURLINGTON

WHEREAS, the Common Council of the City of Burlington, County of Burlington determined that revisions should be made to Title 15 (“Buildings and Construction”) and Chapter 15.20 (“Housing Code”) of the Code of the City of Burlington; and

WHEREAS, in an effort to effectuate suggested revisions, the Common Council adopted Ordinance 26-2007 on December 18, 2007; and

WHEREAS, subsequent to the adoption of Ordinance 26-2007, the City Administration and the Common Council determined that additional amendments and revisions to the City's Housing Code were required; and

WHEREAS, in an effort to prevent valuable City resources from being utilized to enforce the Housing Code when additional changes to the Code were being contemplated, the Common Council passed a Resolution which requested that the Mayor and Administration refrain from enforcing the requirements of the Housing Code as amended by Ordinance 26-2007 until such time as the Common Council completes its investigation into additional changes to the Housing Code; and

WHEREAS, the Common Council, with the assistance and advice of the Mayor and Administration, has developed revisions to the City's Housing Code; and

WHEREAS, to prevent confusion among various ordinances, the Common Council has determined it best to rescind Ordinance 26-2007 in its entirety and present comprehensive revisions to the City's Housing Code in one clear and concise amendment;

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 Ordinance 26-2007 is rescinded in its entirety; and

BE IT FURTHER ORDAINED, that the City Code of the City of Burlington is hereby amended as follows:

1. Chapter 15.20 ("Housing Code"), Section 15.20.030 ("Definitions"), of the City of Burlington Municipal Code is amended by the addition of the following new definitions:
 - "Landlord" means the legal entity listed upon the title as it appears in the public records after the deed is properly recorded.
 - "Landlord License" means a license issued by the City of Burlington authorizing the license holder to maintain, operate, or otherwise conduct the business of landlord in the City of Burlington.
 - "Rental Unit" means any residential dwelling unit occupied by persons other than the Landlord and for which rent is paid to the Landlord thereof including individual units in all types of dwellings defined in this section including boarding houses, lodging houses, tourist houses, habitable rooms, multifamily apartment houses, residence buildings and rooming houses.
 - "Property Management Action Plan" ("PMAP") means a plan developed between the Mayor or his designee and the Landlord to ensure compliance with all applicable local, state, and federal laws as more specifically set forth in Subsection 15.20.180(Q)(4) of this Chapter.

2. Chapter 15.20 (“Housing Code”), Section 15.20.180 (“Residential Rental Units”) subsection 15.20.180 C of the City of Burlington Municipal Code is amended by the addition of the following new subsection(s):

Subsection 15.20.180C(1) (Licensing of Landlords)

- i. In addition to any other requirements herein, each Landlord as defined at §15.20.030 of residential real property shall apply to the appropriate office within the City of Burlington for a Landlord License within 60 days of the publication of this amended ordinance.
- ii. No Landlord shall be entitled to rent a Rental Unit unless said Landlord is in possession of a valid Landlord License.
- iii. The fee for a Landlord License shall be \$75.00
- iv. A Landlord License must be renewed annually and is subject to a \$75.00 fee.
- v. Landlord Licenses are not transferable to other entities or parties.
- vi. The Mayor or his designee shall develop the form of application required by this amended ordinance which shall require the Landlord to provide the information set forth at Subsection 15.20.180D (1) to 15.20.180D (10) and such other information as the Mayor or his designee shall deem necessary and proper in order to issue a Landlord License.
- vii. A Landlord possessing a Landlord License shall be required to advise the Mayor or his designee, of any change in the information on the application for such license within thirty (30) days of any such change.

Subsection 15.20.180C(2) (Registration of Rental Units)

- i. All Rental Units within the City shall hereafter be registered with the Mayor or his designee. Such registration shall occur immediately upon the adoption of this chapter and upon every change in occupancy; however, if there has not been a change in occupancy in two years, then the owner of a Rental Unit shall register on the first of January following the expiration of the two-year period. Upon registration, a Registration Certificate shall be issued by the City.
- ii. No Rental Unit shall be occupied by tenants unless a valid Registration Certificate has been issued by the City.
- iii. The Mayor or his designee shall develop the applicable registration form required by this amended ordinance which shall require the Landlord to provide the information set forth at Subsection 15.20.180D (1) to 15.20.180D (10) and such other information as the Mayor or his designee shall deem necessary and proper in order to properly register the Rental Unit.

- iv. Any lease which has been executed prior to the adoption of this chapter shall not be affected, but the Rental Unit must nevertheless be registered, inspected and licensed in accordance with this chapter. No Rental Unit shall hereafter be rented unless the Rental Unit is licensed in accordance with this chapter.

Subsection 15.20.180C(3) (Tenant Screening Reports)

- i. At each change of occupancy of any Rental Unit, the licensed Landlord of the Rental Unit may be required to conduct a tenant screening for the new inhabitants of the Rental Unit. Such screening shall include the substantial equivalent of the following:
 - 1. A check for activity in the Landlord/Tenant Section of the Special Civil Part of the Superior Court of the State of New Jersey for the county of the tenant's last residence for a period of three years.
 - 2. All records of any conviction for any offense in the municipal court of the municipality of the resident's last residence for a period of three years.
 - 3. All records of any conviction for any offense in the Superior Court of the State of New Jersey the resident's last residence for a period of three years.
 - 4. Subsections (2) and (3) above shall apply to the tenant(s) and all authorized adult members of the tenant's household.
 - ii. Proof of an adequate screening shall be a letter addressed to the Mayor or his designee indicating that such a screening by a reputable tenant screening company or organization. Such a letter must be dated and shall be prepared by a screening company or organization.
 - iii. No Registration Certificate shall issue unless proof of an adequate screening has been provided or unless the license applicant indicates in writing his or her refusal to submit proof of a screening.
 - iv. Landlords shall be entitled to a \$25.00 reduction in fees for a Registration Certificate upon presentation at the time of registration of a Tenant Screening Report
5. Chapter 15.20 (“Housing Code”), Section 15.20.180 (“Residential Rental Units”) subsection 15.20.180 K of the City of Burlington Municipal Code is deleted and replaced to read as follows:

“Subsection 15.20.180K (Fees)

At the time of registration of a Rental Unit as required by 15.20.180C(2), and prior to the issuance of a Registration Certificate, the Landlord or agent thereof must pay a fee in accordance with the following schedule for the purpose of having the Rental Unit inspected by the City and having the City issue the Registration Certificate:

1. Upon initial registration and following the expiration of every two year period thereafter a fee of \$100.00 shall be assessed which includes an inspection and one subsequent re-inspection (to be completed within 30 days of a failed initial inspection).
2. Any change of occupancy, except those changes of occupancies specified during the initial registration or upon each subsequent two year inspection, shall be assessed a fee of \$100.00 which includes an inspection and one subsequent re-inspection (to be completed within 30 days of a failed inspection).
3. Any subsequent re-inspection conducted in excess of those specified in subsections (1) and (2) above shall be assessed a fee of \$150.00 (to be completed within 30 days of most recent re-inspection).
4. Should an inspector arrive for a scheduled inspection and no adult is present to grant access to the Rental Unit, the full amount of the inspection fee shall be charged and the Landlord will be required to re-schedule the inspection at a fee of \$100.00.
5. Fees not paid shall be subject to a late fee of \$30.00 per month
6. Fees set forth in this subsection shall be modified by resolution of the Common Council.

Repairs not completed within thirty (30) days of re-inspection shall result in the issuance of a court summons. Requests for extensions shall be in writing demonstrating compelling reasons for the need for such extension. The grant of such extension is subject to the City’s discretion.”

7. Chapter 15.20 (“Housing Code), Section 15.20.180 (“Residential Rental Units”), subsection 15.20.180 Q (“Revocation of License – Procedure”), is deleted and replaced to read as follows:

Subsection 15.20.180 Q. “Violations of Landlord License, Penalties, Procedures”

Subsection 15.20.180(Q)(1) Violation of Landlord Licenses.

In order to validly possess a Landlord License and any subsequently issued Registration Certificate, a Landlord shall comply with all applicable local, state, and federal laws relating to the renting of residential Rental Units. A Landlord may be found in violation of a Landlord License upon the happening of the following non-exclusive events:

- a. The Landlord or any partner or corporate officer of the Landlord or the manager or other agent, of the Rental Unit sought be operated under the Landlord License has refused inspection of a Rental Unit and its premises by public authorities acting pursuant to law;
- b. The Landlord obtained a Landlord license or Registration Certificate through fraud, collusion or illegality;
- c. The Landlord or any partner or corporate officer has been denied a license or had a licenses revoked or suspended in connection with maintaining, operating, conducting the business of landlord in any municipality, county, or state;
- d. The Landlord or any partner or corporate officer has been convicted of a felony in connection with maintaining, operating, or conducting a business or commercial activity;
- e. The Landlord or any partner or corporate officer or manager or other agent, has materially or substantially failed to comply with a Property Action Management Plan;
- f. The Landlord failed to remediate any material statutory or code violations of any Rental Unit;
- g. A Landlord license application filed by an owner, including required updates, contains any material omissions and/or materially false or misleading information;
- h. Any Rental Unit and/or premises of the Landlord is conducted or maintained in such a manner as to create a nuisance which threatens the public health or general welfare;
- i. The Landlord or any partner or corporate officer or manager or agent, have been determined to be aiding, abetting, encouraging, permitting, harboring, or engaging in criminal conduct or criminal activities in any of the Rental Units or on any of the Landlord's Rental Unit properties;
- j. Renting the Rental Unit to a tenant(s) who has been convicted of maintaining a nuisance, or of any other acts in violation of the City of Burlington Code;
- k. Conviction of a violation of this chapter in the municipal court or any other court of competent jurisdiction;
- l. Determination of a violation of this chapter at a hearing held pursuant to subsection B of this section;
- m. Continuously permitting the Rental Unit to be occupied by more than the maximum number of occupants;

- n. The suspension or revocation of any Registration Certificate issued to the Landlord License holder.

Subsection 15.20.180(Q)(2) Enforcing Authority.

- a. The Mayor or his designee is empowered to enforce the provisions of this chapter.

Subsection 15.20.180(Q)(3) Notice of Landlord License Violations.

- b. The Mayor or his designee may at any time file a complaint alleging violations of Subsection 15.20.180(Q)(1). The Mayor or his designee may file a complaint on the basis of information and belief and need not rely on personal information.
- c. A complaint alleging violations of applicable law may be filed with the Mayor or his designee by any one or more of the following: director of public safety, chief of police, director of the department of housing and community development, construction official, housing inspector or the zoning enforcement officer. The person filing a complaint may do so on the basis of information and belief and need not rely on personal information.
- d. Any complaint alleging a violation shall be in writing and filed with the municipal clerk. The complaint shall be specific and shall be sufficient to apprise the Landlord of the charges and permit the Landlord ten days to correct the violation.

Subsection 15.20.180(Q)(4) Landlord License Disciplinary Action.

- a. Property Management Action Plan (“PMAP”).
 - i. If after ten days following receipt of notice of a violation, the violation continues, the Landlord shall meet with the Mayor or his designee within ten days to create a Property Management Action Plan which will bring the Landlord and/or Rental Unit into compliance by a specified date.
 - ii. The PMAP may concern but is not limited to the following issues:
 1. Providing a habitable dwelling;
 2. Observing occupancy limits;
 3. Maintaining electrical systems meeting code requirements
 4. Maintaining plumbing systems meeting code requirements
 5. Maintaining heating and cooling systems meeting code requirements;
 6. Maintaining proper fire protection systems;
 7. Eliminating health and safety hazards;

8. Improving or providing for the security of the premises; or
 9. Requiring inspections more than once a year should problems with the rental unit occurs regularly.
- iii. The Landlord shall be in violation of this subsection by:
 1. not meeting with the Mayor or his designee to create the PMAP;
 2. not implementing the PMAP; or
 3. not completing the PMAP by the required date
 - iv. For violations constituting an immediate danger to the public health, safety, and welfare of the City, the Mayor or his designee does not have to issue a PMAP and may take actions in accordance with other provisions of applicable local, state, and federal laws to remedy the situation.
- b. Disciplinary Action, Notice and Hearing
- i. If the Landlord fails to remedy a violation or comply with a PMAP, the Mayor or his designee shall immediately inform the Common Council and a date for a hearing to consider the Landlord's License suspension or revocation shall be scheduled which shall not be sooner than ten nor more than thirty days thereafter. The Mayor or his designee shall forward a copy of the original complaint and any relating documentation to the Common Council. The Common Council shall serve the Landlord and any applicable agent with a notice as to the date of the hearing at the address indicated on the registration form. Service upon the agent shall be sufficient. Said notice shall be specific and shall be sufficient to apprise the Landlord of the charges so as to permit the Landlord to present a defense.
 - ii. The hearing required by this subsection shall be held before the Common Council. The council shall render a decision within thirty (30) days of the conclusion of the hearing.
 - iii. If the council finds the Landlord guilty of any violation of applicable law the Common Council has the right to impose the penalties against the Landlord as prescribed in Subsection 15.20.180(Q)(4)(c) ("Landlord License Penalties") below.
 - iv. The hearing shall be taped. If determined to be necessary the Common Council may have a stenographic transcript prepared. All witnesses shall be sworn prior to testifying. The strict rules of evidence shall not apply. All relevant evidence shall be admissible. The burden of proof shall be that which generally controls administrative hearings.

- v. It shall be a defense to any disciplinary proceeding involving a Landlord License by demonstrating that the Landlord or his agent has taken appropriate action and has made a good faith effort to abate the conditions or circumstances giving rise to the revocation proceeding, including but not limited to, the institution of legal action against the tenant(s), occupant(s) or guests for recovery of the premises; eviction of the tenant(s) or otherwise.

c. Landlord License Penalties

- i. The Common Council may impose the following maximum penalties against a Landlord after finding the Landlord guilty of any violation of applicable law, including by way of example all City code provisions relating to the condition(s) of housing units, applicable statutes, and/or regulations enforced by the City of Burlington, but promulgated by the County of Burlington, the State of New Jersey, and/or the United States of America.

1. First violation. Suspension of Landlord License up to 90 days.
2. Second violation. Suspension of Landlord License up to 1 year.
3. Third and subsequent violations. Permanent revocation of Landlord License.

d. Effect of Landlord License Penalties

- i. Suspension. A suspension of a Landlord License prohibits the Landlord from engaging in any new lease agreements for any Rental Unit during the suspension period.
- ii. Revocation. A revocation of a Landlord License prohibits the Landlord from permanently maintaining, operating, or otherwise conducting the business of landlord in the City of Burlington.

e. Reinstatement of Landlord License

- i. Generally
 1. The Landlord License is not automatically reinstated at the conclusion of a suspension.
 2. The Landlord must affirmatively reapply with the appropriate City authority for a new Landlord License after serving the suspension.
 3. A Landlord whose license was revoked may apply for reinstatement no earlier than 1 year after a revocation.

4. In addition to meeting all the requirements necessary to obtain a Landlord License, the Landlord shall be prepared to submit, at the request of the council, proof of changed circumstances demonstrating correction of the violation(s) which caused the previous suspension and/or revocation.
 5. All Landlord License reinstatement applications shall be determined by the council in its sole discretion.
- ii. Fees
1. A Landlord seeking a Landlord License reinstatement shall be assessed a fee of \$300.00 in addition to all other applicable Landlord License fees.
5. Chapter 15.20 (“Housing Code”), Section 15.20.190 (“Violation-Penalty”) of the City of Burlington Municipal Code is deleted and replaced to read as follows:
- “Any person (1) who fails to obtain the required Landlord License, and/or (2) who fails to register a residential unit as defined at §15.20.180; and/or (3) who otherwise violates any of the provisions of this chapter including failure to make required repairs pursuant to §15.20.180 K, shall upon conviction pay a fine of not more than two (\$2,000) thousand dollars or be imprisoned for any term not exceeding 90 (ninety) days or a period of community service not exceeding 90 (ninety) days, unless another penalty is provided. In a municipal court proceeding a Landlord shall not be found in violation of this ordinance during such period as the Landlord shall be proceeding to evict the tenants in accordance with applicable New Jersey statutes.”
6. Chapter 15.20 (“Housing Code”), Section 15.20.060 (“Certificate of Occupancy”) shall be amended to remove each and every mention of the phrase “Certificate of Occupancy” and to replace each occurrence of same with the phrase: “Registration Certificate”.
 7. Chapter 15.20 (“Housing Code”), Section 15.20.180 (“Residential Rental Units”) shall be amended to remove each and every mentioned of the phrase “Certificate of occupancy” and to replace each occurrence of same with the phrase: “Registration Certificate”, including without limitation occurrence of “Certificate of Occupancy” at Section 15.20.180(G)(3) and Section 15.20.180(I)
 8. Chapter 15.20 (“Housing Code”), Section 15.20.180 (“Residential Rental Units”) subsection 15.20.180 G of the City of Burlington Municipal Code shall be amended as follows:

Subsection 15.20.180 G(1) (Periodic Inspections)

“Each rental unit shall be inspected at least once in every twenty-four (24) month period, and upon each change in tenancy, for purposes of the issuance of a Registration Certificate.”

Subsection 15.20.180G(4) (Unsatisfactory Inspection)

“In the event that the inspection(s) of a rental unit indicates the need for maintenance and/or repairs, such property shall not thereafter be registered and the Landlord of the property, or his agent, shall not lease or rent such property, nor shall any tenant occupy the property until the necessary maintenance, repairs and corrections have been made so as to bring the property and rental unit into compliance with the applicable code(s) and the property is thereafter subsequently reinspected, approved, registered and licensed. In the event that the property is occupied when such conditions are discovered, all such corrections shall be made within thirty (30) days, and if not made within that time period, the owner shall be deemed in violation of this section and every day that the violation continues shall constitute a separate and distinct violation, subject to the penalty provisions of Section 15.20.190 of this chapter.”

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 Councilman Van Loan, seconded by Councilwoman Woodard, the foregoing ordinance was introduced.

Public Comments:

Sharon Fischer, 217 Irick Road, Westampton- stated she is realtor in the State of New Jersey; representing the Burlington/Camden Association of Realtors and the New Jersey Association of Realtors; spoke of working with the State Assembly and Congress to help formulate laws that are not in violation of Federal and State Ordinances; believes that the ordinance raises legal issues including privacy rights under the 1st Amendment, discrimination under the Federal Fair Housing Act and abuse of the statutory right granted to municipalities; spoke of the public health, safety and welfare of the municipality and its inhabitants; municipalities may make ordinances that are not contrary to the laws

of the State; spoke of the exertion of authority and going beyond the public need; cannot place unnecessary and excessive restrictions upon the use of property; landlords should not lose or have their licenses revoked for renting a unit to someone with a municipal code violation as minor as a parking ticket; ordinances that grant licensing officials the power to grant or deny licenses must provide adequate standards to govern the deliberations of the officials who have discretionary power; subsection 15.20.180C(3)(i) states that a landlord may be required to conduct tenant screening, however, subsection C(3)(iii) states that no registration certificate will be issued unless proof of a screening or written refusal of the screening is provided; spoke of a non-uniform requirement for tenants, may violate federal and state equal protection laws; suggested the ordinance is vague; asked that this ordinance not be passed until these issues are considered; spoke of the cost to the City for a lawsuit.

Pat Dasher-Williams, 340 E. Union Street- spoke in support of the ordinance; spoke of the amount of rental units in the City; need to consider the existing residents; some landlords are good and some only care about the money; they don't care about the community.

Claudine Conaway, 110 James Street- spoke of the rights of the City residents; spoke of incidents that have occurred due to bad tenants; spoke of equal protection and the cost to home owners.

Karen Dunn, 121 E. Union Street- spoke in support of the ordinance; spoke of earlier comments made with regard to tenant screening; spoke of the need for this ordinance and the possibility of suit; there is a cost to the Police Department currently; can amend later if needed.

Sammy Cohen, 180 Riverbank- spoke as a landlord, resident and homeowner; spoke of the efficiency of the department; spoke of shifting this to the landlords; stated there is no plan or accountability; asked who will run this program; there are people living in houses with problems; asked about approval from DCA; spoke of City owned empty houses; spoke of raising rent during a time of financial problems; suggested this is to raise money; other towns don't charge; asked about accountability; put the it on the landlords that are causing the problem; haven't addressed the problem; spoke of privatization; get rid of the bad landlords.

Chris Seiler, 130 W. Broad Street- spoke as a realtor and landlord; need more aggressiveness; good people are leaving; spoke of homeowners moving; spoke of working together; suggested getting a group together; do the right thing.

Mary Worth, 460 Locust Avenue- spoke of concerns with subsection 15.20.180K(1) bi-annual, not annual.

Mr. Bayer explained that the inspections would be bi-annual unless there is a change in tenancy then there is an inspection if it occurs within the 2 years.

Ms. Worth suggested a landlord should earn a bi-annual inspection.

President Ghaul suggested that during the public hearing held last year by the prior Council many of the landlords spoke of renting to family members; these units have less turn over; two years allow those landlords to have two years free; if change in tenancy there will be an inspection.

Mr. Bayer suggested that if an inspector finds out there is a problem before the two years the inspector can go in to that unit; the inspector always has the right to go into a unit if there is a suspected problem.

President Ghaul suggested that the two years accommodates the good landlords as was requested by the public in the past.

Ms. Worth spoke of concerns about subsection 15.20.180C(3)(i) "landlord of rental unit may be required "may" should be change to "shall;" would like to see the ordinance passed with the confidence and knowledge that there will not be any legal challenges; recommended doing some research before the vote.

James Isaah, 358 Ayerstown Road, Southampton- asked Council to table the ordinance; spoke of the potential for litigation and the cost; read objections: object to a license fee, object to being targeted without finding out how many properties are being rented, object to anything that effects the residential landlords and not commercial landlords, the ordinance does not address a temporary CO; asked that Council consider a temporary CO for minor infractions; spoke of already having paid fee for this year; spoke of tenants moving out and having to pay fee again; spoke of subsection 15.20.180K(4) asked what would happen if the inspector does not show up; spoke of a criminal background check; spoke of tenants creating a nuisance; want to cooperate; want to sit down and come up with a better ordinance.

Arthur Dickenson, 147 Clubhouse Drive, Willingboro- spoke of businesses not paying an annual fee; suggested he is willing to sit down to come up with a plan that doesn't violate rights; spoke of the Code Enforcement Office; suggested this ordinance may not be the solution; don't want bad tenants; don't want an ordinance that is vague; asked for an explanation of subsection 15.20.180C(3)(1)(ii) with regard to proof of screening.

Mr. Bayer suggests that the intent is to get a letter from a company that does tenant screening.

Nancy Measey-Kurts E. Union Street- spoke of concerns of the quality of life; spoke of a neighbor moving.

Murray Sonstein, 127 E. Union Street- spoke of being on the Landlord Tenant Committee; spoke of good landlords vs bad landlords; asked if this ordinance has met all the requirements.

Mr. Bayer stated that a similar ordinance was upheld.

Mr. Sonstein suggested that if will cost money to defend, go for it; spoke in support of the ordinance.

Mary Ann Taylor 328 W. Union Street- stated she does pay a yearly fee for her business, a food establishment license fee.

Harry Heck, 116 E. Union Street- spoke as a landlord; spoke in support of the ordinance; stated there are good landlords; it has been discussed for 3 years; there are issues that need to be addressed.

Bob Haines, 230 High Street- suggested the City doesn't need a law suit in Federal Court; suggested sitting down with the Association; don't pass an ordinance with holes in it.

Ezell Jackson, Jr., 18 Bisbee Drive- spoke in support of the ordinance as a homeowner; take time to correct things that may need to be corrected before passage; suggested there was no input from the community; spoke of many law suits in the City; sit down with others; if landlords don't want to have inspections and pay for inspections and licenses then they should sell; spoke of protecting the people who live in Burlington.

Beth Caruso, 334 E. Union Street- stated she agreed with correction but done in a timely fashion.

Dr. Gloria Dickenson- 147 Clubhouse Drive, Willingboro- spoke of her husband's rental properties; spoke of working out a plan.

Charles Smith, 41 W. Union Street- spoke in support of this ordinance.

Mr. Smith, 205 W. Federal Street- the City has great potential; asked Council to table the ordinance and have meeting with everyone to clean it up and not have the challenge.

Phyllis Freifelder, 313 E. Union Street- many are volunteering to help tonight, this has been in the works for years; asked if there has been input from the public.

President Ghaul stated this project has been going on for 4 years; there was a committee and a public hearing with no limited time; also input from the previous Council; revisions have been made; it is time to move forward; previously were charging \$1,000, which was revised.

Ms. Freifelder stated she attended other the meetings and no one volunteered then; encouraged Council to approve the ordinance.

Scott Carlson, 223 Wood Street- stated this is a good start; there are problems with tenants; asked that the Police Department let Mr. Lowrie know when there are problems; there needs to be follow up; spoke of tax dollars going to people who are using the system; encouraged Council to follow up.

Joe Glennan, 305 Penn Street- good comments made; suggested passing the ordinance and tweaking it later; spoke of the spirit of working together and commitment; spoke of improving the quality of life.

Council Comments:

Councilwoman Hatala asked for clarification of subsection 15.20.180Q(2)(c)&(d); there are two places to file a complaint.

Mr. Bayer suggested that section C is referring to complaints by filed by a 3rd party to Administration; if the violation isn't corrected the landlord would get a notice from someone from within Administration to come in and correct the problem; if it doesn't get fixed after that effort then it would go to Council for possible revocation of the license.

Councilwoman Hatala suggested section (d) should be somewhere else; spoke of 15.20.180Q(4)(d)(ii), suggested deleting the word "permanently"; spoke of 15.20.180Q(4)(e)(i)(3), asked about reinstatement.

Mr. Bayer explained this would give flexibility for Council to consider reinstatement at a later date.

Councilwoman Hatala suggested removing the word "permanently."

Mr. Bayer suggested it could be removed.

Councilwoman Woodard stated Council needs to move forward and tweak later.

Councilman Van Loan spoke of having confidence in the preparation of this ordinance; it has been 3 years; spoke of quality of life issues; this is a town issue; spoke of the need to move forward.

Councilwoman Lollar stated she agrees this ordinance needs to be passed now; there are issues with some of the wording; suggested the word "may" be changed to "shall;" the word "permanently" does cause question; spoke of subsection 15.20.180Q(2)(c)&(d) the complaint will go to many possible departments.

President Ghaul suggested the word "may" should be changed to "shall"; spoke of providing a section on the ordinance that has a list of definitions; it has been many years; the previous Council has worked hard; some will be for and some will be against; Council needs to move forward and vote tonight.

Mayor Fazzone asked that the following changes be made: subsection 15.20.180C(3)(i) delete "be required to."

Mr. Bayer spoke of the possibility of legal issues with requiring a tenant screening; spoke of a discount on a registration fee for a landlord who conducts a background check; it is designed to encourage background checks for public safety issues.

Mayor Fazzone asked that the following changes be made: subsection 15.20.180Q(4)(d)(ii) delete "permanently."

Councilwoman Hatala moved to delete the word “permanently” on page 8, subsection 15.20.180Q(4)(d)(ii), it was seconded by Councilman Babula. All were in favor.

Mayor Fazzone explain the process of developing this ordinance.

Councilwoman Woodard moved to delete the words “be required to” on page 3, subsection 15.20.180C(3)(i), it was seconded by Councilman Babula. All were in favor.

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

CONSENT AGENDA & APPROVAL OF INVOICES

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Woodard, Resolution No. 217 was removed from the consent agenda to be read separately. All were in favor.

Upon the motion of Councilwoman Hatala, seconded by Councilwoman Woodard, item #08012272, on page 13 of the bill list was removed for clarification and the remaining invoices were approved. All were in favor.

RESOLUTIONS / CONSENT AGENDA RESOLUTIONS

Resolution No. 217-2008

Common Council of the City of Burlington, hereby authorizes the Municipal Clerk to issue a Mercantile License to Karen M. Dunn, 121 E. Union Street, Burlington, N.J. to operate a business at 316 High Street, t/a “Blackbeard’s Deli & Grocery.”

Upon the motion of Councilwoman Lollar, seconded by Councilman Van Loan, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Ms. Woodard, Mr. Ghaul. (7) NAYS: (0); Absent: (0)

Council congratulated Ms. Dunn on her new business.

Resolution No. 218-2008

WHEREAS, the City Administrator after consulting with the City Engineer’s office and Chief Finance Officer, has requested Common Council’s consideration of this resolution; and

WHEREAS, the City Engineer was authorized to solicit sealed bids for the Riverfront Promenade Sidewalk Project in the City of Burlington. The bid opening was held on August 26, 2008 at 10:00 AM in the Council Meeting Room; and

WHEREAS, the City Engineer reviewed the submitted bid and recommends that the Common Council award the contract to the lowest qualified bidder, based on the bid and that firm is Paramount Enterprises, 116 Saddlebrook Court, Cherry Hill, NJ 08003; and

NOW, THEREFORE, BE IT RESOLVED by the Common Council that the City of Burlington, County of Burlington, State of New Jersey that the Mayor and Municipal Clerk are hereby authorized to enter into a contract with Paramount Enterprises, 116 Saddlebrook Court, Cherry Hill, NJ 08003, in the total amount of Fifty-Three Thousand Eight Hundred Fifty dollars (\$53,850.00); and

BE IT FURTHER RESOLVED, that any and all payment documents shall carry the identification code 08-033 for the Riverfront Promenade Sidewalk Project and that the Municipal Clerk shall provide the Administrator with two (2) certified copies of this resolution.

Upon the motion of Councilwoman Mercuri, seconded by Councilman Babula, the foregoing resolution was adopted introduced.

On the question Councilwoman Lollar asked about the difference in the two lowest bids; asked if someone has reviewed the quality of the product and workmanship in other communities; how many contract have they have had in the City of Burlington.

Mayor Fazzone suggested this may have to be researched.

President Ghaul referred to the August 29, 2008 letter from the Engineer with regard to the quality and prior contracts; they are qualified.

Councilwoman Lollar suggested that the \$18,000 difference is a concern.

President Ghaul stated that the letter from the Engineer was provided, stating that the bid is acceptable and that the quality of work is fine.

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

Resolution No. 219-2008

A RESOLUTION OF THE CITY OF BURLINGTON DESIGNATING BRAHIN PROPERTIES, INC. AS THE SOLE AND EXCLUSIVE ENTITY WITH WHICH THE CITY WILL NEGOTIATE FOR THE PURPOSE OF REACHING A REDEVELOPMENT AGREEMENT FOR THE AREA REFERRED TO AS MCNEAL MANSION REDEVELOPMENT AREA AND TERMINATING MCNEAL LANDING, LLC AS THE PREVIOUS INTENDED REDEVELOPER

WHEREAS, Common Council of the City of Burlington is the designated redevelopment agency in the City of Burlington; and

WHEREAS, there is within the City of Burlington, certain real property denoted as Block 203, Lots 1, 2, 2.02 & 2.03; Block 207, Lots 1 & 1.01; Block 225, Lots 1 & 3, and Block 226, Lots 1, 1.02, 1.03, 1.05, 1.06, 1.07 & 1.08 as set forth on the tax maps and including the right of ways for parts of Pearl Street and Jones Street, generally referred to as “McNeal Mansion Redevelopment Area” which property and area has been designated as a redevelopment area pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, *et seq.*; and

WHEREAS, the Common Council of the City of Burlington, adopted Resolution No. 06-192-R-150 which designated McNeal Landing, LLC (“McNeal Landing”) as the redeveloper for the McNeal Mansion Redevelopment Area subject to the City and McNeal Landing reaching a mutually agreeable formal Redevelopment Agreement within ninety (90) days of the date of the Resolution; and

WHEREAS, the Common Council of the City of Burlington, adopted Resolution No. 06-269-R-196 providing McNeal Landing an additional ninety (90) day exclusivity period to finalize a mutually agreeable formal Redevelopment Agreement; and

WHEREAS, the City and McNeal Landing never reached a mutually agreeable Redevelopment Agreement; and

WHEREAS, Brahin Properties, Inc. has submitted a proposal to the City for the redevelopment of the McNeal Mansion redevelopment area and Brahin has pledged to compensate the City for the costs associated with negotiating and evaluating a potential Redevelopment Agreement.

WHEREAS, Common Council believes it is the best interest of the City to seek a redevelopment agreement with Brahin Properties, Inc. to further the redevelopment of the McNeal Mansion Redevelopment Area.

NOW BE IT RESOLVED by the Common Council of the City of Burlington, County of Burlington, State of New Jersey, hereby declares as follows:

1. McNeal Landing, LLC’s designation as intended redeveloper for the McNeal Mansion Redevelopment Area is hereby terminated because McNeal Landing failed to reach a mutually agreeable formal Redeveloper’s Agreement with Burlington City in accordance with the requirements of Resolution No. 06-192-R-150 and Resolution No. 06-269-R-196.

2. Brahin Properties, Inc. (“Brahin”) is hereby designated as the sole and exclusive entity with which the City shall negotiate for the purpose of reaching a redevelopment agreement for the McNeal Mansion Redevelopment Area. This designation is subject to and conditioned upon the City and Brahin Properties, Inc. negotiating and executing a formal redeveloper’s agreement within one hundred twenty (120) days from the date of this resolution.

3. The Administration and Solicitor are hereby authorized and directed to pursue negotiations of a formal Redevelopment Agreement on behalf of the City provided, however, that any formal redeveloper’s agreement shall be subject to the approval of the Common Council.

4. The Mayor is authorized to execute an Escrow Agreement with Brahin Properties, Inc. in a form substantially similar to the agreement attached hereto.

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

- a. Brahin Properties, Inc.
- b. City Administrator
- c. GluckWalrath LLP

Upon the motion of Councilwoman Lollar, seconded by Councilman Babula, the foregoing resolution was introduced.

On the question Councilwoman Hatala asked that page 4 of the escrow agreement be corrected; we are the City not the Township.

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

Resolution No. 220-2008

A RESOLUTION OF THE CITY OF BURLINGTON AUTHORIZING THE RENEWAL OF THE MACCS JOINT PURCHASING SYSTEM AGREEMENT

Whereas, a Joint Purchasing System was established by certain Burlington County municipalities pursuant to N.J.S.A. 40A:11-10, which system is known as “Municipal Apartment and Condominium Collection Services” (“MACCS”); and

Whereas Maple Shade Township is the designated “lead agency” for the MACCS program; and

Whereas, Maple Shade Township as Lead Agency entered into an agreement (the “Agreement”) with certain municipalities to participate in MACCS to provide for the joint purchase of goods and services, more particularly, the collection and disposal of solid waste from apartments and condominiums within the participating municipalities; and

Whereas pursuant to the terms of the Agreement, MACCS was established as of September 1, 2002 for a three year period which term could be renewed for additional three (3) year periods by consent of the participating units; and

Whereas, the Common Council of the City of Burlington has determined that it is in the best interest of the city of Burlington to continue its participation in the MACCS joint purchasing system and to consent to the renewal of the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington, Burlington County, State of New Jersey, that the City of Burlington hereby consents to the renewal of the MACCS agreement for a three year term beginning on September 1, 2008 and ending on August 31, 2011.

BE IT FURTHER RESOLVED, the Mayor and Clerk are hereby authorized to execute any documents necessary to confirm such renewal.

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

On the question, Councilwoman Hatala suggested there should be a dollar amount in this resolution.

Ms. Snodgrass explained that this is only renewing our participation in the group; this isn't to hire a consultant or the contractor.

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

Resolution No. 221-2008

Whereas, on September 15, 1789, James Fenimore Cooper was born at 457 High Street in Burlington.

Whereas, James Fenimore Cooper was son of Quakers, Judge William Cooper, a representative of the 4th and 6th Congress, and Elisabeth Fenimore Cooper; and

Whereas, James Fenimore Cooper was a prolific and popular American writer of the 19th Century.

Now, therefore be it resolved, that the Mayor and Common Council of the City of Burlington hereby wish James Fenimore Cooper a Happy Birthday.

Upon the motion of Councilman Babula, seconded by Councilwoman Lollar, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Ms. Woodard, Mr. Ghaul. (7) NAYS: (0); Absent: (0)

COUNCIL COMMENTS

Councilwoman Woodard spoke of the rickshaws that were recently purchased.

Councilman Babula congratulated the Police Department on their hard work and efforts during a recent incident.

CONFERENCE ITEMS

The following conference items were discussed:

- Mobile Retail Food License Ordinance
- Promenade Parking & Loading Ordinance

ADJOURNMENT

Upon the motion of Councilman Babula, seconded by Councilman Van Loan, this meeting of September 16, 2008 was adjourned.

Cindy A. Crivaro, RMC
Municipal Clerk

Douglas Ghaul, President
Common Council