

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON THURSDAY, NOVEMBER 13, 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. (5) Absent: Mr. Van Loan, Ms. Woodard. (2)

Also present: Mayor Fazzone, Business Administrator- Eric Berry, Municipal Attorney- Andrew Bayer, Ken MacMillan, CFO.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on November 13, 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

Dave Parker of Cornerstone Bank

PRESENTATIONS

- Liberty Toyota - Scion- Richard Mee
- Ghost Tour Volunteers

UNFINISHED BUSINESS

None.

PUBLIC COMMENTS

Phil Agustyn, 307 High Street- American Belles Concert a success; thanked Kathleen and Beverly.

CONFERENCE ITEMS

- Executive - Real Estate N.J.S.A. 10:4-12 (7)- Acquisition of Tax Title Liens at Tax Sale

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Mercuri, Council went into Executive Session to discuss real estate.

The nature of the discussion conducted in closed session and or the result thereof may be disclosed to the public in an Open Public Meeting held in November of 2008 or shortly thereafter.

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Mercuri, Council closed the Executive Session.

ORDINANCE(S) - INTRODUCTION & FIRST READING

AN ORDINANCE OF THE CITY OF BURLINGTON, AMENDING GENERAL REVISED ORDINANCE SECTION 2.84.080 SETTING FORTH TITLES AND SALARY RANGES FOR VARIOUS POSITIONS WITHIN THE CITY OF BURLINGTON

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

AN ORDINANCE OF THE CITY OF BURLINGTON, AMENDING THE REDEVELOPMENT PLAN FOR THE "FORMER GREGORY'S & WASHINGTON AVENUE VICINITY" IN THE CITY OF BURLINGTON, NEW JERSEY PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, ET SEQ.

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

ORDINANCE(S) - SECOND READING & FINAL DISPOSITION

ORDINANCE NO. 22-2008 OF THE CITY OF BURLINGTON AMENDING GENERAL REVISED ORDINANCE SECTION 2.84.080 SETTING FORTH TITLES AND SALARY RANGES FOR VARIOUS POSITIONS WITHIN THE CITY OF BURLINGTON

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

SECTION I. Establishment of Salary Ranges for 2008:

Salary Ranges are hereby established for the positions indicated on Attachment A of this ordinance for the year 2008.

SECTION II. **Effective Date:**

Amending Section II to read:

The Salary Amendments for these positions shall be effective January 1 of the respective year unless indicated otherwise.

Upon the motion of Councilman Babula, seconded by Councilwoman Lollar, 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, Ms. Lollar, Ms. Mercuri, Mr. Ghaul. (4) NAYS: Ms. Hatala. (1); Absent: Mr. Van Loan, Ms. Woodard. (2)

ORDINANCE NO. 23-2008 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

WHEREAS, pursuant to N.J.S.A. 40:48-2.60 et seq., a municipality may regulate the placement and use, *inter alia*, of donation clothing bins; and

WHEREAS, the Common Council of the City of Burlington desires to revise the Code to establish an ordinance regulating donation clothing bins pursuant to law.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Common Council of the City of Burlington, County of Burlington and State of New Jersey that the Code be and hereby is amended to include the following language (additions to said subsection are underlined):

Chapter 5.72 – DONATION CLOTHING BINS

5.72.010 Definitions relative to charitable donation clothing bins.

For the purposes of this ordinance,

"solicitation" or "solicit" means the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value. Solicitation shall include, but not be limited to, the use or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution.

"Appropriate municipal agency" means the agency determined by resolution of the City of Burlington.

5.72.020 Requirements for placement, use of clothing bin for solicitation purposes.

Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

A. The person has obtained a permit, valid for one (1) year, from the Building Department on a form provided by the Building Department, in accordance with the following:

(1) The permit application, whether or not specifically requested on the form, shall include:

(a) the precise location where the applicant proposes to situate the bin, which must include the address of the property on which the bin is to be located and a detailed description of the location on the property the applicant proposes to place the bin which may be accomplished through the submission of a survey, architectural rendering or other visual depiction;

(b) the manner in which the person anticipates any clothing or other donations collected via the bin will be used, sold, or dispersed, and the method by which the proceeds of collected donations will be allocated or spent;

© the name, address and telephone number of the bona fide office required pursuant to subsection B. of this section, of any entity which may share or profit from any clothing or other donations collected via the bin; and

(d) written consent from the property owner to place the bin on his property; and

(e) a description of the material from which the bin will be constructed, the proposed color of the bin, and a description of all wording, pictures or other visual depictions, if any which will be placed on the bin that is in addition to the information required to be placed on the bin pursuant to subsection © hereof.

(2) The Building Department shall not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases. In addition, the Building Department shall not grant an application if it determines that the material from which the applicant proposes to construct the bin is not sufficiently durable to withstand the elements thus constituting a safety hazard or if it determines that the color of the bin or the wording, pictures or other visual depictions on the bin are such as to constitute a traffic safety hazard;

(3) The appropriate municipal agency shall charge a fee of \$25 for such application to offset the costs involved in reviewing license applications and enforcing this ordinance;

(4) An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of a \$25 fee imposed by the Building Department for such renewal to offset the costs involved in enforcing this ordinance. Such application shall include:

(a) the precise location where the bin is presently situated;

(b) the manner in which the person has used, sold, or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal;

© The name, address and telephone number of the bona fide office required pursuant to subsection B. of this section, of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal;

(d) if the person intends to move the bin, the applicant must supply all information required under subsection (1)(a) of this section.

(5) the permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin, in addition to the information required pursuant to subsection C. of this section;

B. The person, and any other entity which may share or profit from any clothing or other donations collected via the bin, maintains a bona fide office where a representative of the person and/or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person and/or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and

C. The following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:

(1) The name and address of the registered person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

(2) The telephone number of the person's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin;

(3) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and

(4) A statement, consistent with the information provided to the appropriate municipal agency in the most recent permit or renewal application pursuant to subparagraph (b) of paragraph (1) of subsection A. of this section and subparagraph (b) of paragraph (4) of subsection A. of this section, indicating the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

(5) Any other information required by law.

D. The City reserves the right to limit the number of donation clothing bin permits. No more than two (2) donation clothing bins may be placed on any particular parcel of property, provided, however, that the Building Department may, in its sole discretion, limit the number of donation clothing bins on a property to one (1) if it believes that the additional bin would pose a safety hazard. The City reserves the right to refuse placement of any clothing bins on City property.

5.72.030 Receipt, investigation of complaints relative to donation clothing bin.

A. Any person may submit a complaint about a charitable donation bin to the Building Department, and upon receipt of such complaint, the Building Department shall, within 30 days, investigate any such complaints. Whenever it appears to the Building Department that a person has engaged in, or is engaging in any act or practice in violation of section 2 of P.L.2007, c.209 (C.40:48-2.61), the person to whom a permit to place a donation clothing bin was issued shall be issued a warning, stating that if the violation is not rectified or a hearing with the appropriate municipal agency is not requested within 45 days, the bin will be seized or removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person who placed the bin, such warning shall be affixed to the exterior of the bin itself.

B. In the event that the person to whom a permit to place a donation clothing bin was issued does not rectify the violation or request a hearing within 45 days of the posting of the warning, the appropriate municipal agency may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin, and sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the City of Burlington.

5.72.040 Additional penalties, remedies.

In addition to any other penalties or remedies authorized by the laws of this State, any person who violates any provision of this ordinance which results in seizure of the donation clothing bin shall be:

A. Subject to a penalty of up to \$20,000 for each violation. The appropriate municipal agency may bring this action in the municipal court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and any penalty monies collected shall be paid to the City of Burlington; and

B. Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to section 2 of P.L.2007, c.209 (C.40:48-2.61). A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of P.L.2007, c.209 (C.40:48-2.60 et seq.) may apply to the appropriate municipal agency to have that person's eligibility restored. The appropriate municipal agency may restore the eligibility of a person who:

(1) Acts within the public interest; and

(2) Demonstrates that he made a good faith effort to comply with the provisions of P.L.2007, c.209 (C.40:48-2.60 et seq.) and all other applicable laws and regulations, or had no fraudulent intentions.

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 Lollar, seconded by Councilman Babula, 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, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Ghoul. (5) NAYS: (0); Absent: Mr. Van Loan, Ms. Woodard. (2)

CONSENT AGENDA

Councilwoman Hatala, moved that all Consent Agenda items be approved. It was seconded by Councilman Babula. All were in favor. Absent: Mr. Van Loan, Ms. Woodard. (2)

APPROVAL OF INVOICES*

Approved by Consent Agenda. All were in favor. Absent: Mr. Van Loan, Ms. Woodard. (2)

RESOLUTIONS / CONSENT AGENDA RESOLUTIONS*

Resolution No. 252-2008*

Common Council of the City of Burlington, hereby approves Raffle Applications RA 815 for Niagara Hose Co #6, 656 High Street, Burlington, N.J., event to be held February 1, 2009, at 12:00 PM.

Approved by Consent Agenda. All were in favor. Absent: Mr. Van Loan, Ms. Woodard. (2)

Resolution No. 253-2008*

Common Council of the City of Burlington, hereby approves Bingo Application BA 360 for Scully-Bozarth Post 1817 - VFW, 160 Riverbank, Burlington, N.J., events to be held during the year 2009.

Approved by Consent Agenda. All were in favor. Absent: Mr. Van Loan, Ms. Woodard. (2)

Resolution No. 254-2008*

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON APPROVING THE PUBLIC DISPLAY OF FIREWORKS FOR THE CITY OF BURLINGTON'S ANNUAL HOLIDAY TREE LIGHTING

WHEREAS, it is necessary for the Common Council of the City of Burlington to approve the public display of fireworks for the City of Burlington Tree Lighting; and

WHEREAS, after authorization is approved, the City Fire Official will then be able to issue a permit for the public display of fireworks.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington, County of Burlington, State of New Jersey, that approval is granted for the public display of fire works for the Annual Holiday Tree Lighting to be held on December 5, 2008.

BE IT FURTHER RESOLVED that the Fire Official is hereby requested to issue a permit pursuant to N.J.A.C. 5:18-2.7.

Approved by Consent Agenda. All were in favor. Absent: Mr. Van Loan, Ms. Woodard. (2)

Resolution No. 255-2008*

Common Council of the City of Burlington, hereby authorizes the Municipal Clerk to issue a Mercantile License to Nino Veneziale and Dawn M. Hatch, 3 N. Pricketts Mill Road, Southampton, N.J. to operate a business at 201 Route 130 South, Unit 6, t/a “Ernie V’s Deli.”

Approved by Consent Agenda. All were in favor. Absent: Mr. Van Loan, Ms. Woodard. (2)

Resolution No. 256-2008

Whereas, the term of Lynette Miller, Tax Collector, expires on December 31, 2008; and

Whereas, Mayor James A. Fazzone has re-appointed Lynette Miller to a 4 year term in accordance with NJS 40A:9-141;

Now, therefore be it resolved that the Common Council of the City of Burlington hereby affirms Mayor Fazzone's appointment of Lynette Miller, 81 Wellington Place, Burlington, NJ as the Municipal Tax Collector for the City of Burlington for the term of January 1, 2009 through December 31, 2012.

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

President Ghaul recognized Ms. Miller in the audience.

Councilwoman Hatala complimented Ms. Miller and wish her continued success.

President Ghaul complimented Ms. Miller and congratulated her on her re-appointment.

Resolution No. 257-2008

RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, there are certain 2008 budget appropriations which have been determined to be insufficient and there are other 2008 budget appropriations which are in excess of the amount deemed necessary to fulfill the purpose of such appropriations, and

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

NOW THEREFORE BE IT RESOLVED by the Common Council that the following transfers between the 2008 budget appropriations be made:

| | | |
|----------------------|-------------|-----------|
| <u>CURRENT FUND:</u> | <u>From</u> | <u>To</u> |
|----------------------|-------------|-----------|

| | | |
|-----------------------------|-----------------------------|---------------------|
| Employee Group Insurance | \$ 75,000.00 | |
| Police: | | |
| Salaries and Wages | \$ 40,000.00 | |
| Other Expenses | | \$ 14,000.00 |
| Electricity and Natural Gas | | \$ 5,000.00 |
| Telecommunications | | \$ 1,000.00 |
| Petroleum Products | | \$ 35,000.00 |
| Legal Services and Costs | <u> </u> | <u>\$ 60,000.00</u> |
| | \$ 115,000.00 | \$ 115,000.00 |

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

Resolution No. 258-2008

Common Council of the City of Burlington, hereby authorizes the amendment to the Professional Services Agreement with the law firm of Gluckwalrath, LLP. for General Solicitor, Labor and Employment matters, Litigation matters and adding an additional category for Alcoholic Beverage Control matters.

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

Councilwoman Hatala asked for the total for ABC matters.

Mr. MacMillan stated \$23,000.00.

President Ghaul spoke of the an ABC Attorney who was appoint in January; the monies allocated for but he never responded; Mr. Bayer’s firm took over the duties of the other appointment; these funds were allocated.

Councilman Babula spoke of an additional 240 billable hours for the increases; asked Mr. Berry to explain the additional billable time.

Mr. Berry spoke of a memo of explanation prepared by Mr. Bayer; the firm has been doing catch up work from the last Administration / Solicitor; spoke of the many areas that were left open.

The resolution was then adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard, Mr. Ghaul. (5) NAYS: (0); Absent: Mr. Van Loan, Ms. Woodard. (2)

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Mercuri, Council added the

following resolution to the agenda as a result of the Executive Session this evening.

Resolution No. 260-2008

A RESOLUTION AUTHORIZING A REPRESENTATIVE FROM THE CITY OF BURLINGTON TO ACQUIRE TAX TITLE LIENS AT TAX SALE

WHEREAS, the City of Burlington, County of Burlington desires to acquire certain properties located in various redevelopment areas established by the City, and

WHEREAS, the City of Burlington is scheduled to hold a tax sale on November 25, 2008 that contains certain parcels the City may be interested in acquiring to further redevelopment efforts; and

WHEREAS, the City may authorize an employee of the City to acquire tax title liens on properties it is interested in, thus making the acquisition of those parcels that much easier;

NOW, THEREFORE, BE IT RESOLVED, by the City of Burlington, County of Burlington that the Chief Financial Officer or his designated representative is hereby authorized to purchase tax title liens on certain parcels at the City's tax sale to be held on November 25, 2008.

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

Resolution No. 259-2008

Whereas, the Free Church of St. Barnabas was founded in 1856 under the guidance of Reverend William Crosswell Doane and saw the opening of the St. Barnabas Mission House on November 30, 1856,

And whereas, on June 11, 1858 on St. Barnabas Day, the cornerstone was laid for the new church,

And whereas, on November 27, 1858, St. Barnabas Church was dedicated by Bishop George Washington Doane.

Now, therefore be it resolved, that Mayor James A. Fazzino, Council President Douglas Ghaul and the Members of Common Council do hereby recognize the 150th Anniversary of the dedication of St. Barnabas Church.

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

COUNCIL COMMENTS

Councilwoman Hatala asked if St. Barnabas has already had a celebration.

President Ghaul asked for a copy of the resolution to be sent to the church.

Councilwoman Hatala stated that St. Barnabas was founded as a mission.

CONFERENCE ITEMS

The following conference items were discussed:

- Tenant for Herman T. Costello Lyceum Hall

ADJOURNMENT

Upon the a motion of Councilwoman Lollar, seconded by Councilwoman Mercuri, this meeting of November 13, 2008 was adjourned.

Cindy A. Crivaro, RMC

Municipal Clerk

Douglas Ghaul, President

Common Council