

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, APRIL 1, 2008, AT 7:00 PM, IN THE CITY HALL, 525 HIGH STREET, BURLINGTON, NJ, PURSUANT TO THE OPEN PUBLIC MEETINGS ACT.

The 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- 7:05, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Ms. Woodard. (7) Absent: (0)

Also present: Mayor Fazzone- 7:10, Business Administrator- Eric Berry, Municipal Attorney- Andrew Bayer, Municipal Engineer - Frank Morris, Chief Financial Officer- Ken Mac Millan.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on April 1, 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

**INVOCATION** given by Pastor Abie Kulynch of the City of Refuge

**SALUTE TO FLAG** lead by Jessica & Jackie Bennett

**PATRIOTIC READING** given by Jessica Bennett

**UNFINISHED BUSINESS**

Councilman Van Loan spoke of the landlord tenant ordinance; spoke of a proposed increased local purpose tax and water and sewer rates.

**PUBLIC COMMENTS**

Phyllis Friefelder, 313 E. Union Street- asked for an explanation of the Historic District; spoke of comments made at the last Historic Yorkshire meeting; spoke of absentee landlords and fees; spoke of the Historic Commission meetings and applications submitted by people from out of town; spoke of the need for enforcement; apartments causing problems; asked what new positions were created and the salaries for the new and old positions; spoke of employees who do not live in the City and their knowledge of City events; asked if the City is planning to keep the Historic District.

Mayor Fazzone stated that the City is planning to keep the Historic District.

Ms. Friefelder encouraged Council to meet with the Historic Preservation Commission.

President Ghaul stated that the landlord ordinance discussion will be on the agenda this month; spoke of the need for employees to learn the history of Burlington.

Lovie Smith, 218 E. Pearl Blvd.- spoke of young men playing and using profanity on Pearl Street and Pearl Boulevard.

President Ghaul asked Capt. Wallace to look into this.

Ms. Smith spoke of residents not curbing their dogs.

**CONSENT AGENDA**

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

**PETITIONS AND COMMUNICATIONS\***

Approved by Consent Agenda. All were in favor.

**CORRESPONDENCE FOR MARCH 2008**

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

**Reports from various departments received:**

Monies collected by the Court during \$ 66,539.90  
the month of February 2008.

**AGENDAS RECEIVED FROM VARIOUS BOARDS**

- 03-01 Historic Preservation Commission, dated March 5, 2008
- 03-02 Land Use Board, dated February 27, 2008
- 03-03 City of Burlington Public Schools, dated March 7, 2008
- 03-04 Screening Board, dated March 6, 2008
- 03-05 Land Use Board, dated March 26, 2008
- 03-06 City of Burlington Public School, dated March 17, 2008

**MINUTES RECEIVED FROM VARIOUS BOARDS**

- 03-10 Land Use Board, dated January 23, 2008
- 03-11 Board of Education, dated March 11, 2008
- 03-12 Board of Education, dated February 11, 2008

**NOTICE TO PROPERTY OWNERS**

- 03-20 600 Jacksonville Road, Joseph Rizzo -Block 221, Lot 3.02
- 03-21 240 W Union Street, Candice Hendricks -Block 16 Lot 5

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

- 03-100 Burlington City High School, Julian Jenkins, Principal, re: Dress Code
- 03-101 Vince Calisti, Director of Public Works, re: Walking Bridges at Kennedy Park
- 03-102 Art in the City, to Artist, dated March 3, 2008
- 03-103 Historic Yorkshire News, dated March 2008
- 03-104 Niagara Hose Co. No. 6, dated March 10, 2008, from David Kampe, Sr.
- 03-105 Cornerstone Bank, dated March 7, 2008, re: Open House
- 03-106 Knights of Columbus, dated March 25, 2008, re: Annual Shield Awards Program
- 03-107 Board of Education, Sunshine Notice, dated March 4, 2008
- 03-108 BCAAI, re: Notice of Meeting
- 03-109 Virgil Maderich, Discount Liquor World, dated March 2, 2008
- 03-110 William E. Sherwood, re: Boy Scout Eagle Project Proposal
- 03-111 Board of Island Managers, Public Notice, re: meeting dates
- 03-112 City of Burlington Sunshine Notice, dated March 11, 2008
- 03-113 City of Burlington Sunshine Notice, dated March 14, 2008
- 03-114 City of Burlington Sunshine Notice, dated March 17, 2008
- 03-115 Board of Island Managers, re: Notice of Election
- 03-116 Endeavor Emergency Squad, Chiefs Report dated February 2008
- 03-117 William Jenkins, Director, re: Jeffrey Campbell
- 03-118 Mc Donalds Corporation, Public Notice

**CORRESPONDENCE TO AND FROM MUNICIPAL ATTORNEY**

- 03-200 Golfnberg, Mackler, Sayegh, Mintz, Preffer, Bonchi & Gill - Attorneys at Law City of Burlington vs William H Flagg

**COMMUNICATION TO AND FROM MUNICIPAL ENGINEER**

- 03-300 Frank Morris, Alaimo Group, dated March 17, 2008, re: 2008 Road Program
- 03-301 Nancy W. Jamanow, Environmental Resolutions Inc., dated March 14, 2008, re: Performance & Maintenance- Guarantee Release
- 03-302 Frank S. Morris, Alaimo Group, dated March 3, 2008, re: Pearl Blvd
- 03-303 Frank S. Morris, Alaimo Group, re: City of Burlington Engineers Status Report

**CORRESPONDENCE TO AND FROM BURLINGTON COUNTY**

- 03-501 The ARC of Burlington County, dated February 26, 2008
- 03-502 Greater Burlington Chamber of Commerce, re: monthly meeting at Birches
- 03-503 Burlington County Board of Chosen Freeholders, dated March 5, 2008, re: Volunteers Sought For Citizens Corp Groups
- 03-504 Board of Chosen Freeholders, dated March 3, 2008, re: Traffic Control Signs
- 03-505 Burlington County Insurance Pool, Joint Insurance Fund
- 03-506 River Route Advisory Committee, re: March 27<sup>th</sup> at Palmyra Cove
- 03-507 School Pool for Excess Liability Limits Joint Insurance Fund

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

- 03-600 League Seminar, re: Problem Solving Negotiation
- 03-601 League Seminar, re: Incident Management Systems- ICS 402 training
- 03-602 Form for 2008 Municipal Directory
- 03-603 League Seminar, re: Procurement Update and Ethics
- 03-604 League Seminar, re: Human Resources in the Municipal Environment

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

- 03-700 Small Towns Stand to Lose State Aid
- 03-701 State of New Jersey, dated February 27, 2008, re: Remedial Investigation Report
- 03-702 State of New Jersey, dated February 25, 2008, re: Pearl Blvd
- 03-703 State of New Jersey, dated March 5, 2008, re: Remedial Investigations Report
- 03-704 State of New Jersey, dated March 10, 2008, re: Progress Report-Hess Corp
- 03-705 State of New Jersey, dated February 27, 2008, re: West Electronic Inc.
- 03-706 State of New Jersey, dated February 21, 2008, re: US Gas Service Station
- 03-707 State of New Jersey, dated March 24, 2008, re: NJDOT
- 03-708 State of New Jersey, dated March 12, 2008, re: Notice of Deficiency

**MISCELLANEOUS CORRESPONDENCE:**

- 03-800 Triad Associates, dated February 29, 2008
- 03-801 Crisis Emergency Risk Communication Course
- 03-802 Environmental Resolutions Inc., dated February 28, 2008 RE: Waterfront Development Permit
- 03-803 Delaware Valley Regional Planning Commission, dated February 25, 2008, re: Municipal Implementation Tools
- 03-804 Theresa Maderich, President, Lynsey, Inc.
- 03-805 Fundacion Americana Para El Desarrollo, dated February 2008
- 03-806 NJ Transit, dated March 6, 2008, re: Access to the Regions Core
- 03-807 DVRPC News Newsletter
- 03-808 A.M./P.M. White Collar and Government Crimes -classes

**APPROVAL OF INVOICES\***

Approved by Consent Agenda. All were in favor.

**APPROVAL OF MINUTES\***

Approved by Consent Agenda. All were in favor.

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

ORDINANCE NO. 07-2008 AMENDING TITLE 2 (“ADMINISTRATION AND PERSONNEL”), CHAPTER 2.04 (“COMMON COUNCIL”), SECTION 2.04.010 (“RESPONSIBILITIES”) OF THE CODE OF THE CITY OF BURLINGTON DENOTING COMMON COUNCIL’S LEGAL AUTHORITY TO APPOINT A REGISTERED MUNICIPAL ACCOUNTANT TO PREPARE THE CITY’S ANNUAL AUDIT

WHEREAS, pursuant to N.J.S.A. 40A:5-2, the governing body of a municipality is required to cause an annual audit of the books, accounts and financial transactions of that municipality; and

WHEREAS, the governing body of a municipality is charged with employing a registered municipal accountant of New Jersey to prepare that municipality's annual audit; and

WHEREAS, the Common Council of the City of Burlington, County of Burlington and State of New Jersey wishes to memorialize this responsibility in the Code of the City of Burlington; and

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 municipal code be and hereby is amended to include the following language (additions to said subsection are underlined and deletions are crossed-out):

#### 2.04.010 Responsibilities.

The legislative power of the city shall be exercised by the common council. The common council has the following responsibilities, as authorized by the charter:

A. Legislation. Except as may be otherwise provided by general law, the common council shall exercise the legislative power of the city.

B. Inquiry. The common council, by majority vote of the whole council, may require any city officer to prepare and submit sworn statements regarding the performance of his/her official duties and may otherwise investigate the conduct of any department, office or agency.

C. Administration. The common council shall have the authority to advise and consent to actions of the mayor and override the mayor's veto of an ordinance. The council, and individual members thereof, shall deal with officers and employees of the city through the mayor, or his/her designee, and, except for inquiries as provided in subsection B of this section, all communication regarding administration of the city shall be with them.

D. Removals. Common council, by two-thirds vote of the whole council and for cause, may remove any city officer, except the mayor or a council member, upon notice and an opportunity to be heard in public or executive session. Common council may also disapprove mayoral removals by a two-thirds vote of the whole council.

E. Appointments. On request of the mayor, the common council shall receive and consider any nomination for appointment requiring common council advice and consent. The common council shall appoint the municipal clerk and any staff subordinate to the municipal clerk.

F. Financial Responsibilities. The common council shall set the salaries of directors, department heads and the administrator. It shall approve the budget and expenditures and appoint a registered municipal accountant of New Jersey to prepare the annual audit of the city's accounts and financial records.

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 motion of Councilwoman Lollar, seconded by Councilwoman Hatala, 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. Van Loan, Ms. Woodard, Mr. Ghaul.(7) NAYS: (0); Absent: (0)

**RESOLUTIONS / CONSENT AGENDA RESOLUTIONS\***

Resolution No. 111-2008\*

Common Council of the City of Burlington, hereby approves a fire member application for Michelle A. Battistini, 930 Rigg Road, Burlington, N.J., in the Niagara Hose Company #6, she having filed the necessary papers.

Approved by Consent Agenda. All were in favor.

Resolution No. 112-2008

WHEREAS, bids were received on February 19, 2008 for various landscaping and lawn services; and

WHEREAS, Jim Dunphy's Landscaping, LLC submitted the lowest bid and Administration has reviewed the qualifications of the low bidder and finds them to be in order; and

WHEREAS, the City Administrator reviewed the submitted bids and recommends that the Common Council award the contract to the lowest qualified bidder known as Jim Dunphy's Landscaping, LLC, P.O. Box 363, Mount Laurel, N.J. 08054.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of 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 Jim Dunphy's Landscaping, LLC, in an amount not to exceed \$24,005.00; and

BE IT FURTHER RESOLVED, that any and all payment documents shall carry the identification code 08-024 and that the Municipal Clerk shall provide the Administrator with two (2) certified copies of this resolution.

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

Resolution No. 113-2008

A RESOLUTION AUTHORIZING A TIME EXTENSION OF A REDEVELOPMENT AGREEMENT FOR THE RENOVATION OF PROPERTIES LOCATED AT 117 AND 119 EAST FEDERAL STREET

WHEREAS, the City entered into a redevelopment agreement (attached hereto as Exhibit A and hereinafter referred to as the “Redevelopment Agreement”) with Jeffrey Campbell (the “Redeveloper”) dated January 20, 2006 which contemplated the redevelopment of 117 and 119 East Federal Street in the City (the “Properties”); and

WHEREAS, Section 2.04 of the Redevelopment Agreement set forth certain time frames for the improvement of the Properties; and

WHEREAS, because of an injury the Redeveloper has requested an extension to the time frames contemplated by the Redevelopment Agreement; and

WHEREAS, the City desires to grant the extension requested by the Redeveloper;

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Burlington, in the County of Burlington and State of New Jersey hereby grants the Redeveloper an extension to complete the renovation work at 117 and 119 East Federal Street until August 31, 2008; and

BE IT FURTHER RESOLVED that the Mayor is authorized to execute any necessary documents in order to effectuate said extension subject to approval by the City Solicitor; and

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

- a. Jeffrey Campbell
- b. City Administrator
- c. City Chief Financial Officer
- d. GluckWalrath LLP

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

President Ghaul announced that the extension date is August 31, 2008.

On the question, Councilman Van Loan asked for an explanation.

Mr. Bayer explained that Council entered into an agreement in 2006; due to health issues Mr. Campbell was not able to complete the task; in addition to what has already been requested, the Redeveloper asked for a second amendment to the agreement which would add William O'Donnell as a second redeveloper; Mr. O'Donnell will be assisting in the reconstruction of the homes; if a name is added to the agreement it will not impact the City's rights; if the redeveloper doesn't complete the repairs in a timely fashion or doesn't make the required repairs, the City can declare the redeveloper in default and ultimately get the property back.

Councilman Babula then made a motion to amend the redevelopment agreement to include Mr. William O'Donnell as a party responsible to the City under that agreement. It was seconded by Councilwoman Lollar.

The amendment was then approved by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Mr. Ghaul. (6) NAYS: Ms. Woodard. (1); Absent: (0)

Councilwoman Hatala requested that this extension be the one and only and final extension.

Mr. Jenkins spoke about Mr. Campbell and the work he has done in the City; spoke of the request to add the second redeveloper.

The resolution was then adopted by the following roll call vote: AYES: Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Van Loan, Mr. Ghaul. (6) NAYS: Ms. Woodard. (1); Absent: (0)

Resolution No. 114-2008\*

A resolution providing for a meeting not opened to the public in accordance with the provisions of the New Jersey Open Public Meetings Act. N.J.S.A. 10:4-12: Therefore be it resolved by the Common Council, of the City of Burlington, assembled in public session on February 12, 2008, that an Executive Session Closed to the Public shall be held on February 12, 2008, in the Council Meeting Room, for discussion of matters relating to the specific items designated in this resolution:

Real Estate N.J.S.A. 10:4-12 (7)- Block 187, Lots 16, 23 & 24

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 April of 2008 or shortly there after.

Approved by Consent Agenda. All were in favor.

Resolution No. 115-2008

A RESOLUTION OF THE CITY OF BURLINGTON AUTHORIZING SECOND EXTENSION OF THE DUE DILIGENCE EXPIRATION DATE AND THE EXECUTION OF AN AMENDED REDEVELOPER'S AGREEMENT WITH COMMERCE SQUARE VISTAS, LLC

Whereas, the City entered into a redeveloper's agreement (the "Redeveloper's Agreement) with Commerce Square Vistas, LLC (the "Redeveloper") on June 19, 2007 to further the redevelopment of the area known as Commerce Square; and

Whereas, the Redeveloper's Agreement permitted the Redeveloper to conduct a site investigation in order to identify any environmental conditions requiring remediation (the "Due Diligence Period") and such investigation was required to be completed by January 18, 2008; subject to two extensions of thirty (30) days each; and

Whereas, the Redeveloper formally requested the extensions contemplated by the Redeveloper's Agreement and the Common Council granted the extension of the Due Diligence Period by adopting Resolution 97-2008 on March 4, 2008; and

Whereas, the Redeveloper has requested that the City permit a third extension of the Due Diligence Period for a period of eight (8) months or until November 18, 2008 in order to permit the environmental investigation of the site to be completed; and

Whereas the Redeveloper has demonstrated its continuing commitment to the project by obtaining a grant on the City's behalf to perform an environmental investigation and by marketing the development of Commerce Square; and

Whereas, the City desires to grant an additional eight month (8) extension to the Redeveloper to further the potential development of Commerce Square;

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Burlington, in the County of Burlington and State of New Jersey hereby authorizes an eight (8) month extension of the Due Diligence Expiration date, or until November 18, 2008, to complete the site report contemplated by the Redeveloper's Agreement; and

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

- a. Commerce Square Vistas, LLC
- b. City Administrator
- c. City Chief Financial Officer
- d. GluckWalrath LLP

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

**COUNCIL COMMENTS**

Councilwoman Hatala spoke of a grant received for Clean Communities; asked who will be handling the Annual Clean-Up Day Project.

Ms. Snodgrass stated that Clean-Up Day is going to be held on Saturday, April 26, 2008; Justing Vining is coordinating with Mike Carnivale; letters were sent out to youth groups, non-profits, etc.; flyers will also be sent out; it will be a clean up of public playgrounds, City owned lots, etc.

Councilwoman Hatala suggested volunteers can earn money for their organization when they do clean up; spoke of communication from NJDOT in reference to grant money, applications are due June 20<sup>th</sup>; asked if the City could apply for this grant for the bike trails; spoke of two bridges in Kennedy Park; spoke of a historic bridge on the north side of Federal Street; spoke of Safe Streets to Transit; asked who would be handling this.

Mayor Fazzone stated it would be John Alexander; he will review the grant requirements and determine with the Engineer what can be applied for, then will complete applications.

President Ghaul asked for an update on the Eagle Scout Project.

Mr. Berry suggested administration is working this it; they will contact the Scout with a project.

President Ghaul requested a follow up report.

### **CONFERENCE ITEMS**

The following conference items were discussed:

- Tabernacle Baptist Church - Samuel Reale, Esq. of Kearns, Vassallo & Kearns
- Weed & Seed Program - Rev. Nolan Branch & Rev. Richard Lee
- Real Estate N.J.S.A. 10:4-12 (7)- Block 187, Lots 16, 23 & 24

### **ADJOURNMENT**

Upon motion of Councilman Babula, seconded by Councilwoman Hatala, this meeting was adjourned.

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Cindy A. Crivaro, RMC  
Municipal Clerk

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Douglas Ghaul, President  
Common Council

