

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, DECEMBER 1, 2009, AT 7:00 PM, IN THE CITY HALL, 525 HIGH STREET, BURLINGTON, NJ, PURSUANT TO THE OPEN PUBLIC MEETINGS ACT.

The Deputy Municipal Clerk advised the public of the location of the two fire exits; one the left after exiting the Council Chamber and the other being the entrance to the building.

Members present: President Ghaul, Mr. Epps, Mr. Babula, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Ms. Woodard. (7) Absent: (0)

Also present: Business Administrator- Eric Berry, Municipal Attorney- Andrew Bayer, 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 December 1, 2009 at 7:00 PM, prevailing time at the City Hall Building, 525 High Street, Burlington, N.J. 08016.

Cindy A. Crivaro, RMC
Municipal Clerk

INVOCATION

Pastor Thomas Bennett of the First Baptist Church

SALUTE TO FLAG

UNFINISHED BUSINESS

Councilman Babula asked for an update of the proposed stop sign at Wood and Union Streets.

Mr. Berry said he will look into it.

Councilman Babula said he would like to move on this as soon as possible; spoke of a \$1,000 telemarketing bill; asked how many people were reached for this Tourism Promotion.

Mr. Berry said there were 2 different call outs; will get information and get back to Council.

PUBLIC COMMENTS

Jeff Baron, representative of Club Risque- spoke in opposition of the 2nd reading of the Ordinance 25-2009; stated that 70-80 % of the work has been done; spoke of a request for 90 day extension; spoke of a resolution that was on the Agenda previously; suggested any issues could be resolved tonight; can answer any questions.

George Hulse, Esq., 406 High Street- spoke of having his office on High Street since 1985; said during this time I have sustained the deplorable use of the back of the building as a public restroom; spoke of lightrail patrons; spoke of the need for toilet facilities.

John, business owner on High Street- spoke of the process of putting up Christmas Lights and the heavy equipment downtown not being used; do appreciated the lights but, the City needs better management; blocks at a time were closed off.

President Ghaul said that Administration will work on this for next year.

Crystal, business owner on High Street- the merchants on the 200 block of High Street have many concerns; spoke of the need for more support from the City and the need for better management of hanging Christmas lights.

Shirley, 233 High Street- spoke of a bill received from Fire Prevention.

President Ghaul asked Administration to contact Shirley with an answer and also report back to Council.

Dawn Pate, business owner on High Street- spoke of activities happening downtown that business owners that are not aware of; spoke of the need for more support from the City.

President Ghaul spoke of an event this past week that was sponsored by the Chamber of Commerce.

Phyllis Freifelder, 313 E. Union Street- spoke of City football games; spoke of Main Street and the lack of support from the City; asked who is representing the Administration.

President Ghaul explained that under this form of government, Council is the legislative body and the Mayor runs the day to day business of the City; anyone can call and speak to the Administration.

Ms. Freifelder asked if there is process for returning football equipment; stated there was a rumor that \$26,000 was found and given to football; spoke of the conditions of streets in the City; spoke of vacant lots; spoke of safety concerns.

Nancy Measey-Kurts- E. Union Street- spoke of the Bond Ordinance on 1st Reading; asked if it includes the tennis courts; spoke of the disrepair of the current courts; concerned about suspicious activities happening in the City.

President Ghaul asked the Administrator to look into the tennis courts and report back to Council.

Betty Wilson, 337 E. Union Street- spoke of street sweeping; encouraged Council to revise the plan for street sweeping to twice a year; the new plan should include the City owned parking lot

Frank Caruso, 467 High Street- reiterated earlier comments made by George Hulse.

President Ghaul spoke of a meeting to review the Master Plan; bus stops will be a part of the new plan; Council will be addressing issues at bus stops in the beginning of the year.

Mr. Caruso asked if there will be public input or a committee; on the corner of High and Federal Streets there are students with no supervision causing problems.

President Ghaul spoke of children who chose to play in Mt. Holly pop warner; asked Administration to look into this.

Lovie Smith, 218 E. Pearl Street- spoke of low and moderate income housing; spoke of problems on York Street; spoke of neighbors smoking; spoke of trees and weeds at the old water works.

President Ghaul asked Administration to look into issues at the church and owners to clean up the waterworks.

Harry Heck, 116 E. Union Street- spoke in opposition of a new proposed street sweeping program; reiterated many comments made previously; the trash can by the riverline station is always overflowing; spoke of the Liberty Belle; spoke of the lack of support for Main Street; spoke of the Citizen of the Year dinner, the Mayor was not there; spoke of putting satellite dishes on the front of buildings in the Historic District; there is an ordinance against it.

Harry Mark, 49 Talbot Street- lives in a duplex; spoke of problems with code enforcement.

Sammy Cohen, 180 Riverbank- commented that Harry Mark pointed a finger at her.

CONSENT AGENDA

Councilwoman Lollar, moved that all Consent Agenda items be approved. It was seconded by Councilwoman Hatala.

On the question, Councilman Babula asked about an invoice in the amount of \$2,700 payable to Triad regarding COAH; asked if it is a monthly charge.

Mr. MacMillan said it is not; it was based on hours worked.

Invoices were then approved. All were in favor.

PETITIONS AND COMMUNICATIONS*

Approved by Consent Agenda. All were in favor.

CORRESPONDENCE FOR NOVEMBER 2009

NOTICES, AGENDAS, MINUTES, REPORTS, ETC. RECEIVED

Reports from various departments received:

Monies collected by the Municipal Clerk's Office for the month of October 2009. \$ 841.70

Monies collected by the Court during the month of October 2009. \$ 37,386.24

AGENDAS RECEIVED FROM VARIOUS BOARDS

11-01 Screening Board Agenda, dated November 5, 2009

11-02 Screening Board Members and Applicants, November 5, 2009 updated information

11-03 Land Use Board Agenda, dated November 25, 2009

MINUTES RECEIVED FROM VARIOUS BOARDS

11-10 Historic Preservation Commission, dated October 7, 2009

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

11-40 Beverly Schegelsberger, Christmas Parade on December 5, 2009

CORRESPONDENCE TO AND FROM WITHIN THE CITY AND CITY ORGANIZATIONS:

11-100 Historic Yorkshire News, dated November 2009

11-101 Endeavor Emergency Squad, Inc., October 2009 - Chief Report

COMMUNICATION TO AND FROM MUNICIPAL ENGINEER

11-300 Alaimo Group, dated October 26, 2009, re: Washington Avenue

11-301 Pennoni Associates, dated November 4, 2009, re: Sewer System

11-302 Pennoni Associates, dated November 20, 2009, re: Sewer System

CORRESPONDENCE TO AND FROM BURLINGTON COUNTY

11-501 Chamber of Commerce, re: Citizen of the Year Fishers-Edgar

11-502 Chamber of Commerce, re: Christmas Dinner December 8th 5:30pm

CORRESPONDENCE TO AND FROM THE LEAGUE OF MUNICIPALITIES:

11-600 Borgata, re: League of Municipalities Invitation

11-601 Senate President Richard J. Codey, Re: League of Municipalities Invitation

11-602 Verizon-NJ Shares /Bally's, re: League of Municipalities Invitation

11-603 NJLM Delegates Luncheon / Corzine-Christie

11-604 E-mail, dated November 9, 2009, re: DCA Staff Available for In Person Consultation

CORRESPONDENCE TO AND FROM THE STATE OF NEW JERSEY:

11-700 Michael Russio, Division of Local Aid, dated November 16, 2009

MISCELLANEOUS CORRESPONDENCE:

- 11-800 Invitation from Anthony's Eagle Scout Project
- 11-801 John D'Anastasio, dated November 16, 2009, re: Washington Square
- 11-802 Letter dated November 16, 2009, re: Burlington Island-Delaware River Dredge Project
- 11-803 Grace Shultz, re: Diningroom chairs
- 11-804 Bridge Players Theater - A Christmas Carol Broad St Methodist Church

APPROVAL OF INVOICES*

Approved by Consent Agenda. All were in favor.

APPROVAL OF MINUTES*

Approved by Consent Agenda. All were in favor.

ORDINANCE(S)- INTRODUCTION & FIRST READING

AN ORDINANCE OF THE CITY OF BURLINGTON, ESTABLISHING CLASS FEES AND COMPENSATION RATES FOR INSTRUCTORS OF CLASSES HELD AT LYCEUM HALL

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

A BOND ORDINANCE AMENDING BOND ORDINANCE NO. 02-2007 OF THE CITY OF BURLINGTON, IN THE COUNTY OF BURLINGTON, NEW JERSEY, AUTHORIZING THE CONSTRUCTION OF VARIOUS IMPROVEMENTS TO THE CITY RECREATION FACILITIES, THE ACQUISITION OF EQUIPMENT AND THE ACQUISITION OF REAL PROPERTY FOR REDEVELOPMENT PURPOSES; APPROPRIATING THE SUM OF \$3,084,000 THEREFORE; AUTHORIZING \$2,934,000 IN OBLIGATIONS OF THE CITY TO FINANCE SAID IMPROVEMENTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO

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

ORDINANCE(S) - SECOND READING & FINAL DISPOSITION

ORDINANCE NO. 25-2009 OF THE CITY OF BURLINGTON APPLYING THE PROVISIONS OF SUBTITLE ONE OF TITLE 39 REGARDING MOTOR VEHICLES AND TRAFFIC REGULATIONS TO PROPERTY OWNED BY VIXENRISQUE, LLC LOCATED AT 1131-1137 BORDENTOWN ROAD AS IDENTIFIED ON THE OFFICIAL TAX MAP OF THE CITY AS BLOCK 212, LOTS 7-12- **TABLED**

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

Public Comments

Jeff Baron representing Club Risque; spoke of Title 39; the Police would be allowed to enforce on the property, that is an issue; they have not been imposing enforcement on other private properties in the City; spoke of challenging the legality of this.

Council Comments

Mr. Bayer asked about the legal position suggested.

Mr. Baron suggested reasons Council should reconsider: property where title 39 is being imposed; this can't be enforced because lane is too narrow, there is no parking for it; believe the imposition by the Planning Board that they have no authority to make a pre-existing non-conforming use.

Sammy Cohen, 180 Riverbank- spoke in favor of the proposed ordinance.

Mr. Baron said this is only a Consumption License not a Distribution License.

Upon the motion of Councilwoman Lollar, seconded by Councilwoman Woodard, the foregoing ordinance was TABLED until the next meeting to be held on December 15, 2009. All were in favor.

ORDINANCE NO. 26-2009 ESTABLISHING A NEW CHAPTER IN TITLE 12 ("STREETS, SIDEWALKS AND PUBLIC PLACES") OF THE CODE OF THE CITY OF BURLINGTON ENTITLED CHAPTER 12.11 ("CRIMINAL HISTORY RECORD BACKGROUND CHECKS")

WHEREAS, N.J.S.A. 40:48-1.4 authorizes municipalities to adopt ordinances requiring municipal employees to submit to a criminal history record background check as a condition of their employment; and

WHEREAS, the Common Council of the City of Burlington (the "Common Council") wishes to amend its municipal code to require municipal employees who have responsibility in some capacity over Children (as defined herein) without the constant supervision of the Children's parents or guardians to submit to a criminal history record background check as a condition of such employment; and

WHEREAS, N.J.S.A. 15A:3A-1, et seq. authorizes municipalities to require employees and volunteers of non-profit youth service organizations to submit to a criminal history record background check as a condition of their service as an employee or volunteer for such organizations; and

WHEREAS, the Common Council wishes to amend its municipal code to require employees and volunteers of non-profit youth service organizations to submit to a criminal history record background check as a condition of their service as an employee or volunteer for such organizations.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Common Council of the City of Burlington, in the County of Burlington and State of New Jersey that a new chapter entitled Chapter 12.11 “Criminal History Record Background Checks” be and hereby is adopted within the Code of the City of Burlington to read in its entirety as follows:

Chapter 12.11 (“Criminal History Record Background Checks”)

§ 12.11.010 Definitions.

As used in this article, the following terms shall have the meanings indicated:

“Children” or “Youth” shall mean persons younger than eighteen (18) years of age.

“City” shall mean Burlington City, New Jersey.

“City-Sponsored Youth Programs” shall mean any Youth Programs which receive funding, in whole or in part, by the City of Burlington, including but not limited to any and all leagues, boards and commissions falling within the purview of or acting for or on behalf of the City of Burlington.

“Criminal History Record Background Check” shall mean a determination of whether a person has a criminal record by cross-referencing that person’s name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and/or the NJ State Bureau of Identification in the Division of State Police.

“Employee” means any person providing services to the City, a City-Sponsored Youth Program, or to a Non-Sponsored Youth Program, as the case may be, for monetary compensation and/or through an employment contract.

“Municipally-Owned Facilities” shall mean any facilities, including but not limited to any buildings or structures, any parks, and any sports-related playing fields or courts, owned by the City of Burlington or by the Burlington City Board of Education.

“Municipally-Owned Land” shall mean land owned by the City of Burlington or by the Burlington City Board of Education.

“Non-Sponsored Youth Programs” shall mean any Youth Programs operating within the City of Burlington which are not City-Sponsored Youth Programs, but which regularly utilize Municipally-Owned Facilities or Municipally-Owned Land.

“Police Chief” shall mean the Burlington City Police Chief.

“Qualified Participant” shall mean a person who has completed a Criminal History Record Background Check within the past three years that has revealed no disqualifying convictions and who has not been convicted of a disqualifying offense since the date of the Criminal History Record Background Check.

“Volunteer” means any person providing services to a City-Sponsored Youth Program or to a Non-Sponsored Youth Program without monetary compensation from or an employment contract with such programs.

“Youth Programs” shall mean any programs that allow for Children’s participation in activities including, but not limited to, sporting activities, passive recreation groups, clubs or camp trips or any other activities whereby some control and responsibility for Children is assigned to some person other than a parent or guardian.

§ 12.11.020 Criminal History Record Background Checks for Employees and Volunteers of Non-Sponsored Youth Programs.

A. Prior to any Non-Sponsored Youth Program being authorized by the City to utilize Municipally-Owned Facilities or Municipally-Owned Land, that Non-Sponsored Youth Program must provide the Police Chief with the findings of a Criminal History Record Background Check for each and every Employee or Volunteer of such Non-Sponsored Youth Program who will provide services to the Non-Sponsored Youth Program in or on the Municipally-Owned Facilities or Municipally-Owned Land. Each Employee or Volunteer of the Non-Sponsored Youth Program applying for the Criminal History Record Background Check shall authorize the Chief of Police to be the recipient of the affirmative or negative response from the Federal Bureau of Investigation, Identification Division and/or the New Jersey State Police based upon the findings of the Criminal History Record Background Check.

B. All officers of Non-Sponsored Youth Programs are responsible to ensure that all of the Employees and Volunteers who will provide services to Non-Sponsored Youth Programs in or on the Municipally-Owned Facilities or Municipally-Owned Land comply with the requirements of this Chapter. The President of each Non-Sponsored Youth Program or his or her designated representative shall file an annual roster of all of its Employees and Volunteers who will provide services to the Non-Sponsored Youth Program in or on the Municipally-Owned Facilities or Municipally-Owned Land with the City’s Recreation Department. Such roster shall include information as to whether each listed Employee or Volunteer has completed a Criminal History Record Background Check and the date of such background check. The roster shall be on a form supplied by the City’s Recreation Department and shall contain a certification as to the accuracy and completeness of the roster. Any person who knowingly certifies a roster that excludes Employees and Volunteers who perform services for the Non-Sponsored Youth Program in or on the Municipally-Owned Facilities or Municipally-Owned Land or who provides knowingly false information regarding the status of such Employee or Volunteer’s Criminal History Record Background Check shall be in violation of this Chapter and laws regarding false swearing. The Non-Sponsored Youth Program shall be responsible to ensure that only those Employees or Volunteers of the Non-Sponsored Youth Program who were listed on the roster and who successfully completed their Criminal History Record Background Check provide services on behalf of the Non-Sponsored Youth Program in or on the Municipally-Owned Facilities or Municipally-Owned Land and shall and shall prohibit Employees and Volunteers who fail to comply with the requirements of this Chapter from performing such services.

§ 12.11.030 Criminal History Record Background Checks for Employees and Volunteers of City-Sponsored Youth Programs.

A. Prior to participating in a City-Sponsored Youth Program, individuals wishing to act as Employees or Volunteers for a City-Sponsored Youth Program must submit an application on forms supplied by the City's Recreation Department for the purpose of obtaining a Criminal History Record Background Check from the State Bureau of Identification in the Federal Bureau of Investigation, Identification Division and the New Jersey State Police. Applications for Criminal History Record Background Checks shall be submitted to the City's Recreation Department. Based upon the Memorandum of Understanding executed between the City of Burlington and the Federal Bureau of Investigation, Identification Division and the New Jersey State Police, the person applying for the Criminal History Record Background Check shall authorize the Chief of Police to be the recipient of the affirmative or negative response from the Federal Bureau of Investigation, Identification Division or State Police based upon the findings of the Criminal History Record Background Check. Individuals wishing to act as Employees or Volunteers for a City-Sponsored Youth Program who are required to undergo Criminal History Record Background Checks under this Chapter shall not be responsible for the costs involved with obtaining the Criminal History Record Background Check and, instead, such costs shall be paid by the City.

B. All officers of City-Sponsored Youth Programs are responsible to ensure that all of its Employees and Volunteers who will provide services to the City-Sponsored Youth Programs comply with the requirements of this Chapter. The President of each City-Sponsored Youth Programs or his or her designated representative shall file an annual roster of all of its Employees and Volunteers who will provide services to the City-Sponsored Youth Program. Such roster shall include information as to whether each listed Employee or Volunteer has completed a Criminal History Record Background Check and the date of such background check. The roster shall be on a form supplied by the City's Recreation Department and shall contain a certification as to the accuracy and completeness of the roster. Any person who knowingly certifies a roster that excludes Employees and Volunteers who perform services for City-Sponsored Youth Programs or who provides knowingly false information regarding the status of such Employee or Volunteer's Criminal History Record Background Check shall be in violation of this Chapter and laws regarding false swearing. The City-Sponsored Youth Program shall be responsible to ensure that only those Employees or Volunteers of the City-Sponsored Youth Program who were listed on the roster and who successfully completed their Criminal History Record Background Check provide services on behalf of the City-Sponsored Youth Program and shall prohibit Employees and Volunteers who fail to comply with the requirements of this Chapter from performing such services.

§ 12.11.040 Criminal History Record Background Checks for City Employees Having Authority Over Children.

A. City Employees and/or prospective City Employees who have or will have authority in some capacity over Children without the constant observation of the Children's parents or guardians or without the constant observation of a representative of law enforcement or another Qualified Participant shall submit sufficient information on forms supplied by the Mayor and/or his designee from the Federal Bureau of Investigation, Identification Division, and the New Jersey State Police, for the purpose of obtaining a Criminal History Record Background Check with the Federal Bureau of Investigation, Identification Division and the New Jersey State Police. Applications for Criminal History Record Background Checks for City Employees and/or prospective City Employees shall be processed by the Chief of Police. The Employee and/or prospective Employee shall authorize the Police Chief to be the recipient of the affirmative or negative response from the Federal Bureau of Investigation, Identification Division or State Police based upon the findings of the Criminal History Record Background Check.

B. In the event of a negative determination arising from the Criminal History Record Background Check, eligibility for new employment and continued employment shall be determined in accordance with applicable law.

C. Notwithstanding anything stated herein, the City shall be permitted to perform Criminal History Record Background Checks on Employees and/or prospective Employees not covered by this Chapter in accordance with applicable law.

§ 12.11.050 Qualification Process.

A. All persons subject to the provisions of this Chapter must obtain a Criminal History Record Background Check before performing any services on behalf of a Non-Sponsored Youth Program, a City-Sponsored Youth Program, or the City. Any person who has completes a Criminal History Record Background Check that reveals no disqualifying convictions shall be designated as a Qualified Participant and may serve as an Employee or Volunteer for City Sponsored Youth Programs and Non-Sponsored Youth Programs or as a City Employee having authority in some capacity over Children without the constant observation of the Children's parents or guardians or without the constant observation of a representative of law enforcement or another Qualified Participant.

B. Once an applicant has successfully completed a Criminal History Record Background Check and has been designated as a Qualified Participant, such designation shall be a valid for a period of three (3) years from the date of the Criminal History Record Background Check; provided, however, that (i) the Qualified Participant shall be immediately disqualified from serving as an Employee or Volunteer for City Sponsored Youth Programs and Non-Sponsored Youth Programs or from serving as a City Employee having authority in some capacity over Children if he or she is subsequently convicted of a disqualifying crime, and that (ii) the Qualified Participant shall be immediately disqualified from serving as an Employee or Volunteer for City Sponsored Youth Programs and Non-Sponsored Youth Programs or from serving as a City Employee having authority in some capacity over Children unless he or she files, on an annual basis as established by the City, a certification in a form provided by the City certifying that he or

she has not been convicted of a disqualifying crime at any time after the date of his or her last Criminal History Record Background Check. Upon the expiration of the three (3) year period, applicants must re-apply for a new Criminal History Record Background Check in order to provide the services described within this Chapter.

C. Every individual subject to this Chapter has an ongoing responsibility to notify the City and, where applicable, to also notify the Non-Sponsored Youth Program or City-Sponsored Youth Program of any changes in their criminal history background immediately upon such change taking place. Failure by any individual to report any change in their criminal history background shall result in the disqualification of such individual from further service regulated under this Chapter and may subject such individual to the penalties for continuing violations set forth within this Chapter.

§ 12.11.060 Disqualification.

A. Upon receipt of a completed Criminal History Record Background Check conducted by the State Bureau of Identification in the New Jersey State Police and/or the Federal Bureau of Investigation, Identification Division, the Chief of Police shall notify the applicant and the designated representative of the City Sponsored Youth Program or the Non-Sponsored Youth Program, as the case may be, of the positive or negative determination as to the applicant. Upon receipt of a completed Criminal History Record Background Check conducted by the State Bureau of Identification in the New Jersey State Police and/or the Federal Bureau of Investigation, Identification Division as to a City Employee or prospective City Employee, the Chief of Police shall notify the applicant of the positive or negative determination as to the applicant.

B. The determination of the Chief of Police is based upon section § 12.11.060(C) and (D) of this Chapter. Details in the Criminal History Record Background Check that result in a negative determination by the State Police are not afforded to the Chief of Police and are only available to the applicant upon making a formal request to the State Bureau of Investigation.

C. In the event that the Criminal History Record Background Check reveals any prior convictions for crimes or offenses which negatively affect the health, safety and welfare of Children, the subject of the Criminal History Record Background Check shall not be designated as a Qualified Participant and shall not be allowed to perform services for a Non-Sponsored Youth Program, a City-Sponsored Youth Program, or as a City Employee having authority in some capacity over Children without the constant observation of the Children's parents or guardians or without the constant observation of a representative of law enforcement or a Qualified Participant. Such crimes or offenses shall include, but not be limited to, the following:

(1) Crimes or offenses involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11-1, et seq. (criminal homicide), N.J.S.A. 2C:12-1, et seq (assault; stalking reckless endangering; threats), N.J.S.A. 2C:13-1, et seq

(kidnaping and related offenses), N.J.S.A. 2C:14-1 et seq (sexual offenses), or N.J.S.A. 2C:15-1 et seq (robbery); or

(2) Crimes or offenses against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1, et seq., or

(3) Crimes or offenses involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes, or

(4) Crimes or offenses involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except for N.J.S.A. 2C:35-10(a)(4) (minimal amounts of marijuana or hashish)

(5) Crimes or offenses in any other state or jurisdiction, involving conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly person's offenses described in subsections (1) through (4) above.

D. The list of crimes and violations contained in this section is for illustrative purposes only and shall not be construed as a limitation on those criminal activities or violations that would be grounds to disqualify a person from assisting with youth-related activities as indicated herein.

E. If an Employee or Volunteer of a Non-Sponsored Youth Program or a City-Sponsored Youth Program fails to submit to a Criminal History Record Background Check or to comply with any of the other requirements of this Chapter, that Employee or Volunteer will be barred from performing services on behalf of the Non-Sponsored Youth Program or City-Sponsored Youth Program. If a City Employee or prospective City Employee fails to submit to a Criminal History Record Background Check when required to do so by the City or fails to comply with any of the other requirements of this Chapter, the City Employee and/or prospective City Employee may be subject to discipline or termination in accordance with applicable law.

§ 12.11.070 Exceptions to Applicability.

A. The provisions of this Chapter shall not apply to Youth Programs using Municipally-Owned Facilities or Municipally-Owned Land on an annual basis such as, by way of example, fairs, carnivals, flea markets, and similar events.

B. The provisions of this Chapter shall not apply to Employees or Volunteers providing services to the Burlington City Board of Education.

§ 12.11.080 Limitations on access and use of Criminal History Record Background Checks.

A. Access to Criminal History Record Background Checks for noncriminal justice purposes, including licensing and employment, is restricted to authorized personnel of the City-Sponsored Youth Program, the Non-Sponsored Youth Program, or the City, as the case may be, on a need-

to-know basis, as authorized by federal or state statute, rule or regulation, executive order, administrative code, local ordinance or resolution regarding obtaining and dissemination of criminal history record information obtained under this Chapter. Such records shall be exempt from public disclosure under common law or N.J.S.A. 47:1A-1, et seq.

B. City personnel shall limit their use of Criminal History Record Background Check information solely to the authorized purpose for which it was obtained, and Criminal History Record Background Check information shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. The records, in whatever form they exist, including electronically or via computer, shall be destroyed immediately by the City after they have served their intended and authorized purpose. Any person violating federal or state regulations governing access to Criminal History Record Background Check information may be subject to criminal and/or civil penalties.

§ 12.11.090 Fees

Other than as otherwise provided herein, the applicant and/or the City-Sponsored Youth Program or the Non-Sponsored Youth Program, as the case may be, shall be responsible for all fees associated with obtaining the Criminal History Record Background Check.

§ 12.11.101 Penalties.

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

§ 12.11.102 Effective date.

This Ordinance shall take effect upon passage and publication in accordance with applicable law.

§ 12.11.103 Ordinance provisions repealed.

Any ordinance provisions inconsistent with the provisions of this ordinance are repealed to the extent of such inconsistency.

§ 12.11.104 Severability.

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

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 Councilwoman Mercuri, the foregoing ordinance was introduced.

Public Comments

None.

Council Comments

Councilwoman Woodard asked about non-sponsored youth programs; would it apply to any group using a City owned property.

Mr. Bayer said it would not apply to the Board of Education.

Councilwoman Woodard said she is not opposed to criminal background checks, but the City may be over stepping.

President Ghaul asked who would be liable if something happened on City owned property.

Mr. Bayer said yes, there is a liability; spoke of the New Jersey Tort Claims Act.

Councilman Babula asked if there was a cost estimate for these background checks.; this may even be a part-time job.

President Ghaul spoke of anyone who would regularly deal with children.

Mr. Bayer said a rough estimate is 300 employees at \$26 a person; if approved, the 1st round would be paid for by the Kanka Foundation.

The ordinance was then adopted by the following roll call vote: AYES: Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Ghaul.(4) NAYS: Mr. Babula, Mr. Epps, Ms. Woodard. (3); Absent: (0)

RESOLUTIONS / CONSENT AGENDA RESOLUTIONS*

Resolution No. 243-2009

RESOLUTION NO. 243-2009 OF THE CITY OF BURLINGTON AUTHORIZING PROFESSIONAL SERVICES CONTRACT WITH REMINGTON, VERNICK & ARANGO ENGINEERS FOR ENVIRONMENTAL STUDIES FOR THE FORMER BURLINGTON MART SITE

WHEREAS, the City of Burlington is in need of environmental engineering services to conduct an environmental assessment of the Former Burlington Mart Site within the City of Burlington; and

WHEREAS, the engineering firm of Remington, Vernick & Arango Engineers of Haddonfield, NJ is professionally qualified to conduct such assessments; and

WHEREAS, a Hazardous Discharge Site Remediation Fund grant (HDSRF) in the amount of \$413,578.00 has been awarded to the City of Burlington for the environmental assessment of a portion of the Former Burlington Mart Facility; and

WHEREAS NJSA 40A:11-1 et seq. allows for the contracting for professional services without the necessity of competitive bidding;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington that the Mayor and Municipal Clerk are hereby authorized to execute a professional services contract with Remington, Vernick & Arango to conduct said environmental assessment within the City of Burlington in an amount not to exceed \$375,980.00;

BE IT FURTHER RESOLVED that all fees payable to Remington, Vernick & Arango will be funded by the HDSRF grant and the City of Burlington will issue a Notice to Proceed to Remington, Vernick & Arango upon receipt of appropriate Public Entity Grant Documents from the Hazardous Discharge Site Remediation Fund; and

BE IT FURTHER RESOLVED that this award is subject to the certification of available funds by the City of Burlington Chief Financial Officer.

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

On the question, Councilwoman Woodard asked if there were soft costs not covered by the grant, if so what are they.

Mr. MacMillan explained there are no soft costs, not covered by the grant.

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

Resolution No. 244-2009

RESOLUTION NO. 244-2009 OF THE CITY OF BURLINGTON AUTHORIZING AN AMENDMENT #4 TO THE CONTRACT BY AND BETWEEN THE ALAIMO GROUP AND THE CITY OF BURLINGTON DATED JANUARY 6, 2009.

WHEREAS, additional engineering services have been required of the Alaimo Group.

WHEREAS, the Alaimo Group (“Alaimo”) is seeking an Amendment to its existing Professional Services Agreement entitled “Amendment No. 4 to Agreement for Professional Services” which Amendment has the purpose of authorizing Alaimo to perform engineering duties as assigned in the capacity of Municipal Engineer for the City of Burlington and to increase the cap on its January 6, 2009 contract with the City by an additional amount not to exceed \$40,000.00 making a revised total contract amount of \$162,000.00.

WHEREAS, sufficient funds are available for such amendment as certified by the Finance Officer; and

NOW, THEREFORE BE IT RESOLVED by the Common Council of the City of Burlington that the Mayor is hereby authorized to execute an Amendment No. 4 to Agreement for Professional Services by and between the Alaimo Group and the City of Burlington to provide for additional engineering services in an amount not to exceed \$40,000.00 in the form substantially similar to the form Amendment to Agreement for Professional Services attached hereto.

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

- a. Alaimo Group
- b. City Administrator
- c. City Chief Financial Officer
- d. GluckWalrath, LLP

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

Resolution No. 245-2009

RESOLUTION NO. 245-2009 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AMENDING RESOLUTION NO. 165-2009 TO GRANT AN ADDITIONAL PERIOD OF TIME TO VIXENRISQUE, LLC TRADING AS CLUB RISQUE TO COMPLETE IMPROVEMENTS

WHEREAS, the Common Council adopted Resolution No. 165-2009 renewing with conditions Plenary Consumption Alcoholic Beverage License No. 0305-010-008 for the 2009-2010 license year; and

WHEREAS, Resolution No. 165-2009 directed the Licensee, Vixenrisque, LLC t/a Club Risque (“Licensee”), to secure approval from the City of Burlington Land Use Board and to erect a fence

along the rear portion of Licensee's property known as 1137 Bordentown Road no later than September 28, 2009; and,

WHEREAS, the Licensee has secured the necessary land approvals from the City of Burlington Land Use Board; and

WHEREAS, the Licensee has filed an appeal with the State of New Jersey Department of Law and Public Safety, Division of Alcoholic Beverage Control, challenging the imposition of the condition; and

WHEREAS, the license, through its Counsel, Baron, Riefberg and Brennam, has represented that it will complete the improvements by the City of Burlington Land Use Board so as to satisfy the any and all conditions imposed upon he renewal of its license within ninety (90) days following approval of its letter of credit, which has been submitted to City of Burlington Solicitor; and

WHEREAS, the licensee is subject to other pending proceedings brought by the State of New Jersey Department of Law and Public Safety, Division of Alcoholic Beverage Control, which are unrelated to the subject matter of this resolution and unaffected by this action.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington, County of Burlington, State of New Jersey, that;

1. The Common Council has determined that the Licensee had made a good faith effort to secure the necessary land use approvals so that it may construct a fence in a timely manner as required by Resolution No. 165-2009. It therefore agrees to extend the time for the construction of the fence for a period of ninety (90) days to commence from the date of the approval of the licensee's letter of credit by the City Solicitor.
2. All other terms and conditions set forth in Resolution No. 165-2009 remain unchanged.
3. A certified copy of this resolution shall be sent to the State of New Jersey, Division of Alcoholic Control, and to the parties hereto and any other appropriate governmental authority.

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

Resolution No. 248-2009

RESOLUTION TO AMEND ADOPTED BUDGET FOR A HAVA SECTION 261 GRANT FROM THE COUNTY OF BURLINGTON

WHEREAS, N.J.S. 40A:4-87 provides that the Director of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount, and

WHEREAS, the City of Burlington received a **HAVA Section 261 Grant** in the amount of \$2,850.10 from the State of New Jersey, Department of State, Division of Elections;

SECTION 1

NOW THEREFORE, BE IT RESOLVED that the City of Burlington hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2009 in the sum of \$2,850.10 as follows which item is now available as a revenue from:

Miscellaneous Revenues - Section F: Special Items of General Revenue Anticipated with Prior Written Consent of Director of Local Government Services - Public and Private Revenues Offset with Appropriations:

HAVA Section 261 Grant \$ 2,850.10

SECTION 2

BE IT FURTHER RESOLVED that a like sum of \$ 2,850.10 be and the same is hereby appropriated under the caption of:

General Appropriations Operations-Excluded from "CAP"
Public and Private Programs Offset by Revenues:

HAVA Section 261 Grant \$ 2,850.10

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

Resolution No. 249-2009

RESOLUTION TO AMEND ADOPTED BUDGET FOR A FY 2009 RECOVERY ACT EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FROM THE US DEPARTMENT OF JUSTICE ADMINISTERED BY THE COUNTY OF BURLINGTON

WHEREAS, N.J.S. 40A:4-87 provides that the Director of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount, and

WHEREAS, the Redeveloper's Agreement provided the Redeveloper with an 180 day due diligence period (the "Due Diligence Expiration") to investigate the Property and to prepare a Site Report and further provided that if the Redeveloper did not elect to terminate the Redeveloper's Agreement prior to the Due Diligence Expiration date, the Redeveloper had to proceed with the lease of the Property and with the Property's redevelopment as described within the Redeveloper's Agreement; and

WHEREAS, the Parties amended the Redeveloper's Agreement to extend the Due Diligence Expiration date to August 1, 2009; and

WHEREAS, the Redeveloper assisted the City in obtaining a grant from the New Jersey Department of Environmental Protection ("NJDEP") in order to initiate an environmental investigation at the Property; and

WHEREAS, there have been substantial delays in completing the environmental investigation of the Property due to the time lapses involved in obtaining NJDEP approval for the investigation to proceed; and

WHEREAS, the Redeveloper has indicated that it wants to terminate the Redeveloper's Agreement and relinquish any further rights in the Property;

WHEREAS, the City administration has recommended that the Redeveloper be allowed to terminate the Redeveloper's Agreement so long as the Redeveloper releases any claims that it has against the City regarding the Property or under the Redeveloper's Agreement.

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Burlington that the Mayor is hereby authorized to execute a contract, in a form substantially similar to that attached hereto and as approved by the City Solicitor, with New Vistas Corp. terminating the Redeveloper's Agreement for the Property; and

BE IT FURTHER RESOLVED, that a certified copy of the Resolution and the contract authorized hereunder shall be provided to each of the following:

New Vistas Corp.
Andrew Bayer, City Solicitor

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

Resolution No. 251-2009
RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, there are certain 2009 budget appropriations which have been determined to be insufficient and there are other 2009 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 2009 budget appropriations be made:

<u>CURRENT FUND:</u>	<u>From</u>	<u>To</u>
Programs Coordinator B SW	\$ 15,000.00	
Programs Coordinator B OE		\$ 15,000.00
	<u>\$ 15,000.00</u>	<u>\$ 15,000.00</u>

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

On the question, Councilman Babula asked for an explanation from the CFO.

Mr. MacMillan gave an explanation.

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

COUNCIL COMMENTS

Council Members thanked Mr. Epps completing the unexpired term of Councilman of 1st Ward for City of Burlington.

Mr. Epps thanked Council Members for the opportunity.

ADJOURNMENT

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

Cindy A. Crivaro, RMC

Municipal Clerk

Douglas Ghaul, President

Common Council