

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, OCTOBER 17, 2017, 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 on the left after exiting the Council Chamber and the other being the entrance to the building.

Members present: Mr. Chachis, Ms. Hatala, Ms. Lollar, Ms. Mercuri, Mr. Swan, Ms. Woodard. (5); Absent: Mr. Babula, Ms. Lollar. (2)

Also present: Mayor Conaway, Municipal Attorney- George Saponaro, Chief Financial Officer- Ken MacMillan, Administrator- David Ballard, Police Chief Snow, Fire Chief Caruso, Redevelopment Counsel Brooks DiDonato.

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on October 17, 2017 at 7:00 PM, prevailing time at the City Hall Building, 525 High Street, Burlington, N.J. 08016.

Cindy A. Crivaro, RMC
Municipal Clerk

SALUTE TO FLAG

UNFINISHED BUSINESS

None.

PUBLIC COMMENTS - RESOLUTIONS / CONSENT AGENDA RESOLUTIONS

None.

CONSENT AGENDA

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

APPROVAL OF INVOICES*

Approved by Consent Agenda. All were in favor.

RESOLUTIONS / CONSENT AGENDA RESOLUTIONS*

Resolution No. 215-2017

RESOLUTION NO. 215-2017 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON PROVIDING FOR A SHARED SERVICE WITH THE CITY OF BURLINGTON FOR CODE INSPECTIONS BY THE BURLINGTON TOWNSHIP CONSTRUCTION OFFICIAL FOR THE 1,016,000 SQUARE FOOT WAREHOUSE DISTRIBUTION AND FULFILLMENT FACILITY AND RELATED IMPROVEMENTS TO BE LOCATED IN THE CITY AND TOWNSHIP OF BURLINGTON

WHEREAS, approvals have been granted by the Burlington Township Planning Board and the City of Burlington Land Use Board for the construction of a 1,016,000 square foot warehouse distribution and fulfillment facility and related improvements ("Improvements") to be located on a portion of the former U.S. Pipe and Foundry facility located in both municipalities, specifically Block 150, Lots 1, 1.01, 2 and 2.01 in the Township, and Block 226, Lot 1 in the City; and

WHEREAS, the Township of Burlington ("Township") employs a full time Code Official and has a Department of Licensing and Inspection which has the ability to inspect the Improvements; and

WHEREAS, the governing body of the City, the Common Council, and the governing body of the Township, the Township Council, have both determined that the Improvements are in the best interests of each community; and

WHEREAS, each municipality has designated Matrix Burlington River Road North Urban Renewal LLC ("Matrix") as the redeveloper of the Improvements and Matrix has requested that the governing bodies cooperate to expedite the completion of the Improvements; and

WHEREAS, by the adoption of conforming resolutions the Township Council and the Common Council wish to enter into a shared service agreement for code inspections and the resolutions will serve to set forth the terms of the shared service agreement between the Township of Burlington and the City of Burlington.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council enters into the following shared service agreement with the Common Council:

1. The Construction Official and other employees of the Township's Department of Licenses and Inspections shall perform all code inspections required for the Improvements.
2. The schedule of fees to be charged shall be those in effect in the Township during the period that the Improvements are constructed and upon the issuance of a final certificate of occupancy this shared service agreement will no longer be in effect.

3. The Township will pay to the City one-half of all fees received for the Improvements within thirty days of receipt.
4. For informational purposes the Township Clerk shall send a copy of this resolution to the Division of Local Government Services.
5. This Resolution shall apply to the Department of Licensing and Inspection and that department only. Nothing herein shall be construed to impact both municipalities' respective fire officials and fire inspections.

Upon the motion of Councilwoman Mercuri, seconded by Councilman Chachis, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard. (4); NAYS: Ms. Hatala. (1); ABSTAIN: (0); ABSENT: Mr. Babula, Ms. Lollar. (2).

Resolution No. 216-2017

RESOLUTION NO. 216-2017 OF THE CITY OF BURLINGTON TO AWARD A CONTRACT TO THE EARLE COMPANIES IN CONNECTION WITH THE FY2017 NEW JERSEY DEPARTMENT OF TRANSPORTATION MUNICIPAL AID PROGRAM GRANT RECEIVED FOR A PAVING PROJECT ON ELM AVENUE AND LINCOLN AVENUE

WHEREAS, the City of Burlington did apply for and did receive a Fiscal Year 2017 Municipal Aid Program Grant from the New Jersey Department of Transportation for a paving project on Elm Avenue (from Wood Street to Lincoln Avenue) and on Lincoln Avenue (from Elm Avenue to Glenwood Avenue), in the amount of \$196,000.00; and

WHEREAS, bids were received on October 6, 2017 for this project, as outlined on the bid tabulation sheet; and

WHEREAS, the amount of the lowest bid for this project is \$176,313.13, submitted by The Earle Companies; and

WHEREAS, the City of Burlington Chief Financial Officer has certified that funds are available to award a contract to The Earle Companies; and

WHEREAS, The Earle Companies submitted the lowest acceptable bid, and the City Engineer, Frank S. Morris, P.E., of Alaimo Group has reviewed the bid proposal and the qualifications of the bidder and finds them to be in order; and

WHEREAS, the City Engineer recommends that the Common Council of the City of Burlington award a contract to The Earle Companies with a corporate headquarters at 1800 Route 34, Building 2, Suite 205, Wall, NJ 07719 and a mailing address of Post Office Box 556, Farmingdale, NJ 07727, per the engineer's letter dated October 6, 2017;

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 The Earle Companies for a paving project on portions of Elm Avenue and Lincoln Avenue in the amount of \$176,313.13.

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

Resolution No. 217-2017*

Resolution No. 217-2017 of Support from Local Governing Body
Authorizing the Sustainable Jersey Grant Application

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, the City of Burlington strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, the City of Burlington is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created a grant program called the Sustainable Jersey Small Grants Program;

WHEREAS, Sustainable Jersey is offering grants through the Gardinier Environmental Fund for energy projects focused on conservation, efficiency and renewable energy; and

WHEREAS, this grant will be used to assist the community to reduce energy use:

THEREFORE, the City Council of the City of Burlington has determined that City of Burlington should apply for the aforementioned Grant.

THEREFORE, BE IT RESOLVED, that City Council of the City of Burlington, State of New Jersey, authorize the submission of the aforementioned Sustainable Jersey Grant.

Approved by Consent Agenda. All were in favor.

Resolution No. 218-2017*

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 October 17, 2017, that an Executive Session Closed to the Public shall be held on October 17, 2017, in the Council Meeting Room for discussion of matters relating to the specific items designated in this resolution:

- Real Estate/Contracts N.J.S.A. 10:4-12(7) Fresh to Go Mercantile License Revocation

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 October of 2017 or shortly there after.

Approved by Consent Agenda. All were in favor.

Resolution No. 219-2017*

RESOLUTION NO. 219-2017 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON CANCELLING AND REFUNDING TAXES ON PROPERTY OWNED BY A WIDOW OF A TOTALLY DISABLED VETERAN

WHEREAS, the property identified as Block 137 Lot 25, located at 450 Lawrence St is owned by Ms. Sharon Jones Dietrich; and

WHEREAS, Ms. Sharon Jones Dietrich is a widow of a totally disabled veteran; and

WHEREAS, the State of New Jersey provides tax exempt status, under N.J.S.A. 54:4-3:30, to veterans declared as such; and

WHEREAS, due to the cancellation of pro-rated 2017 taxes in the amount of \$1,832.62, an overpayment will occur on property in the amount of \$530.09;

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington that the 2017 pro-rated taxes are hereby cancelled for the reason set forth above and authorizes the Chief Financial Officer to issue a refund check in the amount of \$530.09 for the overpayment of 2017 taxes.

Approved by Consent Agenda. All were in favor.

Resolution No. 220-2017*

RESOLUTION NO. 220-2017 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON CANCEL TAXES AND REFUND OVERPAYMENT ON PROPERTY OWNED BY A TOTALLY DISABLED VETERAN

WHEREAS, the property identified herein as Block 231 Lot 37, located at 147 Mott Ave is owned by Mr. Steven Pesut, declared to be a 100% permanently and totally disabled veteran; and

WHEREAS, the State of New Jersey provides tax exempt status, under N.J.S.A. 54:4-3:30, to veterans declared as such; and

WHEREAS, due to the cancellation of pro-rated 2017 taxes in the amount of \$6,036.61, an overpayment will occur on property in the amount of \$6,036.61;

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington that the 2017 pro-rated taxes are hereby cancelled for the reason set forth above and authorizes the Chief Financial Officer to issue a refund check in the amount of \$6,036.61 for the overpayment of 2017 taxes. The refund to be issued as follows:

<u>BLOCK</u>	<u>LOT</u>	<u>PROPERTY OWNER</u>	<u>AMOUNT</u>
231 (147 Mott Ave)	37	Steven Pesut	\$ 6,036.61

**Make check payable to:
Corelogic
Attn: Refund Dept./Renee Held
1 Corelogic Way
Westlake, Texas 76262

Approved by Consent Agenda. All were in favor.

Resolution No. 221-2017

RESOLUTION NO. 221-2017 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON TO ACCEPT A BID WITHDRAWAL REQUEST FROM THINK PAVERS HARDSCAPING, LLC IN CONNECTION WITH THE FY2016 NEW JERSEY DEPARTMENT OF TRANSPORTATION TRANSIT VILLAGE GRANT FOR A PEDESTRIAN ROUTE IMPROVEMENT AND BEAUTIFICATION PROJECT ON WEST BROAD STREET

WHEREAS, three (3) bids were received on October 11, 2017 for a pedestrian route improvement and beautification project on West Broad Street; and

WHEREAS, in accordance with N.J. Statute 40A:11-23.3 a bidder may request withdrawal of a bid, due to a mistake on the part of the bidder, within five (5) business days after a bid opening; and

WHEREAS, a bid withdrawal request was submitted by Think Pavers Hardscaping, LLC, with a corporate headquarters at 125 Kings Highway, Mount Royal, NJ 08061, within the required time frame; and

WHEREAS, the City's engineer, Frank Morris of Alaimo Group reviewed the withdrawal request and finds it meets the definition of "mistake";

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Burlington, County of Burlington, State of New Jersey hereby approves the withdrawal request of Think Pavers Hardscaping, LLC; and

BE IT FURTHER RESOLVED that the bid guarantee be returned to Think Pavers Hardscaping, LLC.

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

Resolution No. 222-2017

RESOLUTION NO. 222-2017 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AWARDED A BID FOR THE BROAD STREET/TOWN CENTER STATION PEDESTRIAN ROUTE AND BEAUTIFICATION

WHEREAS, the City of Burlington has received bids for the Broad Street/Town Center Station Pedestrian Route and Beautification; and

WHEREAS, bids were opened and read aloud pursuant to local public contracts law on October 11, 2017; and

WHEREAS, the bids received resulted in a low bid by Think Pavers Hardscaping, LLC in the amount of \$ 214,185.10; and

WHEREAS, the City of Burlington received a certified letter through its Engineers, the Alaimo Group, dated October 12, 2017, from the low bidder indicating that they did not include the cost of material for pavers in their proposal, resulting in financial harm to them, as it was an oversight, and they further wish to have the bid of \$214,185.10 withdrawn pursuant to N.J. Statute 40A:11-23.3; and

WHEREAS, the City Director of Law has reviewed the matter and determined that the withdrawal of the bid is acceptable pursuant to the Statute; and

WHEREAS, the City of Burlington has therefore received a number of bids resulting in the second lowest bidder being Seacoast Construction Inc. in the amount of \$247,459.55; and WHEREAS, the bids have been reviewed by the Alaimo Group and the second lowest bidder being now the lowest bidder pursuant to the withdraw should be awarded the contract;

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Burlington as follows:

•

The contract for the Broad Street Town Center Station Pedestrian Route and Beautification is hereby awarded to Seacoast Construction Inc. in the amount of \$247,459.55.

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The Mayor, City Clerk and Director of Law are authorized and directed to take all steps to effectuate the execution of the said contract.

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

PUBLIC COMMENTS -

Etienne Tucker, 3 East Union Street, Mercantile License Applicant for Gemfriend - spoke of the denial of his Mercantile License Application.

Mr. Saponaro said he can not give legal advice.

President Woodard asked Mr. Saponaro to speak with Mr. Tucker during the break.

INFRASTRUCTURE COMMENTS

Councilman Swan spoke of the State DOT spending money elsewhere, but not in the City of Burlington where its needed the most; asked Mr. Ballard to petition the State.

Councilman Chachis spoke of his Ward meeting at the Church; thanked Mr. Ballard for taking

care of the issues at 309 Stacy Street.

Mr. Ballard said it was due to a lot of help from others that this was able to take place.

Councilwoman Hatala spoke of Councilman Swan's comments regarding DOT and Rt. 130; work was done in 1992, they have not been back since; spoke of a crack in front of her property, her house shakes from the vibrations tractor trailers; they did portions of the road going south toward Willingboro.

Mr. Ballard feels we will be seeing attention very soon.

Deputy Fire Chief Matt Field advised him work is planned.

ADMINISTRATION REPORT

Mr. Ballard spoke of problems with the railroad tracks at Keim Boulevard, there is a raised rail; there will be a meeting on Thursday; the Company is from Princeton NJ; spoke of a repair 3 by 5 foot concrete structure on Mooreland Avenue; the Engineers did not anticipate that this would raise the road, it occurred on one side of the intersection effecting the ADA ramps; Pennoni will make the repairs at no cost to the City.

Councilwoman Woodard asked if money was in the budget for PR for notifying the residents.

Mr. Ballard said he will ask them when they meet on Thursday; the Bridge Police will be present also.

COUNCIL COMMENTS

None.

CONFERENCES

- Assistance to Firefighters Grant - Rusty Caruso, Fire Chief

EXECUTIVE CONFERENCES

- Fresh to Go Mercantile License Revocation

Resolution No. 223-2017

RESOLUTION NO. 223-2017 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON UPHOLDING THE REVOCATION OF THE LICENSE TO OPERATE A MERCANTILE BUSINESS WITHIN THE CITY OF BURLINGTON FOR FRESH TO GO, LLC

WHEREAS, the Common Council of the City of Burlington has the duty and authority pursuant to the City Code to review issues of licensing in general and mercantile licensing including retail businesses pursuant to City Code section 213-1 et. Seq. and thus reviews actions related to the same; and

WHEREAS, the City Clerk received information relating to activities that if correct would create a serious risk to the health safety and welfare of the residents of the City of Burlington; and

WHEREAS, the notification of revocation by the City Clerk of the mercantile license for Gurinder Singh was prepared and served upon its owners and/or agent on September 8, 2017; and

WHEREAS, the notification of revocation of the business license for Gurinder Singh, stated a variety of reasons charging Gurinder Singh with, among other things, violation to provisions of the Municipal Code, conduct of a licensed activity constituting breach of the peace of menace to the public health, and fraud and material misrepresentation in the conduct of license activity; and

WHEREAS, the respondent, Gurinder Singh, requested a hearing through his Counsel, Robin Lord, Esquire, 210 South Broad, Suite B, Trenton, New Jersey, 08608; and

WHEREAS, the applicant, by and through his Counsel requested an appeal hearing before City Council was made by Ms. Lord and/or Gurinder Singh, in a timely manner, constituting notice of its appeal and thus providing for a hearing before the Common Council for the City of Burlington; and

WHEREAS, the Common Council for the City of Burlington scheduled the hearing before the Council on October 3, 2017, within thirty (30) days of the City's receipt of the appeal by Gurinder Singh; and

WHEREAS, Gurinder Singh, by and through his Counsel requested an adjournment of the original hearing date, and further acknowledged a waiver of any statutory timeframes for such a hearing by requesting such an adjournment for a one-week period; and

WHEREAS, the hearing was held by the Common Council by the City of Burlington on October 10, 2017; and

WHEREAS, the Common Council of the City of Burlington has considered the testimony, and the case presented by J. Brooks DiDonato, Esquire, attorney for the administration for the City of Burlington, and heard the testimony of the witnesses as called; and

WHEREAS, Gurinder Singh was represented by Robin Lord, Esquire at that hearing, who had the opportunity to present witnesses and/or other evidence, chose not to do so; and

WHEREAS, Council has considered the arguments made by Robin Lord, Esquire, attorney for Gurinder Singh, and heard the arguments of both parties; and

WHEREAS, the Common Council for the City of Burlington advises that it is in the public interest, that given the breaches of the peace and good order, and the facts as presented, specifically the activities conducted by Gurinder Singh, has a capacity to damage other business interests within the City of Burlington by creating unfair business practices; and

WHEREAS, the Common Council of the City of Burlington finds that as a result of the conduct by Gurinder Singh, that there are certain breaches of the peace, menaces to the public health, safety, and general welfare of the Citizenry of the City of Burlington, and that the activities conducted were done in an unlawful manner and further that the conduct constitutes fraud, misrepresentations, and material misrepresentations made in the conduct of its licensed activity; and

WHEREAS, the Common Council of the City of Burlington finds that by applying for and receiving a mercantile license within the City of Burlington, that its owners and operators are responsible for the conduct of any and all employees of such a business;

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Burlington as follows:

1. The appeal filed by Gurinder Singh, challenging the revocation of its business license before the Common Council of the City of Burlington is hereby denied pursuant to City Code Section 213-1, et. seq;
2. The Common Council finds that Fresh to go, through its business practices, and by a ponderance of all credible evidence as presented has violated the provisions of the Municipal Code for the City of Burlington, specifically by having caused its license to be revoked through the causes as set forth in Section 213-9A(2) Fraud, Misrepresentation, or other material misrepresentation made in the conduct of the license activity and 213-9A(5) Conduct of the licensed activity whether by the licensee or his agents in an unlawful manner or in a manner which constitutes a breach of the peace or menace to the public health, safety or general welfare of the City of Burlington;
3. The Common Council's findings in this matter are made pursuant to the provisions of the authority granted by the Faulkner Act and any and all other provisions of the New Jersey Statutes and City Code sections 213-9, which the council finds have been proven, and therefore the license revocation appeal is denied, and any further applications would need to be made to a court of competent jurisdiction;
4. The Mayor, Business Administrator, Director of Law, and Police Chief are authorized and directed to carry out any further necessary actions concerning the revocation of business license of Gurinder Singh.

Upon the motion of Councilman Chachis, seconded by Councilwoman Mercuri, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard. (4); NAYS: Ms. Hatala. (1); ABSTAIN: (0); ABSENT: Mr. Babula, Ms. Lollar. (2).

ADJOURNMENT

Upon the motion of Councilwoman Mercuri, seconded by Councilman Chachis, this meeting of October 17, 2017 was adjourned.

Cindy A. Crivaro, RMC

Municipal Clerk