

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, DECEMBER 11, 2012, 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. Babula, Mr. Conaway, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) Absent: Ms. Hatala, Ms. Mercuri. (2)

Also present: Municipal Attorney- George Saponaro, Chief Financial Officer- Ken Mac Millan, Director of Housing- David Ballard, Lt. Snow, Director of Public Works- Carl Turner.

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 11, 2012 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.

CONSENT AGENDA

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

APPROVAL OF INVOICES*

Approved by Consent Agenda. All were in favor. Absent: Hatala, Mercuri.

ORDINANCE(S) - SECOND READING & FINAL DISPOSITION

ORDINANCE NO. 21-2012 OF THE CITY OF BURLINGTON AMENDING SECTIONS 207-22 THROUGH 207-35 OF THE CODE OF THE CITY OF BURLINGTON (HISTORIC PRESERVATION)

WHEREAS, Article IV of the Burlington City Code creates an agency known as the “Historic Preservation Commission” and outlines the Commission’s purpose and involvement with the historic preservation of buildings, structures, sites, and districts throughout the City; and

WHEREAS, §207-34 of Article IV is entitled “Effect of project approval; denial; appeal;” and

WHEREAS, the Commission has made a recommendation to clarify the appeals process outlined in §207-34 of Article IV; and

WHEREAS, the clarification will benefit the people of Burlington City and facilitate a better understanding of the appeals process as it relates to actions concerning the historic preservation of buildings, structures, sites, and districts throughout the City; and

WHEREAS, the Commission further recommended that certain minor changes and additions be made to the remainder of Article IV; and

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

The Code of the City of Burlington, Article IV, shall henceforth read as follows:

Part G of § 207-23 is deleted. § 207-23 is amended to read as follows:

§ 207-23. Purpose.

These historic preservation regulations are intended to effect and accomplish the protection, enhancement and perpetuation of especially noteworthy examples or elements of the City’s environment in order:

To safeguard the heritage of the City by preserving resources which reflect elements of its cultural, social, economic and architectural history;

To encourage the continued use of historic sites and to facilitate their appropriate use;

To maintain and develop an appropriate and harmonious setting for the historic and architecturally significant buildings, structures, site objects or districts within the City;

To stabilize and improve property values within the district and foster civic pride;

To promote appreciation of historic sites for the education, pleasure and welfare of the population;

To encourage beautification and private reinvestment;

To prevent the demolition of historic resources;

To recognize the importance of individual historic sites located outside of a district by urging property owners and tenants to maintain their properties in keeping with the requirements and standards of this chapter;

To encourage the proper maintenance and preservation of historic settings and landscapes;

To encourage appropriate alterations of historic sites;

To enhance the visual and aesthetic character, diversity, continuity and interest in the City;

To promote the conservation of historic sites and districts and to invite and encourage voluntary compliance.

The definition of “Historic District” found in § 207-24 is amended to read as follows:

HISTORIC DISTRICTS

High Street Historic District (State & National Register) HD1;
City of Burlington Historic District HD2 (State & National Register) CBHD;
City of Burlington Municipal Historic District HD3.

One or more historic sites and intervening or surrounding property constituting a geographically definable area significantly affecting or affected by the quality and character of the historic site or sites. Resources within an historic district shall be classified as either key, contributing or noncontributing, which are defined as:

A. KEY — Any buildings, structures, sites or objects which, due to their significance, would individually qualify for historic site status.

B. CONTRIBUTING — Any buildings, structures, sites or objects which are integral components of the historic district either because they date from a time period for which the district is significant, or because they represent an architectural type, period or method for which the district is significant.

C. NONCONTRIBUTING — Any buildings, structures, sites or objects which are not integral components of the historic district because they neither date from a time period for which the district is significant nor represent an architectural type, period or method for which the district is significant.

The definition of “Replacement” found in § 207-24 is amended to read as follows:

REPLACEMENT

Repairs affecting (See above for definition of "affecting") the exterior architectural appearance of a structure. New materials (the same as which that were there before the work effort) being installed on an existing building--structure that do not change the exterior architectural appearance of an improvement may be considered a “Repair” provided the project complies with subsection B of the definition of “Repair.”

§ 207-30 is amended to read as follows:

§ 207-30. Actions Exempt from Commission Review.

Review by the Commission is not required:

A. Emergency repair to preserve continued habitability: When an historic site requires immediate emergency repair to preserve the continued habitability of the building and/or health and safety of its occupants or others. Emergency repairs may be performed in accordance with existing codes then in effect, without the necessity of first obtaining the Commission's review. Under such circumstances, the repairs performed shall only be such that are necessary to maintain the habitability of the structure. A request for the Commission's review shall be made as soon as possible and no additional work shall be performed upon the structure until an appropriate request for approval is made and obtained in accordance with the procedures set forth in this chapter;

B. For changes to the interior of structures;

C. For ordinary repairs and maintenance which do not constitute a change to the appearance of the structure. The following activities do not require commission review or approval:

(1) Repair or replacement of existing windows and doors, using the same material. Installation of storm windows that are compatible with the architectural period or design of the subject structure;

(2) Maintenance, replacement and repair of existing roof material involving no change in the design, scale, material or appearance of the structure;

(3) Repair and replacement of existing roof structures, such as cupolas, dormers and chimneys, using the same materials, which will not alter the exterior architectural appearance of the structure;

(4) Replacement in kind of existing shingles, clapboards, or other siding maintaining the architectural integrity of the structure;

(5) Maintenance, replacement and repair of existing shingles, clapboards or other siding, using the same materials that are being repaired or maintained;

(6) Repairs and replacement to existing signs, shutters, outdoor displays, fences, hedges, street furniture, awnings, off-street driveway and parking materials and sidewalks, using the same material for those items noted above being repaired.

(7) Repairs and replacement of existing steps which will not alter the exterior architectural appearance of the structure.

(8) Garden accent features including but not limited to arbors, pergolas not attached to the principal structure, and bird baths.

Subsection C of § 207-31 is amended to read as follows:

C. The Commission's recommendation shall focus on how the proposed undertaking would affect a historic site or architectural significance. In considering the Commission's recommendations, the Land Use Board shall be guided by the review criteria established in § 207-33 of this chapter.

Subsection C of § 207-33 is amended to read as follows:

C. In regard to an application for alterations and/or additions affecting an historic site or an improvement within an historic district, the following factors shall be considered:

(1) Design and materials. The proposed design and materials will conform to the building's original architectural style.

(2) Original qualities. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided.

(3) Acquired significance. Changes that have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(4) Repair versus replacement. Deteriorated architectural features (e.g., windows, doors, shutters, trim, siding, etc.) should be repaired rather than replaced, wherever feasible using the Secretary of the Interior's Standards for Rehabilitation. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features substantiated by historic, physical or pictorial evidence rather than conjectural designs or the availability of different architectural elements from other buildings or structures.

(5) Design of alterations. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historic, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(6) Character of alterations. Wherever possible, new additions and alterations to structures shall be done in such a manner that if such additions or alterations were to be

removed in the future, the essential form and integrity of the structure would be unimpaired.

(7) Synthetic siding. Synthetic siding is generally not acceptable on key buildings. In the New Jersey and Nationally Registered Historic Districts, metal, vinyl, or other alternative material siding may be used to resurface facades that do not front a public right-of-way on contributing buildings that were originally wood-sided if the substitute siding is similar in design, width and texture to the original clapboard and will not endanger the physical condition and structural life of the building. Architectural trim must be retained. In the City of Burlington Municipal Historic District metal, vinyl, or other alternative material siding may be used to resurface facades on all elevations of contributing and noncontributing buildings provided the style and configuration does not adversely impact the district. Architectural trim should be retained.

(8) Window and door openings.

(a) The number, size and locations of original window and door openings shall in general be retained. Window and door openings shall not be reduced to fit stock material. New window and door openings should not be added on elevations that are subject to view from a public street unless the change will not adversely affect the historic district.

(b) Vinyl, vinyl-clad, aluminum, aluminum-clad windows and doors are generally not acceptable on key buildings. In the New Jersey and Nationally Registered Historic Districts Non-wood-surfaced window frames and doors may be used on side and rear building elevations that do not front a public right-of-way on contributing buildings that were originally wood windows and doors when the substitute windows and doors are similar in design, width and texture to the original wood windows or doors and will not endanger the physical condition and structural life of the building. Architectural trim and adornments must be retained. In the City of Burlington Municipal Historic District Non-wood-surfaced window frames and doors are acceptable on all elevations of contributing and noncontributing buildings provided the style and configuration does not adversely impact the district.

§ 207-34 is amended to read as follows:

Applicants seeking to undertake any project or action concerning a historical site or improvement in a historic district must initially seek an advisory opinion from the Historic Preservation Commission pursuant to §207-29 of this chapter. The Commission's advisory opinion shall be memorialized in a "Certificate of Appropriateness" to be submitted to the Construction Code Official for a final determination. The Construction Code Official will be responsible for making a final decision on the proposed project or action. Because the Commission's opinion is advisory in nature, it is a recommendation that the Construction Code Official is not legally

obligated to follow.

Approval by the Construction Code Official shall be deemed to be final approval pursuant to this chapter. Such approval is independent of any other authorization concerning the historic site or improvement in a historic district and will have no impact on the filing of any collateral application required by any other municipal ordinance.

Denial of an application or of a building permit shall completely bar the applicant from undertaking the activity which was the subject of the denied application.

In the event an applicant wishes to appeal a determination made by the Construction Code Official, the appeal will be heard by the Land Use Board pursuant to N.J.S.A. 40:55D-70(a). The appeals process will be guided by N.J.S.A. 40:55D-69 et seq. If the Land Use Board determines that an error was made by the Construction Code Official as to any aspect of the decision, the Land Use Board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the administrative officer from whom the appeal is taken, as directed by N.J.S.A. 40:55D-74.

BE IT FURTHER ORDAINED that this ordinance shall take effect upon final passage and publication as required by law.

Upon the motion of Councilman Babula, seconded by Councilwoman Woodard, the foregoing ordinance was introduced.

Public Comments

Sammy Cohen, 180 Riverbank- spoke of concerns with page 2 section 207-30 (8) regarding pergolas; recommended to strike “pergolas not attached to the principal structure” or limit it to a size.

Council Comments

Councilman Babula ask Mr. Rijs to respond to Ms. Cohen’s comments.

Mr. Rijs suggested this is a minor item; it could be struck or minor modifications could be made later.

Councilman Babula spoke of lot sizes according to building structures.

Councilwoman Woodard suggested to leave it in tact and allow the Historic Preservation Commission to review this further at a later date.

Mr. Saponaro recommend following Councilwoman Woodard’s suggestion and allow the Historic Preservation Commission to conduct a further review in the future.

Mr. Rijs suggested that the Commission could get back to Council in 3-4 months.

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

RESOLUTIONS / CONSENT AGENDA RESOLUTIONS*

Resolution No. 245-2012

RESOLUTION TO AMEND ADOPTED BUDGET FOR “CERTIFIED LOCAL GOVERNMENT” GRANT” FROM THE NJ HISTORIC PRESERVATION OFFICE

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 **Certified Local Government Grant** in the amount of \$24,850.00 from the New Jersey Historic Preservation Office;

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 2012 in the sum of \$24,850.00 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:

Certified Local Government Grant	\$24,850.00
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SECTION 2

BE IT FURTHER RESOLVED that a like sum of \$ 24,850.00 be and the same is hereby appropriated under the caption of:

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

Certified Local Government Grant	\$24,850.00
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Upon the motion of Councilman Babula, seconded by Councilman Conaway, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Conaway, Mr. Ghaul, Ms. Lollar, Ms. Woodard. (5) NAYS: (0); Absent: Ms. Hatala, Ms. Mercuri. (2)

Resolution No. 246-2012

A RESOLUTION OF THE CITY OF BURLINGTON AUTHORIZING THE AWARD OF A CONTRACT FOR THE 2013 SUPPLY & DELIVERY OF VARIOUS CHEMICALS

Whereas, the City Administration, after consultation with the Public Works Director, has requested Common Council's consideration of this resolution; and

Whereas, the City Administration was authorized to solicit sealed bids by the Common Council for the 2013 Supply & Delivery of the Various Chemicals listed below. The bid opening was held on Tuesday, December 4, 2012 at 10 AM in the City Hall Conference Room; and

Whereas, the Administration reviewed the submitted bids and recommends that the Common Council award the contracts to the lowest qualified bidder, based on the attached bid summary; and

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 companies listed below:

<u>CONTRACT</u>	<u>VENDOR</u>	<u>CHEMICAL</u>	<u>AMOUNT</u>
BC-12-038	Coyne Chemical 3015 State Road Croyden, PA. 19021-6997	Potassium Permanganate	\$ 7,911.36
BC-12-039	Miracle Chemical Co. 1151 B Highway #33 Farmingdale, NJ 07727	Sodium Hypochlorite	\$58,867.20
BC-12-040	SNF Polydyne, Inc. One Chemical Plant Road Riceboro, GA 31323	Sludge Polymer Zetaylte 948-L	\$ 8,514.00
BC-12-041	Univar USA, Inc. 5 Steele Road East Morrisville, PA 19067	Sodium Hydroxide	\$30,000.00
BC-12-042	Univar USA, Inc. 5 Steele Road East	Powder Activated Carbon	\$27,412.00

Morrisville, PA 19067

BC-12-043	Univar USA, Inc. 5 Steele Road East Morrisville, PA 19067	Sodium Bisulfite	\$22,500.00
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Be It Further Resolved, that any and all payment documents shall carry the contract identification numbers and that the Municipal Clerk shall provide the Business Administrator with two (2) certified copies of this resolution.

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

Resolution No. 247-2012*

A RESOLUTION OF THE CITY OF BURLINGTON RE-ESTABLISHING THE AUTHORIZATION OF INTEREST RATE AND GRACE PERIOD

WHEREAS, N.J.S.A. 54:4-67 et seq., permits the governing body to fix the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal charges.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Burlington that the rate of interest on unpaid taxes shall be eight percent per annum on the first One Thousand, Five Hundred Dollars(\$1,500.00) of delinquency and eighteen percent per annum on any amount in excess of One Thousand, Five Hundred Dollars, to be calculated from the date the tax amount was payable until the date of actual payment, provided that no interest shall be charged if payment of any installment is made on or before the tenth calendar day following the due date; and,

BE IT FURTHER RESOLVED, that the rate of interest on unpaid water and sewer bills shall be eight percent per annum up to One Thousand, Five Hundred Dollars (\$1,500.00) of delinquency and eighteen percent per annum on any amount in excess of One Thousand, Five Hundred Dollars to be calculated from the date the bill was payable until the date of the actual payment, provided that no interest shall be charged if payment of any bill is made within ten (10) calendar days following the billing date; and,

BE IT FURTHER RESOLVED, that the Municipal Clerk provides a certified copy of this resolution to the Tax Collector and Chief Financial Officer.

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

Resolution No. 248-2012*

A RESOLUTION OF THE CITY OF BURLINGTON CANCELLING TAXES

WHEREAS, the following parcels were acquired by the City of Burlington during the 2008 and 2009 tax year; and

WHEREAS, as a political subdivision of the State of New Jersey, the City of Burlington is not subject to taxation;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington that the following 2012 taxes and any interest thereon are hereby cancelled in accordance with N.J.S.A. 54:4-3.3 laws of the State of New Jersey as follows:-

BLOCK	138	BLOCK	138	BLOCK	138
LOT	38	LOT	41	LOT	42
114 Mechanic St		108 Mechanic St		110 Mechanic St	
TAXES	\$ 475.40 plus Interest	TAXES	\$ 475.40 plus Int.	TAXES	\$ 475.40 plus Int.
BLOCK	138	BLOCK	138	BLOCK	150
LOT	43	LOT	57	LOT	6
104 Mechanic St		100 Mechanic St		312 Jones Ave	
TAXES	\$ 479.57 plus Interest	TAXES	\$ 339.79 plus Int.	TAXES	\$ 512.93 plus Int.
BLOCK	150	BLOCK	150		
LOT	14	LOT	16		
445 St. Mary St		449 St. Mary St			
TAXES	\$ 450.38 plus Int.	TAXES	\$ 446.21 plus Int.		

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

Resolution No. 249-2012*

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 December 11, 2012, that an Executive Session Closed to the Public shall be held on December 11, 2012, 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(5) Washington Square

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 December 2012 or shortly thereafter.

Approved by Consent Agenda. All were in favor. Absent: Ms. Hatala, Ms. Mercuri.

Resolution No. 250-2012

In accordance with New Jersey Statute Title 40A:9-146, Appointment of Tax Assessor, the Common Council of the City of Burlington hereby confirms the Mayor's appointment of Justin Vining, Jr., CTA, 311 Conover Street, Burlington, NJ 08016 as the Tax Assessor for the City of Burlington to June 30, 2015 to fulfill the unexpired term of Diane Hesley, at a salary commensurate with the salary ordinance.

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

Resolution No. 251-2012

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING A CONTRACT FOR ADMINISTRATIVE SERVICES WITH NATIONWIDE RETIREMENT SOLUTIONS, INC.

WHEREAS, the City of Burlington has a Deferred Compensation Program for its employees;

WHEREAS, the City's Deferred Compensation Program as constituted requires Administrative Services from a Third Party;

WHEREAS, Nationwide has previously served as the Administrator for the City of Burlington under its Deferred Compensation Plan;

WHEREAS, the City of Burlington has reviewed the fixed rate of return and determined that Nationwide offers a fixed rate of return greater than that of other comparable competitors, including competitors that were selected by the City's prior provider;

WHEREAS, the City Solicitor has reviewed a proposed form of contract for Administrative Services and determined that it is acceptable and appropriate for the City of Burlington;

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

1. The Mayor, Chief Financial Officer, or other applicable City Officials are hereby authorized to execute a contract with Nationwide Retirement Solutions, Inc. for the providing of Administrative Services in relation to the City of Burlington's Deferred Compensation Program;

2. The Common Council for the City of Burlington hereby authorizes and directs its auditor to evaluate employer payroll records and perform all other services necessary pursuant to the New Jersey Administrative Code 5:37-10.3 in accordance with Municipal Employees Deferred Compensation Plans.

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

Mr. MacMillan reviewed Resolution No. 251-2012.

Councilman Babula asked if the Administrative fees are comparable.

Mr. MacMillan stated yes, however, the overall interest rate would be better to stay with Nationwide; it is renewed annually but good until cancelled by either party.

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

PUBLIC COMMENTS

None.

COUNCIL COMMENTS

Councilman Babula wished everyone Happy Holidays.

Councilman Conaway stated that the National Honor Society and the Key Club are collecting canned goods for Hurricane Sandy victims; spoke of the Youth Achievers Science Fair.

President Lollar spoke of upcoming events.

Councilwoman Woodard spoke of a resident who spoke last week expressing concerns of the City having a grocery store like Wegmen's or Whole Foods; explained that we don't have the criteria or the rateables and the income; attempts have been made.

Councilman Ghaul spoke of a Pearl Harbor Day Ceremony held by the American Legion; it was very nice.

CONFERENCE

Request for Temporary Use of Space at Commerce Square- Dana Trump of All Brand Carriage Shop, Inc.

EXECUTIVE CONFERENCE

Washington Square- Al Marmero, Esq.

ADJOURNMENT

Upon the motion of Councilman Babula, seconded by Councilman Conaway, this meeting of December 11, 2012 was adjourned.

Cindy A. Crivaro, RMC
Municipal Clerk