



AGENDA
COMMITTEE OF THE WHOLE
Tuesday, December 20, 2016 at 6:30 p.m.
Common Council Chambers - 224 East Jefferson Street

Mayor Jeannie Hefty
John Ekes, Alderman, 1st District
Edward Johnson, Alderman, 1st District
Bob Grandi, Alderman, 2nd District
Ruth Dawidziak, Alderman, 2nd District
Tom Vos, Council President, Alderman, 3rd District
Jon Schultz, Alderman, 3rd District
Thomas Preusker, Alderman, 4th District
Todd Bauman, Alderman, 4th District

Student Representatives
Gabriel King, Burlington High School
Ryan Werner, Burlington High School

1. Call to Order – Roll Call
2. Citizen comments
3. Approval of minutes for December 6, 2016 (*E. Johnson*)pg. 2
4. **Topic: Resolution 4811(30)** to consider approving an Engagement Letter with Patrick Romenesko, SC for the 2016 Annual Audit for the not to exceed amount of \$34,000. This item is scheduled for final consideration at the January 3, 2017 Common Council meeting.pg. 7
5. **Topic: Resolution 4812(31)** to consider approving a contract extension for a term of four years with John’s Disposal for refuse and recycling collection services. This item is scheduled for final consideration at the January 3, 2017 Common Council meeting.pg. 15
6. **Topic: Ordinance 2014(10)** to consider amending Chapter 315-27, “B-2 Central Business District” in the Municipal Code creating trash dumpster and garbage receptacle requirements. This item is scheduled for final consideration at the January 3, 2017, 2016 Common Council meeting..... pg. 38
7. **Topic: Ordinance 2015(11)** to consider amending Chapter 265-3(A) “Refuse Disposal” of the Municipal Code defining residential units within a commercial development. This item is scheduled for final consideration at the January 3, 2017 Common Council meeting.pg. 41
8. **Topic: Ordinance 2016(12)** to consider amending the Racine County Multi-Jurisdictional Comprehensive Plan for 672 W. State Street. This item is scheduled for the January 3, 2017 Common Council meeting for consideration. pg. 43
9. **Adjourn** (*B. Grandi*)



COMMITTEE OF THE WHOLE

ITEM NUMBER: 3

DATE: December 20, 2016

SUBJECT: December 6, 2016 Committee of the Whole Minutes

SUBMITTED BY: Diahnn Halbach, City Clerk

BACKGROUND/HISTORY:

The attached minutes are from the December 6, 2016 Common Council meeting.

BUDGET/FISCAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of the attached minutes from the December 6, 2016 Committee of the Whole meeting.

TIMING/IMPLEMENTATION:

This item is scheduled for final consideration at the December 20, 2016 Common Council meeting.

ATTACHMENTS:

Committee of the Whole Minutes



CITY OF BURLINGTON
Committee of the Whole Minutes
Jeannie Hefty, Mayor
Diahnn Halbach, City Clerk
Tuesday, December 6, 2016

1. Call to Order/Roll Call

Mayor Jeannie Hefty called the meeting to order at 6:30 p.m. starting with roll call. Aldermen present: Ed Johnson, Bob Grandi, Ruth Dawidziak, Tom Vos, Jon Schultz, Tom Preusker and Todd Bauman. Excused: John Ekes

Also present: City Administrator Carina Walters, Treasurer and Budget Officer Steve DeQuaker, Director of Administrative Services Megan Watkins, City Attorney John Bjelajac, Police Chief Mark Anderson, Fire Chief Alan Babe, DPW Director James Bergles, and Building Inspector Gregory Guidry.

Student Representatives - Present: Gabriel King, Ryan Werner. Excused: None

2. Citizens Comments and Questions

There were none.

3. Approval of Minutes from November 1, 2016

A motion was made by Alderman Vos with a second by Alderman Bauman to approve the minutes from November 1, 2016. With all in favor, the motion carried to approve the minutes.

4. Topic: Motion 16-856 to consider approving a Maintenance and Operations Plan and construction documents for the Burlington Community Pool.

Jason Krapfl, of Carrico Aquatics presented the initial draft of the pool's management plan. Krapfl reviewed staffing needs, budget projections, pool comparisons, facilities amenities, fee comparisons, pool schedules, concession operations, marketing, and capital equipment replacement. Krapfl reported that expenses for the pool are estimated to be about \$168,048, with an estimation of about \$170,000 in annual revenue. Krapfl also emphasized the importance of hiring a qualified pool manager to oversee the daily operations of the pool.

Alderman Schultz inquired about marketing efforts and felt more money should be allocated to this in order to sustain viability. Krapfl replied that marketing can be done successfully with less money by putting more time and energy into using social media and word-of-mouth.

Alderman Bauman stated that the budget is very tight, especially just being based off of projections. Krapfl responded that he feels the pool will start off doing very well, however, it's important to keep the pool interesting as it ages, by adding programs, changing amenities, and updating equipment, which is why having a contingency fund is important.

Alderman Vos inquired as to who is responsible for the startup and shut down of the pool each season and who does the training to make sure it's done properly. Krapfl responded that Carrico would do the initial startup and training. Shut down of the pool would need to be determined and

if a professional company is outsourced, additional money would need to be allocated towards this. Walters stated that the plan would need to reflect these costs.

Student representative Ryan Werner, asked about the range of distance that was used to determine comparable communities. Krapfl responded that he tried to find comparable areas that he felt would draw similar numbers and avoided big cities such as Milwaukee or Racine which have their own pools. Krapfl added that attendees would more than likely be repeat customers, utilizing the pool several times per week. Mayor stated that she felt people from Waterford, Wind Lake, and Western Racine would more than likely utilize the pool.

In response to the fee structure and having resident and non-resident fees, Alderman Schultz asked how residency would be validated. Krapfl said there is software available, but that most younger children would be accompanied by an adult and should have proper id with them.

Alderman Schultz repeated his concern for residents who are paying for the pool via taxes and having to pay additional fees in order to use. Schultz felt there should be a more affordable option for residents.

Grandi reported that the Pool Board Fund is at \$690,000 and will continue to grow through investments and fundraisers.

Attorney Bjelajac stated that a discussion of the Pool Agreement would be forthcoming and would address issues, concerns, and key features.

5. **Topic: Resolution 4809(28)** to consider approving an Employee Compensation and Classification Step Plan.

Patrick Glynn of Carlson Dettmann reviewed the Executive Summary and stated that this structure would put the City of Burlington on the right path to maintaining competitiveness with other communities. Glynn also stated that the change in employee benefits would be a responsible approach to maintaining the City budget.

Alderman Schultz asked if this information had been communicated to the employees. Walters responded that a city wide meeting was held on Thursday, December 1, in which this information was communicated.

6. **Topic: Resolution 4810(29)** to consider approving the 2017 Annual Budget.

Steve DeQuaker reviewed the proposed budget for 2017. DeQuaker stated The 2017 Annual Budget accounts for all of Council's wishes as expressed during workshops related to this budget. For the General Fund, the ending fund balance is projected to be \$1,461,942 or 18.4% of total expenditures, which is lower than the usual fund balance due to needed expenditures for infrastructure projects, compensation and benefit plan adjustments and the clearing of negative fund balances in two of the three negative balance funds. DeQuaker added that the overall levy increased .989%, which is net new construction, or \$55,469. Water and Sewer revenues have been reviewed and a Sewer Rate increase is budgeted for 2017 at approximately 5.3% per the adopted Financial Management Plan. In addition, the Library will continue to be funded at \$405,500 as it has been funded in the past 4 years and the Airport is continuing to be managed effectively and operating cash positive in 2017. Other funds have been funded as required through general fund transfers and or planned borrowings, per council directives during workshops, including the Pool construction (debt will not be funded by the levy until 2018), Park Development Fund, Facade Grant Fund and Equipment Replacement Fund.

The City MIL rate for 2016 taxes paid in 2017 is projected to be \$8.95 or 17 cents per thousand lower than the 2015 MIL rate. The overall combined MIL rate is yet to be determined due to final figures from the State as well as First Dollar and Lottery Credits. The TIF Levy is projected to be just over \$4M in TIF 3 and ER TIF 1 combined and just over \$100,000 in TIF 5. The City is on target to begin the close process of TIF 3 and ER TIF 1 in 2017/2018.

7. **Topic: Ordinance 2009(5)** to consider amending Chapter 57, "Officers and Employees" in the Municipal Code.

Walters stated that there were several positions eliminated from Chapter 57 including Assistant City Engineer, Public Works Supervisor, Building Inspector, Plumbing Inspector, Electrical Inspector, and City Forester. Walters also noted that although these positions are being removed from the Code, they are not necessarily being eliminated as positions with the City - the amendment merely removes the need for Council appointment, yet allows the City Administrator to oversee employment and termination. Walters also stated that this amendment further removes the residency requirement for the City Administrator, which was eliminated with Act 10, and includes "Street Commissioner" under the title of Director of Public Works

8. **Topic: Ordinance 2010(6)** to consider repealing and recreating Chapter 315-51, "Fences" in the Municipal Code.

Gregory Guidry explained that two property owners who own corner lots, applied for variances with the Zoning Board of Appeals (ZBA) to allow for a 4-foot high fence in the street yard. Current ordinance allows for a maximum of 3-foot high. Both owners were granted variances provided they met the regulations of a vision triangle, if necessary. The ZBA further requested staff to consider amending the current fence ordinance to allow for a 4-foot height in the street yard without a variance.

Alderman Dawidziak stated this amendment was long overdue and much needed.

Alderman Schultz wanted to know the definition of a decorative fence and why they could only be 10 feet in length. Attorney Bjelajac responded he would review this further and report back with an answer.

9. **Topic: Ordinance 2011(7)** to consider repealing Chapter 142-2, "Electrical License" in the Municipal Code of the City of Burlington in its entirety.

Guidry explained that as of April 1, 2014, the State of Wisconsin, per State Statute 101.861, deemed that a municipality could no longer impose this license or certification on electrical contractors, electricians or electrical inspectors. Guidry further stated that this text amendment seeks to eliminate this requirement from the Municipal Code in its entirety to become compliant with state statutes.

10. **Topic: Ordinance 2012(8)** to consider amending Chapter 243, "Plumbing" in the Municipal Code to amend references to State of Wisconsin agencies and codes.

Guidry explained that the attached text amendment seeks to amend Ch. 243, Plumbing, of the City's municipal code in sections that reference state ordinances and is merely a housekeeping item

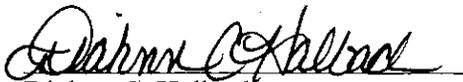
11. Topic: Ordinance 2013(9) to consider amending Chapter 115, "Building Construction" in the Municipal Code to amend references to State of Wisconsin agencies and codes.

Guidry explained that recently, the Wisconsin Department of Commerce Division of Safety and Buildings was renamed to the Wisconsin Department of Safety and Professional Services (DSPS) and references to this department in the state statutes were amended appropriately and that the text amendment seeks to amend Ch. 115 of the City's municipal code in sections that reference DSPS ordinances.

12. Adjourn

A motion was made by Schultz with a second by Dawidziak to adjourn the meeting. With all in favor, the meeting adjourned at 8:39 p.m.

Minutes respectfully submitted by:



Diahnn C. Halbach
City Clerk
City of Burlington



COMMITTEE OF THE WHOLE

ITEM NUMBER: 4

DATE: December 20, 2016

SUBJECT: RESOLUTION 4811(30) – To consider approving the Letter of Engagement for Patrick Romenesko, SC for the 2016 Annual Audit for the Not-to-Exceed Amount of \$34,000

SUBMITTED BY: Steve DeQuaker, Budget Officer/Treasurer

BACKGROUND/HISTORY:

Pat Romenesko has conducted the City of Burlington annual audit since 1985. The attached engagement letter outlines the items/reviews he will perform during the 2016 audit. State Statutes have added WRS Pension Liability Reporting to the audit requirements as of the 2015 Audit year. This statute has added additional work and several extra pages to the audit. Pat completes the audit over a period of about three weeks of on-site visits examining the ledgers and postings by the finance department along with compliance to accepted standards and controls. Following the examinations, Pat then compiles the audit report, which is, in-turn reported to the Common Council. As reported in 2015, staff conducted an informal cost comparison of municipal auditors and Pat's fees are on the lower end. Part of the process included in the fee, requires Pat to file State Form C and PSC filings.

BUDGET/FISCAL IMPACT:

Not to exceed costs for the 2016 audit will be \$34,000, which is up \$1,000 or 3% from the 2015 audit.

RECOMMENDATION:

Staff recommends accepting this letter of engagement from Pat Romenesko, S.C. for the not to exceed amount of \$34,000.

TIMING/IMPLEMENTATION:

This item is for discussion at the December 20, 2016 Committee of the Whole meeting and scheduled for final consideration at the January 3, 2017 Common Council meeting.

ATTACHMENTS:

Engagement Letter

**A RESOLUTION APPROVING AN ENGAGEMENT LETTER WITH
PATRICK ROMENESKO, C.P.A. FOR THE 2016 AUDIT FOR THE
NOT-TO-EXCEED AMOUNT OF \$34,000**

WHEREAS, the City of Burlington is required by law to participate in an annual audit of its accounts; and,

WHEREAS, Patrick W. Romenesko, CPA, is a licensed and fully qualified Certified Public Accountant in the State of Wisconsin; and,

WHEREAS, Patrick Romenesko has previously performed these auditing services for the City of Burlington in a satisfactory and timely manner; and,

WHEREAS, Statutes of the State of Wisconsin and Generally Accepted Account Practices now require additional pension liability information to be included as part of the annual audit,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington, Racine County and Walworth County, State of Wisconsin approves acceptance of auditing services from Patrick W. Romenesko, S.C. for the audit of the City's fiscal year 2016 accounts as outlined in the attached October 16, 2016 Letter of Engagement.

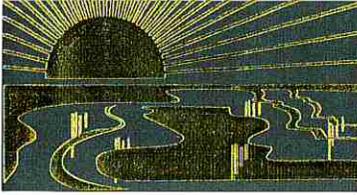
BE IT FURTHER RESOLVED that the City Administrator is hereby authorized and directed to execute this agreement on behalf of the City.

Introduced: December 20, 2016
Adopted:

Jeannie Hefty, Mayor

Attest:

Diahnn Halbach, City Clerk



Patrick W. Romenesko, S.C.
CERTIFIED PUBLIC ACCOUNTANT

1001 Host Drive • P.O. Box 508 • Lake Geneva, Wisconsin 53147
Telephone 262/248-0220 • Facsimile 262/248-8429

October 16, 2016

The City Council and Administration
City of Burlington
300 N. Pine Street
Burlington, Wisconsin 53105

CLIENT'S COPY

Ladies and Gentlemen:

I am pleased to confirm my understanding of the services I am to provide the City of Burlington for the year ended December 31, 2016. I will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the City of Burlington as of and for the year ended December 31, 2016. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement City of Burlington's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, I will apply certain limited procedures to City of Burlington's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to my inquiries, the basic financial statements, and other knowledge I obtained during my audit of the basic financial statements. I will not express an opinion or provide any assurance on the information because the limited procedures do not provide me with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Schedule of Proportionate Share of the Net Pension Liability (Asset) - Wisconsin Retirement System
2. Schedule of Contributions - Wisconsin Retirement System

I have also been engaged to report on supplementary information other than RSI that accompanies the financial statements consisting of combining fund statements and detailed budget to actual statements. I will subject this supplementary information to the auditing procedures applied in my audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole.

Audit Objective

The objective of my audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the basic financial statements taken as a whole. My audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures I consider necessary to enable me to express such opinions. I will issue a written report upon completion of my audit of City of Burlington's financial statements. My report will be addressed to the city council of the City of Burlington. I cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for me to modify my opinions or add emphasis-of-matter or other-matter paragraphs. If my opinions on the financial statements are other than unmodified, I will discuss the reasons with you in advance. If, for any reason, I am unable to complete the audit or are unable to form or have not formed opinions, I may decline to express opinions or may withdraw from this engagement.

Audit Procedures - General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, my audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. I will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the city or to acts by management or employees acting on behalf of the city.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, I will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to my attention. I will also inform the appropriate level of management of any violations of laws or governmental regulations that come to my attention, unless clearly inconsequential. My responsibility as auditor is limited to the period covered by my audit and does not extend to any later periods for which I am not engaged as auditor.

My procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. I will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of my audit, I will require certain written representations from you about the financial statements and related matters.

Audit Procedures - Internal Control

My audit will include obtaining an understanding of the city and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, I will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures - Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, I will perform tests of the City of Burlington's compliance with the provisions of applicable laws, regulations, contracts and agreements. However, the objective of my audit will not be to provide an opinion on overall compliance and I will not express such an opinion.

Other Services

As part of my engagement, I will also prepare the annual financial reports to the Wisconsin Department of Revenue and the Public Service Commission. I will also prepare the financial statements of the City of Burlington in conformity with U.S. generally accepted accounting principles based on information provided by you. We will perform the services in accordance with applicable professional standards. I, in my sole professional judgement, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to me and for the accuracy and completeness of that information. You are also responsible for providing me with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to me in the written representation letter that the effects of any uncorrected misstatements aggregated by me during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent, and detect fraud, and for informing me about all known or suspected fraud affecting the city involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing me of your knowledge of any allegations of fraud or suspected fraud affecting the city received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the city complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to me in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) that you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) that the methods of measurement or presentation have not changed from those used in the prior period; and (4) you have disclosed to me any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You agree to assume all management responsibilities for financial statement preparation services and any other nonattest services I provide; oversee the services by designating an individual, preferably from senior management with suitable skill, knowledge or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Audit Fees and Other

My fees for these services will be based on the actual time spent at my standard hourly rates, plus travel and other out-of-pocket costs such as report reproduction, typing, postage, etc. The hourly rates of personnel assigned to your audit vary according to the degree of responsibility involved and their experience level. Invoices for these fees will be rendered each month as work progresses and are payable on presentation. My fee for the audit is not to exceed \$34,000.00. If the actual time on the engagement should be less than anticipated, you will be billed for that lesser amount.

I appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of my engagement. If you have any questions, please let me know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to me. I look forward to the continued opportunity to serve you.

Sincerely,



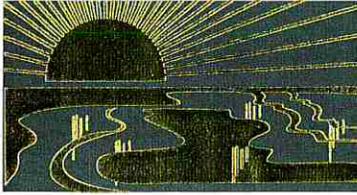
Patrick W. Romenesko
Certified Public Accountant

ACKNOWLEDGMENT:

This letter correctly sets forth the understanding of the City of Burlington.

By: _____

Title: _____ Date: _____



Patrick W. Romenesko, S.C.
CERTIFIED PUBLIC ACCOUNTANT

1001 Host Drive • P.O. Box 508 • Lake Geneva, Wisconsin 53147
Telephone 262/248-0220 • Facsimile 262/248-8429

October 16, 2016

The City Council and Administration
City of Burlington
300 N. Pine Street
Burlington, Wisconsin 53105

CLIENT'S COPY

Ladies and Gentlemen:

The American Institute of Certified Public Accountants has issued Interpretation 101-3, *Performance of Nonattest Services*, which requires on auditor to document the understanding of nonattest services to be performed to an audit client. In order to fulfill the requirements of the interpretation, I am providing you the following information concerning objectives of the engagement and services to be performed; your responsibilities in the engagement; and my responsibilities and limitations of the engagement.

Objectives of the Engagement and Services to be Performed

I will provide services in addition to auditing your 2016 financial statements consisting of the following:

- Preparation of your annual Financial Report Form (Form C).
- Preparation of your annual report to the Public Service Commission.
- Assistance with the preparation of your annual financial statements.

I will not perform management functions or make management decisions on behalf of the City of Burlington. However, I will provide advice and recommendations to assist the management of City of Burlington in performing its functions and making decisions.

City of Burlington Responsibilities

City of Burlington agrees to perform the following functions in connection with my firm's provision of the aforementioned services:

- Make all management decisions and perform all management functions, including determining account codings and approving all proposed journal entries;
- Assign Mr. Steve DeQuaker to oversee these services and evaluate the adequacy and results of the services;
- Accept responsibility for the results of these services; and
- Establish and maintain internal controls over the preparation of the annual Financial Report Form (Form C), annual report to the Public Service Commission, and assistance with the preparation of your annual financial statements.

My Responsibilities and Limitations of the Engagement

I will perform the services in accordance with applicable professional standards.

This engagement is limited to the services outlined above. Patrick W. Romenesko, S.C., in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or performing management functions, including determining account codings and approving journal entries. I will advise you with regard to positions taken in the preparation of the following documents, but you must make all decisions with regard to those matters.

Please call me if you have any questions regarding this information. If you are in agreement with the contents of this letter, please sign in the space provided below and return one copy of it to me.

Thank you for your attention to this letter of understanding I am required to provide to you.

Sincerely,



Patrick W. Romenesko
Certified Public Accountant

ACKNOWLEDGMENT:

This letter correctly sets forth the understanding for the performance of nonattest services for the City of Burlington.

By: _____

Title: _____ Date: _____



COMMITTEE OF THE WHOLE

NUMBER: 5

DATE: December 20, 2016

SUBJECT: RESOLUTION 4812(31) to consider approving an extension of a 4-year garbage and recycling contract with Johns Disposal Service, Inc. beginning January 2017 through January 2021.

SUBMITTED BY: James Bergles, Director of Public Works

BACKGROUND/HISTORY:

The City of Burlington has been under a two-year contract with Johns Disposal Service, Inc. since 2015. The current contract length of term is set to expire on December 31, 2016. John's has offered the City a discounted rate for 2017 from the contractual agreement rate of a \$0.34 per resident increase to \$0.18 per resident increase for 2017 if we agree to 4-year contract extension. After 2017, the City would move to a Cost Per Living (CPI) increase for years 2018 through 2021.

BUDGET/FISCAL IMPACT:

By moving to a 4-year contract, the City will see a reduction of \$6,924.96 for the year 2017. This amount is based on the current unit count of 3,206. The 2017 rate per unit will be \$12.08. With an estimated 2% CPI increase in 2018, our price per unit would increase to \$12.32. The years 2019, 2020 and 2021 would be invoiced the same way.

The City could terminate the contract and/or seek other bids under the following conditions:

1. Johns were to seek an increase over 2.65%.
2. Johns would ask for an increase over the listed yearly CPI. The City could also accept the CPI increase and continue working with Johns. John's does not charge a fuel charge.

RECOMMENDATION:

Staff recommends extending the contract with Johns Disposal Services, Inc. Complaints are close to none and customer service has been a positive experience for the City and residents. The City will see \$6,924.96 in reductions for 2017, and we have several options to terminate the contract if necessary.

TIMING/IMPLEMENTATION:

This item is for consideration at the December 20, 2016 Committee of the Whole meeting and for final consideration at the January 3, 2016 Common Council meeting.

ATTACHMENTS:

Resolution / Agreement / CPI Estimation Sheet

Resolution Number: 4812(31)
Introduced by: Committee of the Whole

**A RESOLUTION TO APPROVE A FOUR-YEAR GARBAGE AND RECYCLING
CONTRACT EXTENSION WITH JOHN'S DISPOSAL SERVICE, INC FOR THE
YEARS 2018, 2019, 2020 and 2021**

WHEREAS, on November 18, 2014, the Common Council approve Resolution 4697(31), a Resolution Accepting the four-year garbage and recycling contract with John Disposal Service, Inc; and,

WHEREAS, the City now has the opportunity to extend the existing contract for four additional years through December 31, 2021 as stated in the agreement, attached hereto as Exhibit A; and,

WHEREAS, the Contract will have a reduction of unit price of \$0.18 per unit for the remaining 2017 contract, and a CPI increase only for 2018, 2019, 2020 and 2021; and,

WHEREAS, if Johns Disposal Services, Inc. asks for an increase over the rated yearly CPI or any time the CPI increase exceeds 2.65%, the City can seek proposals from other waste haulers and break the current Johns Services, Inc. contract if warranted; and,

WHEREAS, Johns Disposal Services, Inc. will continue under its existing waste contract pick up agreement with the City; and,

NOW, THEREFORE, BE IT RESOLVED by the Common Council that the City of Burlington shall approve the four-year contract extension with Johns Disposal Services, Inc., attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the City Administrator is hereby authorized and directed to execute this contract extension on behalf of the City.

Introduced: December 20, 2016
Adopted:

Jeannie Hefty, Mayor

Attest:

Diahn Halbach, City Clerk

AGREEMENT

Curbside Collection of Solid Waste and Recyclables

This agreement (“Agreement”) is made and entered into this _____ day of December, 2016 by and between:

- a) JOHNS DISPOSAL SERVICE, INC., being a Wisconsin corporation with offices located at 107 County Road U, Whitewater, Wisconsin 53190 (hereinafter referred to as “Contractor”); and
- b) The CITY OF BURLINGTON, WISCONSIN, being a municipal corporation organized under the laws of the State of Wisconsin, with its City Hall located at 300 north Pine Street, Burlington, Wisconsin 53105 (hereinafter referred to as the “City”).

Introduction

Contractor is in the business of collecting and then lawfully disposing of solid waste and recyclable materials that are placed at the curbside, as a part of a municipal collection program, by the residents of municipalities who contract with Contractor for such collection services.

The City wishes to contract with Contractor to have Contractor provide such collection services to the residents of the City, all under the terms and provisions of this Agreement. Contractor is willing to provide such collection services to the City, and the parties are entering into this Agreement for such purposes.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE ABOVE-NAMED PARTIES HEREBY AGREE AS FOLLOWS:

1. Introduction is Correct. The above “Introduction” is correct, and is hereby incorporated herein by reference.

2. Collection Services. The Contractor shall provide the following collection services (collectively, the “Collection Services”) to the residents of the City during the term of this Agreement:

- a) On a weekly basis, pursuant to a schedule to be agreed upon by the Contractor and the City, (i) collect solid waste, refuse, and garbage that is not recyclable (collectively, “Non-Recyclable Trash”) that is placed by the residents at the curbside of their properties in the manner required under this Agreement, and (ii) collect bulk items (“Bulk Items”, as described below in Paragraph No. 10 of this Agreement) that are placed by the residents at the curbside of their properties in the manner required under this Agreement.
- b) On a bi-weekly basis (i.e. every two (2) weeks), pursuant to a schedule to be agreed upon by the Contractor and the City, collect recyclable materials (“Recyclables”) that are placed by the residents of the curbside of their properties in the manner required under this Agreement: The collection of the Recyclables shall be done on a “single-stream” basis, such that all types of Recyclables may be commingled in one recycling container, with no sorting of the types of Recyclables being necessary.

- c) Contractor shall provide these Collection Services to each separate residential unit ("Unit") contained in a single-family dwelling, a duplex, apartment buildings of four (4) Units or less, and all Units of a condominium.

3. Special Services to City Properties. As a part of this Agreement, and at no cost to the City, Contractor shall provide Collection Services, whenever needed, and as needed, no matter how often the need may be, for (i) all buildings owned (presently and in the future) by the City, and (ii) all trash containers owned by the City and located, whether presently or in the future, in City parks, City business districts, and any other locations at which such City-owned trash containers are located in the City.

4. Collection Schedule. With respect to the Collection Services described in above Paragraph No. 2, the collection shall be done in accordance with a specific collection schedule, established and maintained by the Contractor and approved by the City. The schedule shall designate collection areas, days of collection, and approximate time of collection. Unless the Contractor gives the City or affected residents at least thirty (30) days advance notice, all regular collections, for any designated area, shall occur on the same day each week. The Contractor shall collect Recyclables in each designated collection area on the same day Non-Recyclable Trash is collected in that area. The Contractor shall lay out collection routes and provide adequate equipment and labor so as to complete scheduled collections on the designated collection day. When a designated collection is scheduled for pick-up on a holiday (which is hereby defined as new Year's Day, memorial Day, Independence Day, Labor Day, thanksgiving, and Christmas), collection for that area shall be made on the next business day following the said holiday.

5. Collection Hours and Curb Location. Non-Recyclable Trash and Recyclable shall be collected between the hours of 7:00 a.m. and 5:00 p.m. There shall be no collection between 5:01 p.m. and 6:59 a.m. the next day. The Contractor shall not be required to collect any Non-Recyclable Trash or Recyclables which are not placed at curb locations or other designated areas adjacent to the street, alley, or roadway by 7:00 a.m. on the scheduled collection day. Notwithstanding the foregoing provisions, however, in the City notifies the Contractor is writing that a particular resident of the City has a disability (such that the resident does not have the ability to place the Non-Recyclable Trash or Recyclables at the above required locations), then Contractor shall provide doorway service to the resident at no additional cost.

6. Items of Allowed Non-Recyclable Trash. The items of non-Recyclable Trash that Contractor shall collect as a part of its Collection Services shall be general household trash and refuse. This shall include, but not be limited to, food wastes, paper, rags, sweepings, pottery ware, metallic ware, glassware, and similar discarded residential wastes. Items that will not be collected as non-Recyclable Trash shall include, but not be limited to: yard waste; earth; rocks; concrete; loose construction and/or demolition materials; trees, bushes, grass, or other vegetation; and hazardous or flammable or explosive or dangerous or toxic, or infectious materials, including any items recognized a special waste by the State of Wisconsin. (But see below Paragraph No. 10 pertaining to the collection of Bulk Items, which does provide for the collection of some of the otherwise prohibited items described above.)

7. Items of Allowed Recyclables. The items of Recyclables that the Contractor shall collect as a part of its Collection Services shall be all items allowed and/or required under the laws of the State of Wisconsin to be recycled. This shall include, but not be limited to, glass containers; plastic HDE #1, PETE #2, PVC #3, LDPE #4, PP #5, PS #6, and other #7; tin and

aluminum containers; cardboard; mixed paper; computer paper; and newsprint. If the provisions of the laws of the State of Wisconsin in the future require other materials to be recycled, the Contractor shall then include the same as a part of its Collection Services at no addition charge.

8. Use of Carts. Except as provided in Paragraph No. 10 of this Agreement (related to the collection of Bulk Items), all of the Recyclables that will be collected by the Contractor must be placed by the residents in a Green Cart that will be provided by the Contractor at no cost to the residents. One (1) Green Cart shall be provided by the Contractor, at no cost, to each Unit described in Paragraph No. 2(d) of this Agreement. The Contractor shall deliver the Green Carts to new Units after the City notifies Contractor of the same. The Green Cart (the "Cart") shall each have a volume capacity of Ninety-six (96) Gallons, unless a resident requests a smaller Forty-eight (48) Gallon Cart as their initial cart for the Collection Services.

Additional Carts may be obtained by the residents from the Contractor at an extra cost (collected by the Contractor directly from the resident) of Forty Dollars (\$40.00) per year for an extra Green Cart. This cost for an extra Cart shall be prorated for a partial year. A resident may select a smaller Forty-eight (48) Gallon Cart and/or a larger 96-gallon Cart, at no extra cost, and the Contractor shall be responsible for providing the requested new-size Cart and removing the existing Cart. A resident may make a change in the size of the Cart one (1) time each calendar year at no cost. The resident shall pay to the Contractor the above-described \$40.00, however, for a change of the size of a Cart in excess of once per calendar year.

9. Maintenance of the Carts: All Carts are the property of the Contractor and will be maintained by the Contractor. The residents are responsible for keeping the Carts clean. The residents are also responsible for damage, other than normal wear, such as melting from hot ashes, cuts from a saw, or other avoidable damage. In the event a resident is responsible for a

damaged Cart(s), the replacement cost of \$40.00 shall be collected by the Contractor directly from the resident. The Contractor shall be responsible for normal wear to the Cart, wheels, or lid, and will repair or replace the Cart in a timely manner after the resident informs the Contractor of the problem. The contractor shall be responsible for any damage to the Carts caused from snow plows or passing vehicles, vandalism, or any other cause not attributable to the resident.

10. Collection of Bulk items. The contractor shall, each week and as a contemporaneous part of the collection schedule described in Paragraph No. 4 of this Agreement for the collection of Non-Recyclable Trash, collect from the residents of the bulk items ("Bulk Items") described below. There will be no need for the residents to call the Contractor for this weekly collection of Bulk Items. The Bulk items that will be collected by the Contractor are:

- a) Furniture, bedding, mattresses, and carpeting.
- b) Appliances (including microwaves and items containing CFC's such as refrigerators).
- c) Automotive tires, truck tires, and tractor tires, provided that tires over 42" in diameter are quartered (2 per week, 8 per year).
- d) Earth, rocks, concrete, loose construction and demolition materials are included with the Bulk Items collection if contained in thirty-two (32) gallon cans (or less) that weigh less than sixty (60) pounds (no limit on the number of cans).
- e) Extra non-Recyclable Trash and/or Recyclables in garbage cans, bins, or bags.

11. Disposal of Items Collected. The Contractor shall dispose of all items collected under this Agreement in full compliance with all applicable laws, codes, rules, and regulations. Throughout the term of this Agreement, the Contractor shall own, co-own, rent, lease, control,

or otherwise have access, at its cost, to a properly-licensed and permitted landfill of sufficient capacity for the disposal of all collected non-Recyclable Trash and Bulk items. The Contractor has informed the City that it will dispose of the non-Recyclable Trash and Bulk Items at the Waste Management Metro site in Franklin, Wisconsin. Upon the request of the City, the Contractor shall provide proof that such facilities comply with all laws and regulations. This shall not preclude the Contractor from the changing the disposal location to a reasonable alternate site, but the Contractor shall notify the City in advance of any changes. Upon request of the City, the Contractor shall furnish evidence of arrangements assuring availability of adequate landfill capacity for disposal of the non-Recyclable Trash and Bulk items collected under this Agreement. Additionally, throughout the term of this Agreement, the Contractor shall own, co-own, rent, lease, or otherwise control, or have access, at its cost, to a suitable storage/processing facility for the purpose of sorting and preparing and ultimately recycling all of the collected Recyclables at either a processor(s) or broker(s) experienced in processing, recycling, and marketing Recyclables or to a recycling market itself. The Contractor shall be responsible for all collection and transportation costs necessary to bring the Recyclables to the storage/processing/recycling facility. The Contractor has informed the City that it will deliver and process Recyclables at the JOHNS Disposal Services, Inc. facility in the Town of Norway, Wisconsin. The Contractor shall be responsible for payment of all necessary processing/recycling costs for Recyclables.

12. Contractor's Employees. The Contractor shall employ such persons as may be necessary to satisfactorily comply with the provisions of this Agreement. All such persons shall be the employees of Contractor (and/or any permitted subcontractor), and not employees of the City. The contractor shall comply with all of the applicable laws, rules, and regulations regarding the employment of such persons.

13. Conduct of contractor's Employees. The Contractor shall perform all Collection Services in a neat, orderly, and efficient manner; use care and diligence in the performance of this Agreement; provide neat, orderly, and courteous personnel on its collection crews; and provide courteous and knowledgeable personnel in its customer service function. The Contractor shall conduct itself both in relations with the City and City residents in a personable, professional manner. All employees of the Contractor shall be dressed in a neat, professional-like manner and shall carry official company identification. All drivers shall carry a valid Wisconsin state driver's license for the class of vehicle operated. The Contractor shall ensure that no Non-Recyclable Trash and/or Recyclables are spilled during the collection process, and that any such spillage (if and when it occurs) shall be immediately picked up and collected. After the Carts are emptied, they shall not be left on the streets, alleys, or roads in a manner or at a location such that they obstruct vehicular traffic in the public right of way.

14. Vehicles and Equipment. All of the vehicles and equipment used by the Contractor for its Collection Services shall (i) be in a clean, sanitary, safe, and good working order, (ii) be maintained and operated in a manner to minimize, as much as possible, any noise during the collection process (e.g. equipped with good exhaust mufflers and good brakes), (iii) not leak vehicle fluids and (iv) display the name of the contractor, the contractor's telephone number, and an identification number on the vehicle, that is clearly visible, on both sides of the vehicle. The contractor's vehicles and equipment shall not remain parked on City streets when not in use. All vehicles shall be operated in a way that no collected items fall off of or blow off the vehicle and/or leak any fluids. Should any collected items fall off of or blow off a vehicle, such items shall be immediately retrieved and collected.

15. Fees Due to the Contractor. The City shall pay the following fees to the Contractor for the Collection Services and other duties performed by the Contractor under this Agreement:

- a) Calendar Year 2017:
 - (1) Non-Recyclable Trash/Bulk items collection
Per Unit/per month \$9.44
 - (2) Recycling collection per Unit/per month \$2.64
 - (3) Monthly total per Unit \$12.08

- b) Calendar Year 2018 – 2021:
 - (1) Non-Recyclable Trash/Bulk items collection
Per Unit/per month \$9.44 + CPI
 - (2) Recycling collection per Unit/per month \$2.64 + CPI
 - (3) Monthly total per Unit \$12.08 + CPI

CPI increases years 2018 – 2021: By October 1 of each year beginning in 2017 the contractor and city will negotiate the rate for the upcoming year (2018 – 2021). Rate increases are limited to CPI with a maximum of 2.65%. If the contractor requests an increase greater than 2.65% the city has the right to terminate the agreement and seek proposals from other haulers.

The above fees due the Contractor shall be paid by the City to the Contractor within thirty (30) Days after the end of each month for such month during the term of this Agreement. For each such month that fees are payable by the City to the Contractor, the Contractor shall submit a written invoice, having a form and categories of content satisfactory to the City, that itemizes (i) the fees attributable to the collection of Non-Recyclable Trash, (ii) the fees attributable to the collection of Recyclables, (iii) the fees attributable to the collection of Bulk Items, (iv) the total number of Units in each category receiving Collection services that month,

and (v) the tonnage collected in each category, based on weigh scale tickets (for full loads or estimated slips for partial loads). The Collection Services provided to the City under the provisions of above Paragraph no. 3 shall also be similarly and separately itemized in the invoice (except for separate tonnage amounts), but no fees shall be due to the Contractor for the same (per the provisions of Paragraph no. 3). Additionally, upon the request of the City, contractor shall prepare and deliver to the City such other written information and records regarding the Collection Services provided by Contractor under this Agreement. This shall include, but not be limited to, any such information needed by the City to comply with reports required of the City by other governmental bodies regarding the said Collection Services.

16. Number of Units. The specific number of Units receiving collection Services from the Contractor, and for which fees would then be payable by the City to the Contractor, shall be determined by the City for each calendar year during the term of this Agreement. Such determination shall be made by the City for each calendar year during the term of this Agreement, on or before the date of December 1 that precedes the calendar year in question. The number of Units so determined by the City for a calendar year shall remain constant throughout the entire calendar year for the purpose of calculating the fees due the Contractor for that year, notwithstanding any additions and/or deletions of Units receiving Collection Services during that calendar year. As described in above Paragraph No. 8, the Contractor shall immediately provide Collection Services to any new Units after the City notifies the Contractor of the same during the course of a calendar year, at no additional cost to the City during that calendar year. Any such new/added units, however, shall be added to the City's calculation of the total number of Units to receive Collection Services (and for which Contractor is then entitled to a fee) for the next calendar year during the term of this Agreement, provided the said new/added Units then still need Collection Services. It is the

express intent of the parties that, for each calendar year during the term of this Agreement, the monthly fees paid by the City to the Contractor shall be a constant amount, notwithstanding any fluctuations in the actual numbers of the Units receiving Collection Services from the Contractor during that calendar year.

17. Required Changes in Collection. In the event that during the term of this Agreement there is any change in the applicable laws, rules, codes, or regulations that mandates the collection of Non-Recyclable Trash, Bulk Items, and/or Recyclables in a manner significantly different from the manner in which the Contractor is then-presently providing its Collection Services under this Agreement, then the City and the Contractor shall, by mutual written agreement, amend this Agreement to adjust the compensation due the Contractor under this Agreement in a fair and equitable manner. Any such adjustment, however, shall be limited to the additional expenses required to be incurred by the contractor under the new change(s) to the said laws, rules, codes, or regulations.

18. Ownership of the Recyclables. The Recyclables shall be deemed owned by, and the personal property of, the Contractor, at the time the Recycling items are placed into the vehicle used by the Contractor to collect the same. All monies thereafter received by the Contractor as a result of the recycling (or other lawful disposition) of the Recyclables shall solely be the funds of the Contractor, for the Contractor's own use.

19. Disposal Costs. Any and all costs, expenses, fees, taxes, or similar charges imposed by (k) any applicable governmental body, or (ii) any third party having the lawful right to impose and exact the same (such as, but not limited to, the owner of a landfill site), shall be timely and fully paid by the Contractor as a part of its duties and obligations under this Agreement. Additionally, the fees paid by the City to the Contractor under this Agreement shall be deemed to be compensation for any of the foregoing costs, expenses, fees, taxes, or

similar charges that would otherwise be payable by the City (whether by law or otherwise), and the Contractor shall accordingly timely and fully pay the same on behalf of the City. The foregoing costs, expenses, fees, taxes, and similar charges shall expressly include, but not limited to, (i) all financial obligations incurred by Contractor in the lawful disposal of the Non-Recyclable Trash and Bulk items, such as “dumping fees” or “tipping fees”, and (ii) all financial obligations incurred by the Contractor in the transportation, storage, processing, and/or recycling of the Recyclables.

20. Insurance. During the term of this Agreement, the Contractor shall, at its own cost and expense, procure and maintain the following policies of insurance, issued by an insurer licensed by the State of Wisconsin for such purposes:

- a) Commercial general liability insurance (with the City named as additional insured), with a limit of liability of not less than Two Million Dollars (\$2,000,000.00) for each accident, providing coverage for personal injury, bodily injury (including death), and damage to property.
- b) Vehicular/automobile liability insurance (with the City named as an additional insured), with a limit of liability of not less than One Million Dollars (\$1,000,000.00) for each accident.
- c) An umbrella policy of insurance (with the City named as an additional insured), in an amount of not less than Five Million dollars (\$5,000,000.).
- d) A worker’s compensation policy of insurance, having limits and provisions required by the State of Wisconsin for compliance with its Worker’s Compensation laws.
- e) Employer’s liability insurance, with a limit of liability of not less than One Million dollars (\$1,000,000.00) per accident.

All of the policies of insurance described above shall be in a form, and have terms and provisions, satisfactory to the City. On or before December 1, 2016, the Contractor shall provide to the City a copy of all of the said insurance policies for review by the City. Additionally, each policy of insurance shall provide that in the event of a cancellation of any such policy for any reason whatsoever, the City shall be notified in writing by the insurer by mail at least Thirty (30) Days prior to any such cancellation.

21. Indemnification/Hold Harmless Agreement. Contractor hereby expressly agrees to indemnify and hold the City and its agents, consultants, officials, officers, and employees harmless from and against all claims, judgments, damages, penalties, fines, costs, or loss (including actual reasonable fees for attorneys and consultants) and liability of every kind and nature, for any injury (including death) or damage received or sustained by any person or entity in connection with, or on account of, the performance (or failure of performance) by Contractor, of the duties and obligations imposed upon contractor under this Agreement, except to the extent as such claims or liability arise by virtue of the negligent and/or intentional conduct on the part of the city or any of its agents, consultants, officials, officers, or employees.

22. Performance Bond. On or before the date of December 1, 2016, the Contractor shall, at its own cost and expense, file with the City a Performance Bond (the "Bond") in an amount of twenty five percent of the total annual contract cost, and having an effective date commencing on January 1, 2017, and an expiration date of December 31, 2017. Thereafter, the Contractor shall obtain and keep in force (i) a renewal Bond effective January 1, 2018, through December 31, 2018, and (ii) another renewal Bond effective January 1, 2019, through December 31, 2019 and (iii) another renewal Bond effective January 1, 2020, through December 31, 2020. The final bond for calendar year 2021 shall expire on December 31, 2021,

unless a legal action is then pending between the City and the Contractor and/or Bond company. The Bond shall be issued by a commercial Wisconsin-licensed bond company, shall have terms and provisions satisfactory to the City, and shall guarantee the full, complete, and proper performance by Contractor of the duties and obligations imposed upon Contractor under this Agreement (including, but not limited to, the Indemnification obligations contained in above Paragraph no. 21).

23. Failure of Performance. In the event a party to this Agreement fails to perform any of its duties or obligations imposed under this Agreement, the other party may give to the non-performing party a written notice of such failure of performance. The non-performing party shall then have a period of Ten (10) calendar days to cure any failure of performance with respect to the payment of money, and a period of Thirty (30) calendar days to cure any failure of performance other than the payment of money. The said 30-day time frame to cure the failure of performance (for other than the payment of money) shall be extended as reasonably necessary if (i) the remedial action required to cure the failure of performance reasonably requires additional time to remedy the failure, and (ii) the non-performing party commences the required remedial action within the said 30-day time period and then thereafter continues to diligently proceed, in good faith, with the required remedial action until the failure of performance is cured. If the non-performing party fails to comply with the steps described above, however, the non-performing party shall then be in default and in breach of this Agreement, and the other party shall then have available to it all of its rights and remedies available under the law, and additionally, the right to terminate this Agreement under the provisions of below Paragraph No. 25.

24. Term: The term of this Agreement shall be for Three (5) years, commencing at 12:01 a.m. on the date of January 1, 2017, and terminating at 11:59 p.m. on the date of December 31, 2021.

25. Termination of Agreement. This Agreement may be terminated in the following manner:

- a) By the mutual written agreement of the parties; and/or
- b) When and if a party becomes in default under this Agreement under the provisions of above Paragraph No. 23, the other non-defaulting party may give a written notice to the defaulting party of the termination of this Agreement, with the effective date of termination stated in the written notice; and/or
- c) When and if the Common council of the City of Burlington adopts, in its sole and absolute discretion, a resolution declaring that an emergency situation exists with respect to the collection of Non-Recyclable Trash and/or Bulk items and/or Recyclables in the City of Burlington, then the City may terminate this Agreement by giving a written notice of such termination to the Contractor, with the effective date of termination stated in the written notice.

26. Governing Law and Venue. This Agreement shall be governed, controlled, construed, and interpreted by and under the laws of the State of Wisconsin. The venue for any legal action pertaining to and/or arising under this Agreement shall solely and exclusively be Racine County Circuit Court in Racine County, Wisconsin.

27. Attorney Fees. In the event of a legal action arising under and/or pertaining to this Agreement, the prevailing party shall, in addition to any other relief or remedy granted by the court, be awarded its actual reasonable attorney fees incurred in the action.

28. Entire Agreement. All bid requests, bid proposals, negotiations, promises, discussions, understandings, and agreements heretofore made or had between the parties are merged in this Agreement, and this Agreement alone fully and completely expresses the final agreement of the parties.

29. Amendments. This Agreement shall not be modified or amended except in a written document signed by the City and Contractor, and then approved by the City of Burlington Common Council.

30. Notices. All notices or other communications required or permitted under this Agreement shall be in writing and delivered (i) personally, or (ii) by certified mail, return receipt requested, postage prepaid, or (iii) by a commercial overnight courier (such as Federal Express), or (iv) by facsimile or electronic mail transmission with a copy to follow by certified mail, return receipt requested, postage prepaid or by overnight courier, addressed as follows:

If to Contractor:

John's Disposal Service, Inc.
107 County Road U
Whitewater, Wisconsin 53190
Attention: Brian Jongetjes, President

Telephone (262)473-4700
Facsimile: (262)473-6775
E-mail: bjj@johnsdiposal.com

If to the City:

City Administrator
Burlington City Hall
300 North Pine Street
Burlington, Wisconsin 53105

Telephone: (262)342-1161
Facsimile: (262)763-3474
E-mail: cwalters@burlington-wi.gov

All notices given in accordance with the terms hereof shall be deemed received (i) on the next business day if sent by a commercial overnight courier, (ii) on the same day if sent by facsimile or electronic mail before 3:00 p.m. (Central Standard Time) on a business day (Monday-Friday) (provided the supplemental notice described above is sent as soon as reasonably possible thereafter), (iii) on the date of actual receipt when sent by the United States Mail by certified mail with postage prepaid and return receipt requested, or (iv) on the date of service when delivered personally. Either party hereto may change the address for receiving notices or other communications by notice sent in accordance with the terms of this Agreement. Holidays recognized and observed by the federal government shall not be deemed a "business day" for the purpose of giving or receiving notice.

31. Assignments. The rights, duties, and obligations of each party to this Agreement may not be assigned or transferred to any third party without the prior written consent of the other party, which consent the other said party may grant or deny in its sole discretion. In the event of such a permitted assignment or transfer, however, the assignee party shall first execute and deliver to the City a written agreement obligating the assignee party to fully and timely perform all of the duties and obligations imposed upon the Contractor under this Agreement, and contractor shall continue to be liable under this Agreement for the full and timely performance of its duties and obligations under this Agreement, whether performed by Contractor or the assignee party.

32. Special Provisions.

- a) Pickup Refusal. Contractor shall keep a written record of the address(es) where the Collection Service is refused by the Contractor to the resident, and give a

written notice of the same to the resident and the City the same day as the refusal. The notice shall have a form and content satisfactory to the City, and shall, among other information, include the date and time of the refusal, the name and address of the resident making the refusal, and any known explanation for the refusal.

b) Contractor's Office. Contractor shall, during the term of this Agreement:

- (1) Maintain an office where Contractor may be contacted directly by the City personnel and/or members of the public; and
- (2) Have a local telephone number that may be used for the same purpose described in above Subsection (1); and
- (3) Have the office equipped with sufficient staff and sufficient telephones, such that a responsible employee of Contractor may be contacted in person or by telephone by the City personnel or the public during the collection hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, except during a holiday.
- (4) Contractor's employee/representative shall be available, as described above, to receive and respond to, in a polite and professional manner, any inquiries or complaints regarding the Collection Services provided by Contractor under this Agreement. The City will publish the telephone number and address of the office used by Contractor for these purposes.
- (5) In the event Contractor wishes to publish or distribute ads, leaflets, brochures, pamphlets, or other information or materials to the residents of the City regarding the Collection Services being provided by

Contractor, Contractor shall first get the written approval of the City for the same.

(6) Contractor shall provide to the City a separate telephone number that will enable City staff to contact a responsible employee/representative of Contractor 24-hours a day, throughout every day (including holidays) during the term of this Agreement. The City shall not give out this telephone number to the general public.

c) Possible Truck Rental. The City may wish to rent from Contractor up to two (2) refuse-collection trucks, during the months of September, October, and November in one or more calendar years during the term of this Agreement, to be used for leaf collection. If so desired by the City, the parties shall negotiate such a rental arrangement, and if there is a mutual agreement regarding the same, the rental arrangement shall be memorialized and finalized through a separate written agreement.

IN WITNESS WHEREOF, this Agreement has been executed effective as of the date
and year first written above.

CITY:
City of Burlington, Wisconsin

CONTRACTOR:
John's Disposal Service, Inc.

By: _____
By: _____
Jeannie Hefty
Mayor

Brian Jongetjes
President

Attest:
Diahnn Halbach
City Clerk

2017	Units	Rate	Per month	Per year
	3206	\$12.26	\$39,305.56	\$471,666.72

If the City accepts our contract extension - we are offering a \$0.18 per unit discount for 2017 list

2017	Units	Rate	Per month	Per year	Total Savings
	3206	\$12.08	\$38,728.48	\$464,741.76	\$6,924.96

2018	Units	CPI %	Rate	Per month	Per year
	3206	2%	\$12.32	\$39,503.05	\$474,036.60

2019	Units	CPI %	Rate	Per month	Per year
	3206	2%	\$12.57	\$40,293.11	\$483,517.33

2020	Units	CPI %	Rate	Per month	Per year
	3206	2%	\$12.82	\$41,098.97	\$493,187.67

2021	Units	CPI %	Rate	Per month	Per year
	3206	2%	\$13.08	\$41,920.95	\$503,051.43



DATE: December 20, 2016

SUBJECT: ORDINANCE 2014(10) Consideration for approval of a text amendment to Ch. 315-27, Garbage in the B-2 District.

SUBMITTED BY: Jim Bergles, Public Works Director and Gregory Guidry, Building Inspector

PROJECT/SCOPE:

Currently, the B-2, Central Business District does not have language in the Municipal Code requiring property owners to supply a dumpster or garbage receptacle for trash, as the B-2a, Central Business Transition District or B-1, Neighborhood Business Districts do. The Department of Public Works has received several complaints that residents in the downtown area are placing their trash at the curb without being in a receptacle several days prior to their scheduled weekly pick-up. This ordinance would stop this aesthetic issue of trash on the curb in our downtown district with both commercial and mixed commercial buildings, and align the B-2 District requirements for trash to be placed in a dumpster, or garbage receptacle, as required in the B-2a District. This is not without specific challenges since the B-2 District allows zero setbacks in regards to the lot lines. For example, this requirement may need to be reviewed on a case by case basis in order for the ordinance to be enforced.

This proposed amendment went before the Plan Commission on November 8 with much discussion. After receiving feedback from the Commissioners and several business owners, the ordinance was tabled to the December 13th meeting. Staff incorporated the recommended changes into the draft ordinance as indicated in red on the attached ordinance.

Further, an additional text amendment has been drafted for Ch. 265-3(A), "Refuse Disposal", that references residential units within a commercial building shall be considered commercial. This amendment would require owners/tenants of mixed-use buildings to secure their own solid waste and recycling collection contractor, as opposed to utilizing city services.

ZONING:

B-2, Central Business District

RECOMMENDATION:

Staff recommends approval of this text amendment

TIMING/IMPLEMENTATION:

This item is for discussion at the December 20, 2016 Committee of the Whole meeting and is scheduled for a Public Hearing the same evening and scheduled for final consideration at the January 3, 2017 Common Council meeting.

AN ORDINANCE AMENDING SECTION 315-27 TITLED "B-2 CENTRAL BUSINESS DISTRICT" OF THE CODE OF THE CITY OF BURLINGTON CREATING TRASH DUMPSTER AND GARBAGE RECEPTACLE REQUIREMENTS

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

I. Chapter 315-27 of the Code of Burlington, Racine and Walworth Counties, Wisconsin, entitled "B-2 Central Business District", is hereby amended as follows:

L. Trash dumpster and garbage receptacles (trash and garbage storage). The following requirements shall be met for trash dumpsters and garbage receptacles in the B-2 Central Business District:

1. Trash dumpster and garbage receptacle enclosures required. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids and shall be concealed or suitably screened from public view.
2. Trash dumpster and garbage receptacle maintenance required. All garbage cans, trash containers, and other garbage storage devices shall be emptied and the contents thereof properly disposed of in a timely manner not less than once every fourteen days and kept litter-free. ~~disposed of not less than once every seven days.~~ Refuse or recyclable material that has been scattered by wind, animals or vandals is the responsibility of the resident and owner.
3. Unenclosed storage of trash or waste prohibited. No portion of the lot shall be used for open or unenclosed storage of trash or waste of any kind.
4. Trash dumpster and garbage receptacle location in off-street parking space or drive is prohibited. No trash dumpster or other trash or waste receptacle shall be permitted in any off-street parking space or drive.
5. Paved surface slab required. All trash dumpsters and garbage receptacles shall be placed upon a paved surface slab.
6. Adequate size to accommodate recycling materials. All trash dumpster and garbage receptacle areas shall be of an adequate size to accommodate the storage of materials to be recycled.
7. Building permit required for the construction of garbage, trash, waste, and dumpster enclosures. A building permit shall be required for the construction of any garbage, trash, waste, or dumpster enclosure.

II. It is further ordained that the application of this ordinance shall be effective after its

passage and publication as required by law.

III. All other provisions as contained in Chapter 315 of the Municipal Code of the City of Burlington shall continue and in full force and effect.

Introduced: December 20, 2016
Adopted:

Jeannie Hefty, Mayor

Attest:

Diahn Halbach, City Clerk



DATE: December 20, 2016

SUBJECT: ORDINANCE 2015(11) to amend Chapter 265-3A, "Refuse Disposal" of the Code of the City of Burlington

SUBMITTED BY: Megan Watkins, Director of Administrative Services

PROJECT/SCOPE:

While revising Ch. 315-27, Refuse and Recycling requirements in the B-2 District, it was recognized that "mixed-use" buildings were not identified in either the refuse disposal section of the code, nor within the zoning section. Mixed-use refers to buildings that contain commercial units, as well as residential units. A majority of the downtown buildings are mixed-use. This ordinance seeks to specifically identify mixed-use buildings as commercial, even if there are residential units within the building.

This ordinance amendment will affect six properties in the downtown district, as the said properties are receiving City collection services even though they have a first floor commercial unit. Local contractors were reached to get an estimate of what refuse and recycling collection service would cost the building owners to contract their own service. It is estimated the monthly cost for a two-yard dumpster would be \$33 for once a month collection, \$48 for twice a month collection and \$76 for once a week collection.

Staff has been unable to find record indicating why the six properties have received City collection services for years. It is suspected that it originated due to the lack of alley space for the properties; however, that is speculation at this point. Upon adoption of this ordinance, building owners for the six properties would be properly notified of the changes and given sufficient time to seek services of their own.

BUDGET/FISCAL IMPACT:

Upon adoption of this amendment and proper notification of building owners, the six properties would be removed from the City's contract with John's Disposal. Cost savings to the City would be roughly \$3,769 for 2017.

RECOMMENDATION:

Staff recommends approval of this text amendment

TIMING/IMPLEMENTATION:

This item is for discussion at the December 20, 2016 Committee of the Whole meeting and is scheduled a Public Hearing and consideration at the January 3, 2016 Common Council meeting.

ATTACHMENTS:

Ordinance

**AN ORDINANCE TO AMEND CHAPTER 265-3(A), "REFUSE DISPOSAL" OF
THE CODE OF THE CITY OF BURLINGTON**

- I. Chapter 265-3 of the Code of the City of Burlington, Racine County, Wisconsin, "Refuse Disposal" is hereby amended as follows:

Household solid waste. All residences located in any area in which refuse collection is done by the City or approved contractors shall have sufficient container capacity to accommodate their normal volume of solid waste between collections. All refuse shall be collected from every residential dwelling of four units or fewer at least once per week. Residential units developed within a commercial development shall be considered commercial. Refuse and recyclable material are to be collected from the residences at the street curb or behind residences where City alleys exist.

- II. It is further ordained that the application of this ordinance shall be effective after its passage and publication as required by law.
- III. All other language as contained in Chapter 50 of the Municipal Code of the City of Burlington shall remain without change and in full force and effect.

Introduced:
Adopted:

Jeannie Hefty, Mayor

Attest:

Diahn Halbach, City Clerk



COMMITTEE OF THE WHOLE

ITEM NUMBER: 8

DATE: December 20, 2016

SUBJECT: ORDINANCE 2016(12) to consider amending the Racine County Multi-Jurisdictional Comprehensive Plan for property located at 672 W. State Street from Commercial to Governmental and Institutional.

SUBMITTED BY: Gregory Guidry, Building Inspector and Zoning Administrator

BACKGROUND/HISTORY:

The Racine County Multi-Jurisdictional Comprehensive Plan was implemented by state statute on January 1, 2010. Upon review of a rezone request from Faith Chapel Evangelical Free Church to rezone property at 672 W. State Street, it was determined a plan amendment was also required. Per the Comprehensive Plan, 672 W. State Street is listed as “Commercial” and would not be consistent with the requested zoning change from B-1, Neighborhood Business District to I-1, Institutional District. As such, an amendment from “Commercial” to “Governmental and Institutional” is necessary to be compliant.

Plan Commission recommended approval of this amendment as Resolution 23 at their November 8, 2016 meeting.

The process of a Comprehensive Plan Amendment begins with a Plan Commission recommendation. From there a 30 day waiting period will occur in which surrounding communities are notified of a Public Hearing. Following the Public Hearing the Common Council will consider the amendment and make it part of permanent record if approved. Racine County will amend the land use plan yearly with any updates or amendments.

BUDGET/FISCAL IMPACT:

N/A

RECOMMENDATION:

The Plan Commission and City Staff recommend approval of this amendment to the Racine County Multi-Jurisdictional Comprehensive Plan as it is a valuable resource for the community.

TIMING/IMPLEMENTATION:

This item is for discussion at the December 20, 2016 Committee of the Whole meeting, scheduled for a Public Hearing the same night and for final consideration at the January 3, 2017 Common Council meeting.

ATTACHMENTS:

Ordinance

Map

**ORDINANCE AMENDING THE RACINE COUNTY MULTI-JURISDICTION
COMPREHENSIVE PLAN FOR THE CITY OF BURLINGTON, WISCONSIN FOR
672 W. STATE STREET**

The City Common Council of the City of Burlington, Wisconsin, do ordain as follows:

Section 1. On July 21, 2009, the City of Burlington adopted, as Ordinance No. 1890(11) a comprehensive plan (the "Plan") pursuant to the provisions of Sections 62.23(3)(b) and 66.1001 of the Wisconsin Statutes, such Plan being formally titled "A Multi-Jurisdictional Comprehensive Plan for the City of Burlington, Wisconsin."

Section 2. Sections 62.23(3)(b) and 66.1001(4) of the Wisconsin Statutes allows the Plan to be amended, from time to time, by the City of Burlington under and pursuant to the provisions and procedures contained in such Sections 62.23(3)(b) and 66.1001(4).

Section 3. The City of Burlington wishes to so amend the Plan as expressly described below (the "Plan Amendment") and the procedures specified on Sections 62.23(3)(b) and 66.1001(4) of the Wisconsin Statutes for the Plan Amendment have been fully complied with by the City of Burlington.

Section 4. The Plan Amendment pertains to the real property (the "Real Property") located in the City of Burlington and which is more specifically described in attached Exhibit A, such Exhibit A being hereby incorporated herein by reference.

Section 5. The Common Council held a public hearing on said amendment on _____, 2016 and which public hearing was properly noticed by a Class 1 notice under Chapter 985 of the Wisconsin Statutes and was duly published at least thirty (30) days before the public hearing was held.

Section 6. The City of Burlington Common Council hereby finds and determines based, in part, upon the City Plan Commission's recommendation and Plan Commission Resolution Number Twenty-Three dated November 8, 2016 that:

- a) The Comprehensive Plan Amendment is consistent with the goals, objectives, and policies of the Plan.
- b) The Plan Amendment will not lead to any detrimental environmental effects.
- c) The Plan Amendment is compatible with surrounding land uses.
- d) The Comprehensive Plan Amendment will not overburden existing local and county facilities and services and such facilities and services are adequate to serve the type of development associated with the Plan Amendment.
- e) The Comprehensive Plan Amendment will enhance economic development within the City and County.
- f) The Comprehensive Plan Amendment is in substantial agreement with the recommendations of the regional land use plan.

Section 7. The Comprehensive Plan is accordingly hereby amended by the adoption of the following Plan Amendment: "Real Property (described in attached Exhibit A) be changed from its current land use designation of "Commercial" in the Plan to the new land use designation of "Governmental and Institutional" in the Land Use Plan Element and Land Use Plan Map for the year 2035 of the City's Comprehensive Plan.

Section 8. This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Burlington Common Council and publication or posting as required by law.

Introduced:
Adopted:

Jeannie Hefty, Mayor

Attest:

Diahn Halbach, City Clerk

EXHIBIT A

Legal Description

206-03-19-31-012-130

672 W. State Street

THAT PART OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 31, TOWNSHIP 3 NORTH, RANGE 19 EAST, BOUNDED AS FOLLOWS: BEGINNING IN THE CENTER OF SAID SECTION 31, SAID POINT MARKS PLACE OF BEGINNING OF PARCEL OF LAND HEREINAFTER DESCRIBED; RUN THENCE NORTH $87^{\circ} 58'$ WEST ALONG EAST AND WEST $\frac{1}{2}$ SECTION LINE 125.00 FEET TO CONCRETE MONUMENT; THENCE SOUTH $1^{\circ} 44'$ WEST 957.13 FEET TO CROSS CUT IN PAVEMENT IN CENTER OF STATE TRUNK HIGHWAY 36; THENCE NORTH $81^{\circ} 18'$ EAST ALONG CENTER LINE OF SAID HIGHWAY 127.10 FEET TO CROSS CUT IN PAVEMENT; THENCE NORTH $1^{\circ} 44'$ EAST ALONG NORTH AND SOUTH $\frac{1}{2}$ SECTION LINE 933.46 FEET TO THE PLACE OF BEGINNING, CONTAINING 2.7126 ACRES OF LAND MORE OR LESS. SAID LAND BEING IN THE CITY OF BURLINGTON, COUNTY OF RACINE AND STATE OF WISCONSIN.



**STAFF REPORT
COMPREHENSIVE LAND USE PLAN AMENDMENT
CITY OF BURLINGTON**

Date: November 9, 2016

Report Prepared By: Megan E. Johnson, Director of Administrative Services

Property Address: 672 W. State Street

Parcel Number: 05-206-03-19-31-012-130

Property Owner: Speigelhoff Development, LLC, 651 S. Browns Lake Drive, Burlington, WI 53105

Applicant: Jeffery Erickson, Faith Chapel Evangelical Free Church, 141 Westridge Ave, Burlington, WI

Date of Public Hearing: December 20, 2016, 6:30 p.m. at 224 E. Jefferson Street

Action Requested: To change the Multi-Jurisdictional Comprehensive Plan from Medium Density Residential to Commercial for the subject property.

Summary: Jeffery Erickson on behalf of Faith Chapel Evangelical Free Church has petitioned to rezone property at 672 W. State Street within city zoning district classifications however it was determined a Comprehensive Plan amendment was also required. Per the Comprehensive Plan, 672 W. State Street is listed as Commercial and would not be consistent with the requested city zoning change from B-1 Neighborhood Business District to I-1, Institutional District. As such, an amendment from “Commercial” to “Governmental and Institutional” is necessary to be compliant.

Existing Comprehensive Plan Zoning: Commercial.

Surrounding Zoning Comprehensive Plan Zoning: Commercial Zoning to the west, Medium Density Residential to the north; Medium Density Residential, High Density Residential and Governmental and Institutional to the east; and Town of Burlington Residential-Unsewered to the south.

Existing Land Use: This property currently contains a single-family residential dwelling formerly used as an office by Speigelhoff Development.

Surrounding Land Use: Single-Family residential units to the north and east, Multi-Family apartments and a church to the east, a commercial business to the west and southeast.

Parcel Size: 2.7126 acres More or Less.

Relevant Criteria:

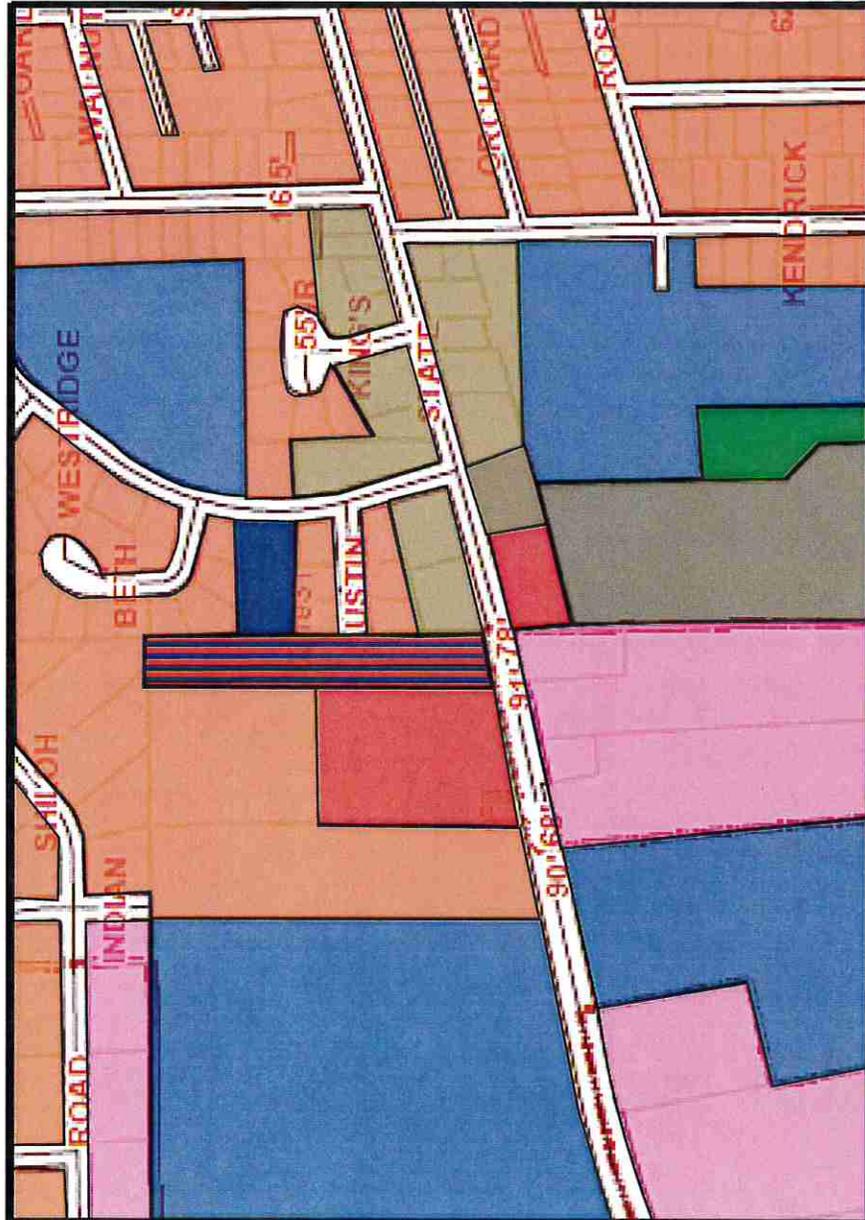
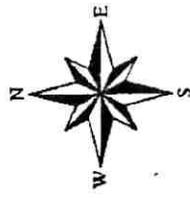
The City of Burlington Plan Commission hereby finds and determines that:

- a) The Plan Amendment is consistent with the goals, objectives, and policies of the Plan.
- b) The Plan Amendment will not lead to any detrimental environmental effects.
- c) The Plan Amendment is compatible with surrounding land uses.
- d) The Plan Amendment will not overburden existing local and County facilities and services and such facilities and services are adequate to serve the type of development associated with the Plan Amendment.
- e) The Plan Amendment will enhance economic development within the City and County.
- f) The Plan Amendment is in substantial agreement with the recommendations of the regional land use plan.

Recommendation of Plan Commission: Recommendation was given by the Plan Commission on November 8, 2016 by approval of Plan Commission Resolution No. 23.

Next Step: A Public Hearing is scheduled before the Common Council on December 20, 2016; scheduled for discussion among the Common Council at the Committee of the Whole meeting on December 20, 2016; and scheduled for consideration by the Common Council on January 3, 2017.

**Multi-Jurisdictional Comprehensive Plan Amendment
672 W. State Street, Burlington, WI 53105
From Commercial to Governmental/Institutional**



KEY	
	Subject Property
	High-Density Residential
	Medium-Density Residential
	Commercial
	Gov't /Institutional
	Recreational
	Town of Burlington