



AGENDA
COMMON COUNCIL
Tuesday, June 21, 2011

To immediately follow the 6:30 p.m. Committee of the Whole meeting
Common Council Chambers, 224 East Jefferson Street

Mayor Robert Miller
Robert Prailes, Alderman, 1st District
Edward Johnson, Alderman, 1st District
Jim Prailes, Alderman, 2nd District
Peter Hintz, Alderman, 2nd District
Tom Vos, Council President and Alderman, 3rd District
Steve Rauch, Alderman, 3rd District
Katie Simenson, Alderman, 4th District
Jeff Fischer, Alderman, 4th District

1. Roll Call
2. Pledge of Allegiance to the Flag.
3. Citizen Comments.
4. Chamber of Commerce Representative.
5. Approval of the Common Council minutes for June 7, 2011. *(S. Rauch)*
6. Letters and Communications: None.
7. Reports by Aldermanic Representatives and Department Heads.
8. Reports 1-2: *(K. Simenson)*
Report 1 – Plan Commission minutes, May 10, 2011
Report 2 - Committee of the Whole minutes, May 17, 2011
9. Payment of Vouchers. *(J. Fischer)*
10. Licenses and Permits. *(R. Prailes)*
11. Appointments and Nominations: None
12. Public Hearings: None

13. **RESOLUTIONS:**

- A. Resolution 4480(5) to approve the 2010 Department of Natural Resources Compliance Maintenance Annual Report. This item was discussed at the June 7, 2011 Committee of the Whole meeting. *(E. Johnson)*
- B. Resolution 4483(8) to award the bid to purchase portable radios for the Police Department to General Communications for the not-to-exceed amount of \$47,979. This item was discussed at tonight's Committee of the Whole meeting. *(J. Prailes)*
- C. Resolution 4484(9) to authorize the submittal of a grant application to the Wisconsin Department of Natural Resources for the Recreational Trails Act Grant. This item was discussed at tonight's Committee of the Whole meeting. *(P. Hintz)*

14. **ORDINANCES:**

- A. Ordinance 1926(3) to amend the Municipal Code to create Child Safety Zones and residential restrictions applicable to sex offenders and to provide for enforcement. This item was discussed at tonight's Committee of the Whole meeting. *(T. Vos)*

15. **MOTIONS:**

None.

16. **ADJOURN INTO CLOSED SESSION** *(S. Rauch)*

- 1. Wis. Stats 19.85(1)(e), deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons requiring a closed session.
 - Consideration of offers to purchase city-owned property.

17. **RECONVENE INTO OPEN SESSION** *(K. Simenson)*

- 1. Consideration on recommendations from the City Council.

18. **ADJOURNMENT** *(J. Fischer)*

Note: If you are disabled and have accessibility needs or need information interpreted for you, please call the City Clerk's Office at 262-342-1161 at least 24 hours prior to the meeting.



CITY OF BURLINGTON

Administration Department
300 N. Pine Street, Burlington, WI, 53105
(262) 342-1161 – (262) 763-3474 fax
www.burlington-wi.gov

Common Council Agenda Item Number: 5	Date: June 21, 2011
Submitted By: Beverly R. Gill, City Clerk	Subject: Meeting Minutes

Details:

Attached please find the Common Council meeting minutes from June 7, 2011. Staff recommends approval of these minutes.

Options & Alternatives:

N/A

Financial Remarks:

None.

Executive Action:

Staff recommends that the Common Council approve these minutes at the June 21, 2011 Common Council meeting.

**City of Burlington
Official Minutes
Common Council
Robert Miller, Mayor
Beverly R. Gill, City Clerk
June 7, 2011**

1. CALL TO ORDER - ROLL CALL

Mayor Bob Miller called the meeting to order at 6:56 p.m. starting with roll call. Aldermen present: Bob Prailes, Ed Johnson, Peter Hintz, Jim Prailes, Tom Vos, Steve Rauch, Jeff Fischer, Katie Simenson

Also present: City Administrator Kevin Lahner, City Attorney John Bjelajac, Police Chief Peter Nimmer, Treasurer Steve DeQuaker, Fire Chief Dick Lodle, Assistant to the Administrator Megan Johnson, DPW Mechanic Chris Keefer, Department of Public Work's Director Connie Wilson, Library Director Gayle Falk, Mr. Tom Foht of Kapur Engineering

2. PLEDGE OF ALLEGIANCE

Mayor Miller led the council, staff and audience in the Pledge of Allegiance.

3. CITIZEN'S COMMENTS

4. CHAMBER OF COMMERCE REPORT

Kathy from the Chamber of Commerce commented on the upcoming Hope Walk to be held on June 17-18, 2011. She also reported that the Chamber of Commerce approved of the color choice for the parking structure.

5. APPROVAL OF COMMON COUNCIL MINUTES FOR MAY 17, 2011

A motion was made by Simenson with a second by Johnson to approve the Common Council Minutes of May 17, 2011. With all in favor, the motion carried.

6. LETTERS AND COMMUNICATIONS

Chief Dick Lodle discussed with council the ISO Audit. A motion was made by Fischer with a second by Hintz to accept the letters and communications as presented. With all in favor, the motion carried.

7. REPORTS BY ALDERMANIC REPRESENTATIVES AND DEPARTMENT HEADS

Vos questioned if any progress had been made on adjusting the length of the light at South Pine and Bridge Street. Foht replied there had been no further adjustments since March. Vos also commented on the light on the corner of Grove and Milwaukee Avenue that needs adjusting. Vos said it appears that if there are no vehicles on Grove and those making a left turn from Milwaukee to Grove will have a tendency to cut the corner and trip the light. The mayor requested Kapur Engineering to contact the signal company to address the problems at South Pine and Bridge as well as Grove and Milwaukee. Atty. Bjelajac also suggested that Falcon Ridge Drive and Milwaukee Avenue be added to the list.

The mayor had a citizen's complaint regarding the crosswalks throughout the city. The complainant stated that the walk lights are only tripped by pushing the buttons. The mayor requested this be discussed at a later date.

Wilson gave an update on the radium projects for Wells #9 and 10. She stated that it is moving forward with new utilities and foundations being installed. She anticipates the radium removal will be up and running by the end of December.

Wilson also announced that the original Clean Water Fund Loan (21 million dollars) taken out in 1991 to build the wastewater treatment plant, is now paid in full.

Lahner reminded council members that names need to be submitted for the Citizen Budget Partners as the meetings will soon begin.

8. REPORTS 1-6

A motion to approve Reports 1-6 was made by Bob Prailes with a second by Vos. With all in favor, the motion carried.

9. PAYMENT OF VOUCHERS

A motion was made by Johnson with a second by Hintz to approve pre-paid, vouchers and reimbursements in the amount of \$463,692.92. Simenson questioned the payment of the bill (\$865.00) for Burlington Development Group. Lahner will research and provide the answer to Simenson. She also questioned the Kapur billing (\$637.00) for Kohl's Department Store. Foht responded that it is part of the final punch list with Kohl's reimbursing the city. Roll Call Ayes: Bob Prailes, Johnson, Hintz, Jim Prailes, Vos, Rauch, Fischer, Simenson Nays: None Motion carried 8-0

10. LICENSES AND PERMITS

A motion was made by Jim Prailes with a second by Rauch to approve licenses as presented with the exception of the application from Jose Antony, Marathon Express, 233 North Pine Street. Approval of his application for a Combination "Class A" License is conditioned upon compliance with the Wisconsin Department of Revenue letter dated June 2, 2011. With all in favor, the motion carried.

11. APPOINTMENTS AND NOMINATIONS

A motion was made by Hintz with a second by Vos to approve the appointment of Mr. Thomas Wiemer to the Community Development Authority with a term expiration of November 4, 2015. With all in favor, the motion carried.

12. PUBLIC HEARING

A. A PUBLIC HEARING TO HEAR PUBLIC COMMENT REGARDING AMENDING SECTION 315-54(c)(4) OF THE MUNICIPAL CODE OF THE CITY OF BURLINGTON, "ACCESSORY STRUCTURE MAXIMUM HEIGHT"

The mayor announced the public hearing was open at 7:17 p.m. There was no discussion. A motion was made by Vos with a second by Jim Prailes to close the public hearing. With all in favor, the hearing closed at 7:18 p.m.

13. RESOLUTIONS

A. RESOLUTION 4478(3) "A RESOLUTION TO CONSIDER APPROVING AN AMENDMENT TO THE CITY OF BURLINGTON FEE SCHEDULE FOR SECTION 227-3F(2), NOXIOUS AND OTHER WEEDS"

A request for a second reading and a motion to approve was made by Rauch with a second by Johnson. Vos asked for a more streamlined method to handle this problem. Lahner replied that notification is only sent out once with a five day notice with any future violations not being sent a notice. Vos also thought the 12" height was too high and should be reduced. The mayor encouraged the council to bring the idea of changing the height restriction to a future council meeting for discussion. With all in favor, the motion carried.

B. RESOLUTION 4481(6) "A RESOLUTION TO CONSIDER APPROVING THE PURCHASE OF A MOUNTED VACUUM LEAF COLLECTION SYSTEM FOR THE DEPARTMENT OF PUBLIC WORKS IN THE AMOUNT OF \$118,500"

A request for a second reading and a motion to approve was made by Simenson with a second by Vos. Roll Call Ayes: Bob Prailes, Johnson, Hintz, Jim Prailes, Vos, Rauch, Fischer, Simenson Nays: None Motion carried 8-0

14. ORDINANCES

A. ORDINANCE 1925(2) "AN ORDINANCE TO CONSIDER AMENDING SECTION 315-54(c)(4), TO INCREASE THE MAXIMUM ALLOWABLE HEIGHT OF A DETACHED ACCESSORY TO TWENTY-FIVE FEET OR THE HEIGHT OF THE PRINCIPAL STRUCTURE, WHICHEVER IS LESS"

A request for a second reading and motion to approve was made by Fischer with a second by

A request for a second reading and motion to approve was made by Fischer with a second by Hintz. Roll Call Ayes: Bob Prailes, Johnson, Hintz, Jim Prailes, Vos, Rauch, Fischer, Simenson Nays: None Motion carried 8-0

15. MOTIONS

A. MOTION 11-712 "A MOTION TO CONSIDER A CERTIFICATE OF APPROPRIATENESS APPLICATION IN THE HISTORIC PRESERVATION OVERLAY DISTRICT FOR 166 EAST JEFFERSON STREET"

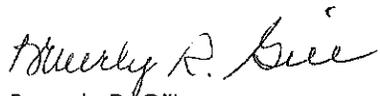
A motion was made by Bob Prailes with a second by Johnson to approve Motion 11-712. With all in favor, the motion carried.

B. MOTION 11-713 "A MOTION TO CONSIDER A CERTIFICATE OF APPROPRIATENESS APPLICATION IN THE HISTORIC PRESERVATION OVERLAY DISTRICT FOR 404 NORTH PINE STREET"

A motion was made by Johnson with a second by Hintz to approve Motion 11-713. With all in favor the motion carried.

16. ADJOURNMENT

A motion was made by Jim Prailes with a second by Vos to adjourn the meeting. With all in favor, the meeting adjourned at 7:31 p.m.



Beverly R. Gill
City Clerk
City of Burlington
Racine and Walworth Counties



CITY OF BURLINGTON

Administration Department
300 N. Pine Street, Burlington, WI, 53105
(262) 342-1161 – (262) 763-3474 fax
www.burlington-wi.gov

Common Council Agenda Item Number: 8	Date: June 21, 2011
Submitted By: City Staff	Subject: Reports 1-2

Details:

Attached please find the following reports:

Report 1 – Plan Commission minutes, May 10, 2011
Report 2 - Committee of the Whole minutes, June 7, 2011

Options & Alternatives:
N/A

Financial Remarks:
None.

Executive Action:
Staff recommends that the Council accept these reports at the June 21, 2011 Common Council meeting.



Minutes
City of Burlington Plan Commission
Police Dept. Courtroom
May 10, 2011, 6:30 p.m.

Mayor Robert Miller called the Plan Commission meeting to order this Tuesday evening at 6:30 p.m. Roll call: Aldermen Tom Vos and Robert Prailes; Commissioners Chris Reesman, Darrel Eisenhardt, and John Lynch; and Student Representative Sarah Strong were present. Commissioner Michael Deans was excused. Student Representative Andrew Krismer and Town of Burlington Representative Phil Peterson were absent. Also present were City Administrator Kevin Lahner, City Planner Patrick Meehan and Zoning Administrator Patrick Scherrer.

APPROVAL OF MINUTES

Alderman Vos moved and Commissioner Eisenhardt seconded to approve the minutes of April 26, 2011. All were in favor and the motion carried.

CITIZEN COMMENTS

None

LETTERS & COMMUNICATIONS

None

- Student Representative Sarah Strong arrived at 6:33 p.m.

PUBLIC HEARINGS

A. A Public Hearing to hear public comments regarding a Conditional Use application from Jatinder Singh of 656 McHenry Street to install a secondary entrance/exit off of McHenry Street.

- Mayor Miller opened the public hearing at 6:33 p.m.
- Mark Rademaker, President of American Bin and Conveyor, 221 Front Street stated he was there to find out if the additional driveway will effect his business in any way.
- There were no further comments. Alderman Vos moved and Commissioner Lynch seconded to close the Public Hearing at 6:35 p.m. All were in favor and the motion carried.

OLD BUSINESS

None

NEW BUSINESS

A. Consideration to approve a Conditional Use Permit Application and Site Plan Application from Jatinder Singh of 656 McHenry Street to install a secondary entrance/exit off of McHenry Street.

- Mayor Miller opened this issue for discussion.
- Alderman Prailes questioned if the previous concerns with the Plan Commission regarding the second driveway had to do with safety concerns. Mayor Miller responded that parking used to be allowed between the gas station and Longview Animal Hospital on McHenry Street. Because of that there was a vision hazard of northbound traffic on McHenry Street.
- Commissioner Lynch questioned if the second drive will allow traffic to enter and exit safer. Pat Scherrer stated that occasionally semi tractor trailers will use the existing driveway for the gas station to back their trucks into the business across the street which blocks entry and exits as well as McHenry Street. The second drive would allow for an additional access point.
- Alderman Vos stated the original site plan for 656 McHenry showed a second driveway however it was not installed due to safety issues. Since there is no parking on that portion of McHenry Street the safety hazard has been eliminated. Pat Meehan stated the original plans also called for a wider secondary driveway that was closer to the animal hospital. The revised plans have a narrower driveway closer to the gas station.
- There were no further comments.

Commissioner Eisenhardt moved and Alderman Prailes seconded to approve a Conditional Use and Site Plan Application for 656 McHenry Street, subject to Kapur & Associates' May 4, 2011 and Patrick Meehan's April 29, 2011 memorandums to the Plan Commission as follows:

- Permanent Marking: Section 315-48(G) of the City Zoning Ordinance requires that all off-street parking stalls serving five (5) or more vehicles shall have all parking stalls permanently marked by painted lines or other approved material, and said marking shall be maintained so as to be legible at all times. There is a need for the maintenance of these lines in various areas of the existing off-street parking spaces of the subject property in order to meet this requirement.
- Traffic Visibility Requirements and the Placement of Freestanding Monument Signs: Section 315-46(B) requires in order to provide adequate vision clearance, no obstructions (such as signs) shall be permitted in the required triangular vision clearance space as follows: "In the B-1, B-3 and B-4 Zoning Districts only, within the triangular vision clearance space located between the heights of 2.5 feet and 10 feet above the plane through the mean edge of pavement grades and formed by any existing or proposed private drives and/or arterial and/or collector streets intersecting with other arterial and/or collector streets, the corner cutoff distances establishing the triangular vision clearance space shall be increased to 60 feet from the intersecting private drive and/or arterial and/or collector street right-of-way lines and a line joining the two points on such lines or as determined by using the standards set forth under the latest edition of the sight distance portion of Chapter

IX of the American Association of State Highway and Transportation Officials (AASHTO) publication titled "A Policy on Geometric Design of Highways and Streets," whichever is greater, as determined by the review of the City Engineer." It appears that a part of the existing, free standing, monument sign located north of the proposed second drive may be located within the above prescribed "sight distance triangle area." The submitted plans shall be reviewed by staff for compliance with the above requirement.

- Outdoor Lighting Plan. Section 315-26(P)(1) of the City Zoning Ordinance requires that exterior lighting in the B-1 District shall be limited to total cut-off type luminaries. The existing luminaries at the subject property are tilted and, therefore, not total cutoff. It is recommended that the luminary tilt of these lights be adjusted so that the luminary lens of each luminary is parallel to the surrounding grade level below the lens.
- A driveway access permit is required by the City and should demonstrate the actual width of the proposed driveway.

All in favor and the motion carried.

B. Consideration to approve a Site Plan Application from Creative Welding & Fabrication at 120 Industrial Drive to use the existing facility for metal machining and fabrication.

- Mayor Miller opened this issue for discussion.
- Alderman Prailes confirmed that there were no conditions to be met for this project. Patrick Meehan stated only striping of certain areas of the parking lot.
- There were no further comments.

Alderman Prailes moved and Alderman Vos seconded to approve a Site Plan Application for 120 Industrial Drive, subject to Kapur & Associates' May 4, 2011 and Patrick Meehan's April 29, 2011 memorandums to the Plan Commission as follows:

- Permanent Marking of Off-Street Parking Area: Section 315-48(G) of the City Zoning Ordinance requires that all off-street parking stalls serving five (5) or more vehicles shall have all parking stalls permanently marked by painted lines or other approved material, and said marking shall be maintained so as to be legible at all times. It is recommended that the City Building Inspector review and determine if there is a need for the maintenance of these lines in various areas of the existing off-street parking areas of the subject property in order to meet this requirement.
- Parking stall label 13 does not appear to be of adequate size and shall be revised on the Site Plan.
- If any future changes in surface occur, such as paving the gravel area to the rear, a drainage plan is required showing flow patterns.

All in favor and the motion carried.

C. Consideration to approve a Site Plan application from Stelling & Associates on behalf of Fred's Parkview to construct a 712 sq. ft. addition on the current building at 596 N. Pine Street.

- Mayor Miller opened this issue for discussion.
- Patrick Scherrer informed the commission that the Certificate of Appropriateness and Sign Permit were approved by the Historic Preservation Commission April 28th.
- There were no further comments.

Alderman Prailes moved and Commissioner Reesman seconded to approve a Site Plan Application for 596 N. Pine Street, subject to Kapur & Associates' May 10, 2011 and Patrick Meehan's April 29, 2011 memorandums to the Plan Commission.

- *There are no outstanding conditions required.*

All in favor and the motion carried.

D. Consideration to recommend approval of Ordinance 1924(1) to amend Section 315-54C(4), "Accessory Uses and Detached Accessory Structures" to increase the maximum allowable structure height to 25 feet.

- Mayor Miller opened this issue for discussion.
- There were no comments.

Alderman Vos moved and Commissioner Reesman seconded to recommend approval of Ordinance 1924(1) to the Common Council.

All in favor and the motion carried.

ADJOURNMENT

Alderman Vos moved and Commissioner Lynch seconded to adjourn the meeting at 6:43 p.m.

All were in favor and the motion carried.



Recording Secretary
Megan E. Johnson
Assistant to the City Administrator



City Clerk
300 N. Pine Street, Burlington, WI, 53105
(262) 342-1161 – (262) 763-3474 fax
www.burlington-wi.gov

Common Council Agenda Item Number: 10	Date: June 21, 2011
Submitted By: Beverly R. Gill, City Clerk	Subject: Licenses

Details:

OPERATOR'S LICENSES

Arndt, Wendy A.
Clark, Colleen J.
Emmons, Dedra
Gorden, Andrew E.
Hallett, Staci L.
Kempen, Tina L.
Krowlek, Briana L.
Kucera, Annamarie L.
Opitz, Shauna M.
Spratling, Cheryl D.
Weiler, Anthony R.

SPECIAL EVENT

Name: Burlington Lions Club
Activity: Street Dance
Location: Chestnut Street Loop
Date: Thursday, July 21, 2011

Financial Remarks:

Applicants are charged a fee of which a portion funds the background checks performed by the Police Department. Business licenses fees are calculated on a case by case basis depending on the type of license applied for.

Executive Action:

Staff recommends the Common Council accept the presented licenses at the June 21, 2011 Council meeting.

P. O. Box 154



Burlington, Wisconsin

BURLINGTON LIONS CLUB, Inc.

May 11, 2011

Mayor Bob Miller &
Members of the City Council

Dear Gentlemen & Lady

For several years, the Burlington Lions Club, in conjunction with the Chamber of Commerce, conducted several successful street dances. Other sponsors took over and the tradition died.

We would like to revive this tradion.

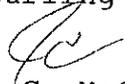
We would like to spnsor a street dance on Thursday, July 21, 2011, from 5 to 11 PM in the Chestnut St. Loop.

We propose to have live music, and sell Beer, Soda and sandwiches. Proceeds will be used to furnish free eye exams and free glasses for local children that can't afford them, and for transporting donated eyes to the Eye Bank in Madison.

We respectfully ask your permission to close the Loop that evening and to use the City picnis tables.

Please grant this permission. Thak You !!

Sincerely,
The Burling Lions


James C. McCourt
Treasurer

PS- I'm not a typist

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**City of Burlington
Special Event Permit Application**

Applicant Name: James McCourt

Address & Phone: P.O. Box 154, Burlington, WI 53105

Group Represented: Burlington Lions Club

Application Date: May 11, 2011

Nature of Event: Festival Parade Bike Race/Ride Foot Race/Run March/Processional Rally
Demonstration Circus Other: Street Dance

Description of Event: (Describe what you are planning so that reviewing officials can determine whether city services (Police, DPW, Building Inspection, Health Officer, Fire Department) will be needed and to what extent):
See attached letter

Event Location: Chestnut Street Loop from Milwaukee Avenue to Pine Street.

Expected Attendance: Unknown

Map Requirement: If you are planning a foot or bicycle race run ride parade you must include a detailed map of the proposed route. A map or diagram may also be useful in depicting other types of events as well.

POLICE DEPARTMENT REVIEW

Approval Recommended: YES NO
If NO, reason: _____

Estimated Police Man Hours Required: 3

Reviewed By: Mack Anderson

Date: 6/6/11

DPW STREETS & PARKS REVIEW

Approval Recommended: YES NO
If NO, reason: _____

Estimated DPW Hours Required: _____

Reviewed By: _____

Date: _____

BUILDING INSPECTION REVIEW

Approval Recommended: YES NO
If NO, reason: _____

Est. Building Inspection Hours Required: _____

Reviewed By: _____

Date: _____

HEALTH OFFICER REVIEW

Approval Recommended: YES NO
If NO, reason: _____

Estimated Health Officer Hours Required: _____

Reviewed By: _____

Date: _____

FIRE DEPARTMENT REVIEW

Approval Recommended: YES NO
If NO, reason: _____

Estimated Fire Dept. Hours Required: _____

Reviewed By: _____

Date: _____

**City of Burlington
Special Event Permit Application**

Applicant Name: James McCourt

Address & Phone: P.O. Box 154, Burlington, WI 53105

Group Represented: Burlington Lions Club

Application Date: May 11, 2011

Nature of Event: Festival Parade Bike Race/Ride Foot Race/Run March/Processional Rally
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See attached letter

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Expected Attendance: Unknown

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POLICE DEPARTMENT REVIEW

Approval Recommended: YES NO Estimated Police Man Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

✓ **DPW STREETS & PARKS REVIEW**

Approval Recommended: YES NO Estimated DPW Hours Required: 8
If NO, reason: _____

Reviewed By: Connie Wilson Date: 6-2-2011

BUILDING INSPECTION REVIEW

Approval Recommended: YES NO Est. Building Inspection Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

HEALTH OFFICER REVIEW

Approval Recommended: YES NO Estimated Health Officer Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

FIRE DEPARTMENT REVIEW

Approval Recommended: YES NO Estimated Fire Dept. Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

**City of Burlington
Special Event Permit Application**

Applicant Name: James McCourt

Address & Phone: P.O. Box 154, Burlington, WI 53105

Group Represented: Burlington Lions Club

Application Date: May 11, 2011

Nature of Event: Festival Parade Bike Race/Ride Foot Race/Run March/Processional Rally
Demonstration Circus Other: Street Dance

Description of Event: (Describe what you are planning so that reviewing officials can determine whether city services (Police, DPW, Building Inspection, Health Officer, Fire Department) will be needed and to what extent):

See attached letter

Event Location: Chestnut Street Loop from Milwaukee Avenue to Pine Street.

Expected Attendance: Unknown

Map Requirement: If you are planning a foot or bicycle race run ride parade you must include a detailed map of the proposed route. A map or diagram may also be useful in depicting other types of events as well.

POLICE DEPARTMENT REVIEW

Approval Recommended: YES NO Estimated Police Man Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

DPW STREETS & PARKS REVIEW

Approval Recommended: YES NO Estimated DPW Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

BUILDING INSPECTION REVIEW

Approval Recommended: YES NO Est. Building Inspection Hours Required: 0
If NO, reason: _____

Reviewed By: P. J. Scherrer Date: June 2, 2011

HEALTH OFFICER REVIEW

Approval Recommended: YES NO Estimated Health Officer Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

FIRE DEPARTMENT REVIEW

Approval Recommended: YES NO Estimated Fire Dept. Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

763-5154

City of Burlington
Special Event Permit Application

Applicant Name: James McCourt

Address & Phone: P.O. Box 154, Burlington, WI 53105

Group Represented: Burlington Lions Club

Application Date: May 11, 2011

Nature of Event: Festival Parade Bike Race/Ride Foot Race/Run March/Processional Rally
Demonstration Circus Other: Street Dance

Description of Event: (Describe what you are planning so that reviewing officials can determine whether city services (Police, DPW, Building Inspection, Health Officer, Fire Department) will be needed and to what extent):

See attached letter

Event Location: Chestnut Street Loop from Milwaukee Avenue to Pine Street.

Expected Attendance: Unknown

Map Requirement: If you are planning a foot or bicycle race run ride parade you must include a detailed map of the proposed route. A map or diagram may also be useful in depicting other types of events as well.

POLICE DEPARTMENT REVIEW

Approval Recommended: YES NO
If NO, reason:

Estimated Police Man-Hours Required:

Reviewed By:

Date:

DPW STREETS & PARKS REVIEW

Approval Recommended: YES NO
If NO, reason:

Estimated DPW Hours Required:

Reviewed By:

Date:

BUILDING INSPECTION REVIEW

Approval Recommended: YES NO
If NO, reason:

Est. Building Inspection Hours Required:

Reviewed By:

Date:

HEALTH OFFICER REVIEW

Approval Recommended: YES NO
If NO, reason:

Estimated Health Officer Hours Required:

Reviewed By: *Magowan*

Date: 6/3/11

FIRE DEPARTMENT REVIEW

Approval Recommended: YES NO
If NO, reason:

Estimated Fire Dept. Hours Required:

Reviewed By:

Date:

**City of Burlington
Special Event Permit Application**

Applicant Name: James McCourt

Address & Phone: P.O. Box 154, Burlington, WI 53105

Group Represented: Burlington Lions Club

Application Date: May 11, 2011

Nature of Event: Festival Parade Bike Race/Ride Foot Race/Run March/Processional Rally
Demonstration Circus Other: Street Dance

Description of Event: (Describe what you are planning so that reviewing officials can determine whether city services (Police, DPW, Building Inspection, Health Officer, Fire Department) will be needed and to what extent):

See attached letter

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Expected Attendance: Unknown

Map Requirement: If you are planning a foot or bicycle race run ride parade you must include a detailed map of the proposed route. A map or diagram may also be useful in depicting other types of events as well.

POLICE DEPARTMENT REVIEW

Approval Recommended: YES NO Estimated Police Man Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

DPW STREETS & PARKS REVIEW

Approval Recommended: YES NO Estimated DPW Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

BUILDING INSPECTION REVIEW

Approval Recommended: YES NO Est. Building Inspection Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

HEALTH OFFICER REVIEW

Approval Recommended: YES NO Estimated Health Officer Hours Required: _____
If NO, reason: _____

Reviewed By: _____ Date: _____

FIRE DEPARTMENT REVIEW

Approval Recommended: YES NO Estimated Fire Dept. Hours Required: 0
If NO, reason: _____

Reviewed By: R. E. Jola Date: 6/1/2011



CITY OF BURLINGTON

Department of Public Works

Wastewater & Water Utility

2100 S. Pine Street, Burlington, WI, 53105

(262) 539-3646 - (262) 342-1173 - (262) 539-3648 fax

www.burlington-wi.gov

Common Council Item Number: 13A	Date: June 21, 2011
Submitted By: Connie Wilson, Director of Public Works	Subject: Resolution 4480(5) to consider approving the 2010 Compliance Maintenance Annual Report.

Details:

The Compliance Maintenance Annual Report (CMAR) is a report required by the Department of Natural Resources to ensure the City's Wastewater Treatment Plant is in compliance with the regulations of the Department of Natural Resources (DNR). This report, which is required annually, must be evaluated by the Common Council, and the DNR.

The 2010 CMAR grade point average for the Wastewater Treatment Plant was 3.78 based on a 4.0 system. This excellent score ensures the governing bodies that the plant is in full compliance with the DNR's regulations.

The DNR deadline for the submittal of the CMAR and resolution is June 30, 2011. The Wastewater Utility is requesting approval of this resolution.

Options & Alternatives:

N/A

Financial Remarks:

N/A

Executive Action:

This item was discussed at the June 7, 2011 Committee of the Whole meeting and is scheduled for the June 21, 2011 Common Council meeting for consideration.

Resolution No. 4480(5)
Introduced by: Committee of the Whole

**A RESOLUTION APPROVING THE 2010 DEPARTMENT OF NATURAL
RESOURCES COMPLIANCE MAINTENANCE ANNUAL REPORT**

WHEREAS, the Wisconsin Department of Natural Resources requires the completion of a Compliance Maintenance Annual Report (CMAR) which will evaluate and document the performance and condition of the wastewater utility; and,

WHEREAS, the Compliance Maintenance Annual Report will assist treatment plant owners to plan for the future where necessary so that each plant will maintain their permit requirements; and,

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Burlington has reviewed and approved the 2010 Compliance Maintenance Annual Report, a copy of which is attached hereto.

Introduced: June 7, 2011
Adopted:

Robert Miller, Mayor

Attest:

Beverly R. Gill, City Clerk



Police Department

224 E. Jefferson Street, Burlington, WI, 53105
(262) 342-1100 – (262) 763-5158 fax
www.burlington-wi.gov

Committee of the Whole Item Number: 6	Date: June 21, 2011
Submitted By: Peter A. Nimmer, Chief of Police	Subject: Resolution 4483(8) approving the award of 23 Portable Radios to General Communications not-to- exceed amount of \$47,979

Details:

The City of Burlington applied for and received a grant through Racine County and the Office of Justice Assistance in the amount of \$47,979 for 23 portable radios pursuant to the federal Homeland Security Grant Program. This grant requires the new hand held radios to be compliant with ANSI/TIA/EIAA-102 Phase 1, Version 2 (Project 25) suite of standards and they must be trunking enabled. This is to ensure that we as first responders can communicate effectively in times of emergency with all agencies. The radios allow us to talk on VHF and Digital frequencies so that we can communicate with all agencies on VHF and those agencies that have moved to Digital.

The radios I am recommending comply with all of the standards of this grant. In addition these radios will be narrow band and digitally programmed. These radios will allow us to move to a digital frequency and will be compatible with the dispatch project later this summer. Eventually all emergency services will be moving to digital frequencies.

The grant was put out to bid to three companies, RC Electronics, General Communications, and Milwaukee 2-Way. All the bids met the specifications of the grant and are quality radios. General Communications was the least expensive and will not require us to pay any money out of pocket. They also gave us the most money for our current radios.

Options & Alternatives:

The City Council could choose not to use this grant money. This is a great opportunity to upgrade our current radios which were purchased in 2003 at no cost to the city.

Financial Remarks:

There is a 15% match required by the grant; however that cost will come from the trade in of our current radios. There should be no out of pocket cost to us.

Executive Action:

This item is discussion at the June 21, 2011 Committee of the Whole meeting and scheduled for the Common Council meeting the same night for consideration.

**A RESOLUTION APPROVING THE AWARD OF A BID FOR 23 PORTABLE RADIOS FOR
THE CITY OF BURLINGTON POLICE DEPARTMENT TO GENERAL COMMUNICATIONS
FOR A NOT-TO-EXCEED PRICE OF \$47,979**

WHEREAS, on June 1, 2004 the Common Council did approve Resolution 3812(18), a Resolution Adopting a Purchasing Policy for the City of Burlington and on May 16, 2006 approved Resolution 4015(3), updating such Purchase Policy; and,

WHEREAS, the Purchasing Policy requires that all non-construction related Budget Items requiring expenditures of \$15,000 or more be reviewed and pre-approved by the Common Council; and,

WHEREAS, the Council may direct, at its discretion, that the item is to be bid in the same manner as construction contracts, or that it is to be combined with or included in another governmental bid, but shall not be required to do so; and,

WHEREAS, the Police Department has requested proposals from three local vendors to include RC Electronics, Milwaukee 2-Way, and General Communications for Portable Radios meeting the specifications of the grant; and,

WHEREAS, the Police Department is going to use grant money to purchase the radios and will use the trade in value of our existing radios to cover the 15% match; and,

WHEREAS, the purchase of the Portable Radios from General Communications for the not-to-exceed amount of \$47,979, has been recommended by the Chief of Police.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Burlington that the purchase of the aforementioned Portable Radios is hereby approved for the total amount of \$47,979.

Introduced: June 21, 2011

Adopted:

Robert Miller, Mayor

Attest:

Beverly R. Gill, City Clerk

OJA
OFFICE OF JUSTICE ASSISTANCE

State of Wisconsin

SCOTT WALKER
Governor

1 S. Pinckney Street
Suite 615
Madison WI 53703-3220

Phone: (608) 266-3323
Fax: (608) 266-6676
<http://oja.wi.gov>

FY'08 HOMELAND SECURITY PROGRAM GRANT AWARD
Homeland Security/Mutual Aid Radio Replacement Round 6
2008-HS-05-8716

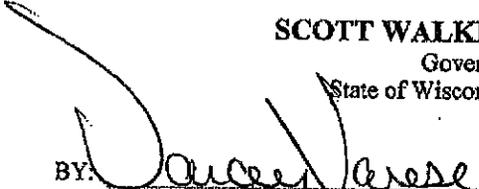
The Office of Justice Assistance (OJA), on behalf of Governor Scott Walker, hereby awards to **Racine County**, (hereinafter referred to as the **Grantee**), the amount of **\$47,979** for programs or projects pursuant to the federal Homeland Security Grant Program.

This grant may be used until **May 26, 2011** for the programs consistent with the budget and general conditions in Attachment A, subject to any limitations or conditions set forth in Attachments B and/or C, if included.

The Grantee shall administer the programs or projects for which this grant is awarded in accordance with the applicable rules, regulations, and conditions of the Office of Justice Assistance. The submitted application is hereby incorporated as reference into this award.

This grant shall become effective, and funds may be obligated (unless otherwise specified in Attachments A and/or B) when the Grantee signs and returns one copy of this grant award to the Office of Justice Assistance.

SCOTT WALKER
Governor
State of Wisconsin

BY: 

DARCEY VARESE
Acting Deputy Director
Office of Justice Assistance

4/19/2011

Date

The (Grantee), **Racine County**, hereby signifies its acceptance of the above-described grant on the terms and conditions set forth above or incorporated by reference therein.

GRANTEE: **Racine County**

BY: _____

NAME: **James Ladwig**

TITLE: **County Executive**

Date

Completion of this signed grant award within 30 days of the date of the award is required for release of federal funds.



GENERAL COMMUNICATIONS

your safety is our business

Customer: Burlington Police
224 E. Jefferson Street
Burlington, WI 53105

Attn: Chief Pete Nimmer

Date: 06/02/11

Phone: 342-1102
Fax: 763-5158
Cell: (414) 559-1990
Email: pnimmer@burlington-wi.gov

Valid For: 30 Days

Sales Rep: Bob Cluka
rcluka@gencomm.com

Qty.	Model #	Description	Each	Total
------	---------	-------------	------	-------

P25 Portable Radios

23	TK-5210K2 KNB-43L KSC-32 KRA-26M KWD-TR20	KENWOOD: 5 watt, 512 channel, VHF portable radio with CTCSS/DCS, dual priority scan, 16 character alphanumeric display, P25 trunking, programming, rechargeable Li-Ion battery, belt clip, antenna and AC rapid-rate charger.	\$ 2,117.50	\$ 48,702.50
23	Grant	Round 6 grant funding @ 85%	- \$ 1,799.88	\$ 41,397.24
		Difference	\$ 317.62	\$ 7,305.26
23	Trade-in	Trade-in of qualified OJA radios	- \$ 317.62	\$ 7,305.26
		Net final cost to customer	\$ 0.00	\$ 0.00

Options

23	KMC-41	Kenwood: Mil-spec speaker/microphone	\$ 72.50	\$ 1,667.50
4	KMB-23	Kenwood: 6-unit rack charge adapter. Holds 6 of the chargers that come with radio pkg.	\$ 145.00	\$ 580.00
23	KLH-133K2 KLH-6SW	Kenwood: optional heavy duty leather carrying case with leather D mount swivel belt loop	\$ 50.00	\$ 1,150.00
23	KNB-43L	Kenwood: spare 3300mAh Li-Polymer battery	\$ 115.00	\$ 2,645.00

Madison
5157 Anton Drive
Madison, WI 53719
(608) 271-4848 / (800) 356-3200

rcluka@gencomm.com
www.gencomm.com

Milwaukee
N57 W13466 Reichert Avenue
Menomonee Falls, WI 53051
(262) 439-2121 / (800) 546-9468



Date: 06/10/11

City of Burlington Police Department
224 E. Jefferson St.
Burlington WI 53105



Attention: Chief Peter Nimmer

We are pleased to provide you with the following quote, thank for allowing us to participate with the opportunity to bid on this latest communications project. We are a community based company that is very much customer conscientious when it comes to sales, service and support. Attached are several options for the various portables we have quoted, which meet or exceed the guidelines that you have provided. We can provide further details or discuss the options based on your interests. Please let me know if there are any questions regarding the information attached.

Option #1 23) Kenwood TK-5210G VHF Digital Portable Radio's. \$ 52,325.00

Trade in options: Motorola HT & MT 1000's \$40 ea. XTS5000 \$250 ea.

Additional quote for Motorola brand equipment if interested.

Trade in value of current radios based on evaluation of equipment.

- * The systems quoted above includes installation, setup, and training.
- * Customer responsible for any 110V power supply needs.
- * Price does not include S&H or Sales tax.

If you have any questions or need any additional information, please give me a call at (262) 843-4262 or my cell (262) 220-3390.

Above proposal accepted by: _____ Date: _____
(Chief Peter Nimmer)

Title: _____

Sincerely, RC Sales Rep: _____ Date: _____
Name

Name
RC Electronics (Quotation good for 30 days from date of proposal)

PURCHASE AGREEMENT

Milwaukee 2-Way, Inc.

11408 W. Lincoln Ave.
 West Allis, WI 53227
 Tel: (414)548-2011
 (800)585-0090
 Fax: (414)548-2528



QUOTE #: 06022011

ORDER #: _____

CUSTOMER P.O. #: _____

SOLD TO:

CUSTOMER: City of Burlington Police Department

Contact: Kim Hardesty

Address: 224 E. Jefferson Street

City / St. / Zip: Burlington WI 53105

Telephone: 262-342-1104

Fax: _____

Email: khardesty@burlington-wi.gov

SHIP TO:

CUSTOMER: SAME

Contact: _____

Address: _____

City / St. / Zip: _____

Telephone: _____

Fax: _____

Email: _____

QTY.	MODEL	DESCRIPTION	UNIT PRICE	TOTAL
23	H98KGF9PW6 N	Motorola APX6000 Model 2 VHF Portable Radio	\$ 1,640.00	\$ 37,720.00
23	Q806	Astro Digital CAI Operation	\$ 412.00	\$ 9,476.00
23	H38	Smartzone Operation	\$ 960.00	\$ 22,080.00
23	Q361	P25 9600 Baud Trunking	\$ 240.00	\$ 5,520.00
23	QA01749	Advanced System Key - Software Key	\$ -	\$ -
23	NNTN7080	Single Unit iPMRES Charger	\$ 100.00	\$ 2,300.00
		All Costs reflect WSCA Contract Pricing		
		Budgetary Pricing Only. Does not reflect WSCA pricing.		
		Does not include one time: \$ 250.00 Template charge		
		Programming fee = \$75.00 per radio - billed separately		

Special Instructions: _____

Milwaukee 2-Way, Inc. reserves the right to cancel this agreement within 30 days after it is delivered to Milwaukee 2-Way, Inc's. office for final acceptance.
 Date Received: _____

Quotation good for 30 days. Shipment from Milwaukee 2-Way in approximately 30 days.

Terms: _____ % down, Net: 30 days.

EQUIPMENT COST		\$ 77,096.00
SERVICES		
OTHER		
SUBTOTAL		\$ 77,096.00
TAX %	0.0	EXEMPT
NET TOTAL COST		\$ 77,096.00
LESS DOWN PAYMENT		
BALANCE DUE		\$ 77,096.00

PREPARED BY: David J. Failer DATE: 6/3/2011

ACCEPTED BY: _____ DATE: _____

v.g.7.15.09 SIGNATURE BELOW INDICATES FULLY DELIVERED TO MILWAUKEE 2-WAY, INC. TERMS AND CONDITIONS



CITY OF BURLINGTON

Administration Department
30 N. Pine Street, Burlington, WI, 53105
(262) 342-1161 - (262) 763-3474 fax
www.burlington-wi.gov

Common Council Item Number: 7	Date: June 21, 2011
Submitted By: Kevin Lahner, City Administrator	Subject: Resolution 4484(9) to consider approving a Department of Natural Resources Recreational Trails Act Grant Application.

Details:

During discussions of the Riverside Park Trail Project, park consultant Blake Theisen indicated that there may be a possibility of applying for another trail grant through the Department of Natural Resources. However, the grant application deadline was coming up very quickly and if we were to qualify we would have to choose a project and proceed on an accelerated time frame. The Park Board voted to proceed with a grant application to construct a trail connecting Echo Park to Steinhoff Park. The project could be relatively easily coordinated and designed and could be completed within the next two years if the grant application was approved by the DNR. The DNR requires the governing board of a municipality to approve a resolution approving the grant application. The total projected cost of the project would be \$127,000. The city responsibility for the project would be \$70,200, which is proposed to be funded by Park Development Funds.

Approving the grant application does not commit any funds. If the grant application is approved, the city will have the opportunity to accept or reject the funds.

Options & Alternatives:

The Common Council could reject the grant application and choose not to go forward with this proposal at this time.

Financial Remarks:

The total estimated cost of the project is \$127,000. The total estimated cost to the City would be \$70,200. The project is proposed to be funded by Park Development funds.

Executive Action:

This item is for discussion at the June 21, 2011 Committee of the Whole meeting and due to the timeliness of the item is scheduled for consideration the same night.

**A RESOLUTION TO AUTHORIZE SUBMITTAL OF A GRANT APPLICATION TO THE WISCONSIN
DEPARTMENT OF NATURAL RESOURCES FOR RECREATIONAL TRAILS ACT GRANT**

WHEREAS, the City of Burlington is interested in developing lands for public outdoor recreation purposes as described in an application to the Wisconsin Department of Natural Resources (WI DNR); and,

WHEREAS, financial aid is required to carry out said project; and,

WHEREAS, the City of Burlington has budgeted a sum sufficient to complete said project or acquisition.

NOW THEREFORE, BE IT RESOLVED the City of Burlington hereby authorizes Blake Theisen, Project Manager and Park Planner of Schreiber Anderson Associates, to act on behalf of the City of Burlington to:

- Submit an application to the State of Wisconsin DNR for any financial aid that may be available;
- Submit reimbursement claims along with necessary supporting documentation within six months of project completion date;
- Submit signed documents; and,
- Take necessary action to undertake, direct and complete the approval project.

BE IT FURTHER RESOLVED that the City of Burlington will comply with state or federal rules for the programs to the general public during reasonable hours consistent with the type of facility; and will obtain from the State of Wisconsin Department of Natural Resources or the National Park Service approval in writing before any change is made in the use of the project site.

Introduced: June 21, 2011
Adopted:

Robert Miller, Mayor

Attest:

Beverly R. Gill, City Clerk

Burlington Trail System Improvements (Echo Park to Steinhoff Park)

Wisconsin DNR Stewardship/RTA Grant 2011

The City of Burlington is fortunate to have an excellent park system. One of the main issues cited in the Comprehensive Outdoor Recreation Plan (adopted in 2010) is the lack of connectivity from park site to park site. This project will establish a bicycle friendly trail system directly linking three parks in the city and extending the existing city trail system to the detached northern neighborhood (see Existing Parks & Open Space Map). The main park sites affected by this project include Echo Park, Grove Street Park, and Steinhoff Park.

Echo Park is located adjacent to the downtown business district and is the central destination park in the city. It is home to many of the festivals and public gatherings held throughout the year. Burlington residents on the south and west side of the city can access the park utilizing the trail system or newly installed bicycle lanes. Grove Street Park is an undeveloped strip of greenspace along the eastern shore of Echo Lake. The park has no developed facilities but is well suited for trail and overlook development. Steinhoff Park serves as the neighborhood park for the northern residential neighborhood (Bear Meadows). Facilities include a playground, general open space, sand volleyball, and picnic areas.

This project will connect all three of these existing parcels with a combination of off-road trails, and designated bicycle lanes (not part of this grant application). The first segment runs parallel with Milwaukee Ave (STH 83/36) connecting the north end of Echo Park to Grove Street. An existing 4' sidewalk exists along a portion of this segment but is not suitable for bicycles or pedestrians. The new trail will be 10' asphaltic pavement offset from the road providing a safe buffer and suitable travel accommodations. Proper striping and markings will be installed at the intersection of Grove Street and Milwaukee Avenue. The second segment will be partially funded by the city as part of the 2012 CIP. The city will complete the remaining on-road bike lane striping along Grove Street that is not covered by this grant. The north side of Grove Street will be striped to accommodate proper bicycle lanes connecting Milwaukee Avenue and Center Street (not part of this grant application). A trail will be installed along the south side of Grove Street providing off-street travel and water access to Echo Lake. Benches are included and an observation platform will be installed along the bank of the lake (future). The third segment of this project will continue the trail on the north side of Grove Street along the Center Street right-of-way connecting to Steinhoff Park. An existing gravel base pathway through the park will be paved with asphaltic pavement completing the accessible route to Cedar Drive and the residential neighborhood. The northern end of this trail segment also provides a connection to the Wehmhoff Woodland Preserve, a passive use conservancy area west of the Bear Meadows neighborhood. Bicycle racks in all three parks are included in this project.

The adopted CORP identifies this project in several locations including the rail system map, Chapter 3.2.2 New Facilities Development, and prioritized as level 1 in Chapter 4. This new addition to the multi-modal transportation system in Burlington will both reduce the number of motor vehicle trips, as well as provide a vital link between the downtown district, various park spaces, the regional Racine County Trail system, and several housing centers.



CITY OF BURLINGTON

Police Department

224 E. Jefferson Street, Burlington, WI, 53105
(262) 342-1100 – (262) 763-5158 fax
www.burlington-wi.gov

Committee of the Whole Number: 9	Date: June 21, 2011
Submitted By: Peter A. Nimmer, Chief of Police and City Attorney John Bjelajac	Subject: Ordinance 1926(3) to create child safety zones where sex offenders are not permitted.

Details:

This draft of the Child Safety Zone Ordinance (draft date 6/6/11) has the following revisions incorporated into it from the prior 4/28/11 draft:

1. § 240-2(B)(5): The phrase “Sunday schools, religious education schools, or classrooms” is deleted from the definition of a Child Safety Zone in deference to First Amendment concerns. What continues in place, however, to protect the children in parochial schools is (B)(3) which provides that “Public or private schools for Children” are Child Safety Zones.
2. § 240-3(A): New language has been added to provide that if a Child Sex Offender lawfully has his/her residence in a Child Safety Zone (because of being “grandfathered” in), then that Child Sex Offender may go to and from the residence and occupy the residence, but not enter other parts of the parcel of land (on which the residence is located) that supports the use or facility that makes the land a Child Safety Zone.
3. § 240-3(B)(3): New language has been added to provide that if a Child Sex Offender has a residence in the “300-foot no-loitering area” adjacent to a Child Safety Zone, then that Child Sex Offender may (i) go to and from the residence and occupy the residence and parcel of land on which the residence is located, but (ii) the Child Sex Offender may not otherwise loiter within 300 feet of that same Child Safety Zone.
4. Churches and religious facilities were previously removed from the definition of a Child Safety Zone, in deference to First Amendment concerns. The question then arose as to how to protect children attending a parochial school that was on the same parcel of land as the said church or religious facility to which the Child Sex Offender has access. This problem is addressed by new language in § 240-3(B)(4)(a) which provides that when a Child Sex Offender frequents a church or religious facility, he/she may not enter into and/or loiter around that part of the same parcel of land on which a school or playground is located.
5. § 240-3(B)(4)(f): New language was added to make clear that a Child Sex Offender’s movement within the City is lawful (under this Ordinance) if not prohibited by this Ordinance.

Options & Alternatives:

The council could choose to not adopt this ordinance.

Financial Remarks:

There are no direct financial costs in making this change to this ordinance.

Executive Action:

This item was discussed at the January 4th, January 18th, April 6th and May 3rd Committee of the Whole meetings, the May 17th Common Council meeting and is scheduled for the June 21, 2011 Common Council meeting for consideration.

(Draft: 6/6/11)

Ordinance No. 1926(3)
Introduced by: Committee of the Whole

**ORDINANCE TO AMEND THE CODE OF THE CITY OF BURLINGTON
TO CREATE CHILD SAFETY ZONES AND RESIDENTIAL RESTRICTIONS
APPLICABLE TO SEX OFFENDERS AND TO PROVIDE FOR ENFORCEMENT**

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

Section 1. That Chapter 240 of the Code of the City of Burlington is hereby created as follows:

Chapter 240

SEX OFFENDER RESTRICTIONS

§ 240-1. Purpose and Intent.

- A. The City finds and declares that Child Sex Offenders (as hereinafter defined) are a serious threat to public safety. Given the high rate of recidivism, reducing opportunity and temptation is important to minimizing the risk of re-offense, and there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and daycare centers. The City finds and declares that, in addition to schools and daycare centers, children congregate or play in a number of public places, including parks and other facilities.
- B. This Chapter is a regulatory measure aimed at protecting the health and safety of children in the City of Burlington from the risk that Child Sex Offenders may re-offend where children congregate. It is the intent of this Chapter to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by creating Child Safety Zones as areas where children regularly congregate, and that restrict Child Sex Offenders' residing in, entering, or loitering in Child Safety Zones.

§ 240-2. Definitions.

As used in this Chapter, the following words, terms, and phrases shall have the meanings ascribed to them.

- A. **Child(ren)** means a person(s) under the age of eighteen (18) years of age.
- B. **Child Safety Zone** is the building, facilities and improvements, and the legal parcel of real property

on which they are situated, to the extent the property is within the City, that are used for or which supports a use set forth below.

- (1) A public park (inclusive of any swimming or aquatic facility within), playground, parkway, parkland, athletic field, recreational trail, or park facility;
- (2) Any site, facility, or premise operated by the Boy Scouts of America, the Girl Scouts of America, or any similar organization of which a Child is or may be a member;
- (3) Public or private schools for Children;
- (4) Daycare centers;
- (5) Any specialized school or facility for Children, including but not limited to, gymnastics schools, dance academies, and music academies;
- (6) The Chocolate Fest grounds during any period of time in which a festival or other public entertainment is in progress, and at which Children are present;
- (7) Any other facility for Children, including any public or private school or group home within the meaning of Section 48.02(7), Wis. Stats., residential care centers for children and youth within the meaning of Section 48.02(15d), Wis. Stats., a shelter care facility within the meaning of Section 48.02(17), Wis. Stats., a foster home within the meaning of Section 48.02(6), Wis. Stats., a treatment foster home within the meaning of Section 48.02(17q), Wis. Stats., daycare centers licensed under Section 48.65, Wis. Stats., daycare programs established under Section 120.13(14), Wis. Stats., daycare providers certified under Section 48.651, Wis. Stats., or a youth center as defined in Section 961.01(22), Wis. Stats.

The City shall maintain an official map showing Child Safety Zones. The City will update the map

at least annually to reflect any changes in the locations of Child Safety Zones. The map shall be available at the City Hall, at the City of Burlington Police Department, and on the City's official website. In the event of any conflict between the map and this Ordinance, the Ordinance shall control.

- C. **Loiter** for purposes of this Ordinance shall have the same meaning as set forth in § 204-1 of the City of Burlington Ordinances, and as may be amended or renumbered from time to time.
- D. **Residence** means any place where a person, either temporarily or permanently, lodges, abides, or resides.
- E. **Child Sex Offender** means: (a) a person required to register under Section 301.45, Wis. Stats., if the Sex Offense which requires registration involved a Child; or (b) a person that has been convicted of, or has been found delinquent for, or has been found not guilty by reason of disease or mental defect, of a Sexually Violent Offense, regardless of the age of the victim.
- F. **Sex Offense** is an offense defined as a "sex offense" by Section 340.45(b), Wis. Stats.
- G. **Sexually Violent Offense** is an offense defined as a "sexually violent offense" by Section 980.01(6), Wis. Stats.
- H. **Wisconsin Statutes.** All references to the Wisconsin Statute(s) in this Ordinance shall mean the statute(s) as in effect when this Ordinance is adopted, and shall include any amendment to or renumbering of the statute(s) after the adoption of this Ordinance.

§ 240-3. Prohibited Acts.

- A. **Residence in a Child Safety Zone.** No Child Sex Offender shall establish a permanent or temporary residence in a Child Safety Zone. A Sex Offender does not commit a violation of this provision if any of the following apply.

(1) The Child Sex Offender established and

was required to and did register the residence pursuant to Section 301.45, Wis. Stats. before the effective date of this Ordinance.

- (2) The Child Safety Zone was established after the Sex Offender established and was required to and did register the residence pursuant to Section 301.45, Wis. Stats.

In the event a Child Sex Offender lawfully has his/her residence in a Child Safety Zone under the provisions of above subparagraph (1) or (2) of this subsection 204-3(A), then the Child Sex Offender (i) may go to and from the residence, and (ii) occupy the residence, but (iii) shall not enter any other part of the property (on which the residence is located) that supports the use which creates a Child Safety Zone unless otherwise permitted by this Ordinance.

B. Entry Into a Child Safety Zone. No Child Sex Offender shall:

- (1) Enter or be present in any Child Safety Zone that is a public playground, a school or specialized school for children, a daycare center, or any facility for children as defined in Section 240-2, B, (7) of this Ordinance;
- (2) Enter or be present in any other Child Safety Zone between the hours of 7:00 a.m. and 11:00 p.m., or at any time when a Child is present;
- (3) Loiter in or within the surrounding Three Hundred (300) feet of any Child Safety Zone. For purposes of determining the surrounding Three Hundred (300) feet of a Child Safety Zone, the area shall be determined by measuring 300 feet following a straight line perpendicular to the outer property line of each such Child Safety Zone. In the event a Child Sex Offender has a residence within 300 feet of a Child Safety Zone, the Child Sex Offender may (i) go to and from the residence, and (ii) occupy the residence and the parcel of land on which the residence is located, without

violating the foregoing provisions prohibiting loitering in or within a Child Safety Zone. Except for such ingress/egress to and from the said residence and/or occupancy of the residence/parcel of land, however, the Child Sex Offender shall not otherwise loiter in or within 300 feet of the said Child Safety Zone.

- (4) A Child Sex Offender does not violate this provision if any of the following apply:
- a. The Child Safety Zone supports a church, synagogue, mosque, temple, or other house of religious worship and entry and presence in the Child Safety Zone occurs for the limited and sole purpose of attending or visiting the said religious facility. In such event, however, the Child Sex Offender may not enter into and/or loiter in or around any other area of the Child Safety Zone in which the said religious facility is located. This shall expressly include, but not be limited to, any children's school and/or children's playground located in the Child Safety Zone.
 - b. The Child Safety Zone supports a use lawfully attended by the Child Sex Offender's natural or adopted Child or ward, and which Child or ward's use or attendance reasonably requires the attendance of the Child Sex Offender as parent or guardian; further provided the Child Sex Offender must provide written notice to and obtain written approval from the person in charge of the facility in the Child Safety Zone to attend the event with his Child or ward and the written approval must be specific as to days, dates, and times when the event will be conducted;

- c. The Child Safety Zone supports a polling location in a local, state, or federal election; further provided, the Child Sex Offender must be eligible to vote in the election, the Child Sex Offender must enter the polling place, proceed to cast a ballot with whatever usual and customary assistance is provided to any other member of the electorate, and vacates the Child Safety Zone immediately after voting.
- d. The property supports a government, commercial, retail, or business use open to the public, or a health care or professional service facility in addition to the use which creates a Child Safety Zone; further provided the Child Sex Offender: (a) is on the property for purposes of using the government, commercial, retail, or business use, or the health care or professional service facility on the property; and (b) the Child Sex Offender may not loiter in any common area; and (c) the Child Sex Offender may not enter any area that supports a use which creates a Child Safety Zone unless otherwise permitted by this Ordinance.
- e. It is not a violation of this provision for a Child Sex Offender to travel on a public sidewalk, roadway, or highway that adjoins or is adjacent to a Child Safety Zone; further provided: (a) a Child Sex Offender may not loiter on the sidewalk, roadway, or highway that adjoins or is adjacent to a Child Safety Zone; and (b) a Child Sex Offender may not travel on any portion of any sidewalk, roadway, or highway that lies entirely within a Child Safety Zone unless otherwise permitted by this Ordinance.
- f. It is not a violation of this provision if

the Child Sex Offender is present in or upon a Child Safety Zone (i) for purposes of exercising First Amendment Rights protected by the United States Constitution, including the freedom of speech, free exercise of religion, and the right of assembly, and/or (ii) as otherwise permitted by this Ordinance.

- C. **Holiday Prohibition.** No Child Sex Offender may participate in any holiday event involving Children such as distributing candy or other items as part of a Halloween event, wearing a Santa Claus or other costume as part of a Christmas holiday event, or wearing an Easter Bunny or other costume as part of an Easter holiday event. This present Holiday Prohibition shall not apply, however, to (i) holiday events in which the Child Sex Offender is the parent or guardian of one or more Children involved, and there are no non-familial Children present, and/or (ii) the event is sponsored by or held at a religious facility as defined and described in above Section (4)(a).

- D. **Enforcement and Duty to Inquire.** Unless flight by the Child Sex Offender or other circumstances make it impractical, a law enforcement officer shall, prior to any arrest for a violation of § 240-3, B, afford the Child Sex Offender an opportunity to dispel any alarm which would otherwise be warranted, by requesting the Child Sex Offender to identify himself or herself and explain his or her presence and/or conduct in the Child Safety Zone. No person shall be convicted of an offense under this provision if the law enforcement officer did not make a good faith effort to comply with the preceding sentence, or if at trial, the explanation given by the Child Sex Offender is true, and if it had been believed by the law enforcement officer, would have reasonably dispelled alarm.

§ 240-4. Violations and Penalties.

If a Child Sex Offender violates the provisions of this Chapter, such Offender shall be subject to the general penalty provisions set forth under Chapter 1, s. 1-4 of this Municipal Code (and/or as the same may be amended or renumbered in the future). Each day a violation continues shall constitute a separate offense. In addition, the City may

undertake all other legal and equitable remedies available (including, but not limited to, obtaining injunctive relief and/or a restraining order against a Child Sex Offender).

§ 240-5. Severability.

If any provision of this Ordinance is found invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of this Ordinance.

Section 2. The above Offenses shall be added to the City of Burlington Municipal Deposit Schedule, which shall show base deposit amounts for the offenses as follows:

240-3 A-C	Violation of Prohibited Acts Provision (First Offense)	\$250.00
240-3 A-C	Violation of Prohibited Acts Provision (Second Offense)	\$500.00

Section 3. The Common Council of the City of Burlington proceeded to adopt this proposed addition to the Code of the City of Burlington at its meeting held on _____, 2011.

Section 4. This ordinance shall take effect and be in full force after its passage and publication as required by law.

Introduced:

Adopted:

Robert Miller, Mayor

Attest:

Beverly R. Gill, City Clerk