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2 **Resolution Relating to**  
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**RESOLUTION**  
Councilor Paul \_\_\_\_\_  
Sponsor(s): \_\_\_\_\_  
\_\_\_\_\_  
Introduced: 07/11/11  
Referred to: \_\_\_\_\_  
\_\_\_\_\_  
Action: \_\_\_\_\_  
Date: \_\_\_\_\_  
Signed by Mayor: \_\_\_\_\_

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6  
7 COMPOSITION OF THE RETIREMENT BOARD AND THE  
8 OTHER ISSUES RAISED BY FORMER BOARD MEMBER  
9 HORENSTEIN  
10

11  
12 **CITY OF BURLINGTON**  
13

14 In the year Two Thousand Eleven.....  
15 Resolved by the City Council of the City of Burlington, as follows:  
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17 That WHEREAS, the City of Burlington offers a defined benefit pension plan, the Burlington  
18 Employees Retirement System or BERS, to all its employees, both Class A and B, to provide a  
19 portion of their retirement needs, and

20 WHEREAS, the City Council, in concert with the Class A and B employees and the  
21 Mayor, appoints members to serve on the Retirement Board; and

22 WHEREAS, the City Council has acknowledged and placed on file the letter of  
23 resignation of Donald Horenstein, a member of the Retirement Board who served on the Board  
24 for nine years; and

25 WHEREAS, Mr. Horenstein noted four reasons for his decision to step down as a  
26 member of the Board; and

27 WHEREAS, in points 2 and 3, Mr. Horenstein cites his opinion of "conflicts of interests  
28 in the BERS deliberations regarding employee disability issues" and "the current structure and  
29 composition of the BERS Board of eight members;" and

30 WHEREAS, it is the responsibility of the Council through the Board of Finance and its  
31 Ordinance Committee to review procedures on a regular basis to determine if practices in place  
32 are working effectively; and

33 WHEREAS, it was the recommendation of the Retirement Task Force to review, in part,  
34 these very procedures and make changes:

36 **Resolution Relating to** COMPOSITION OF THE RETIREMENT BOARD AND  
37 THE OTHER ISSUES RAISED BY FORMER BOARD  
38 MEMBER HORENSTEIN  
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40 Quoting from the Report of the Retirement Task Force Report of August 17, 2007,

41 “The second recommendation of the first Task Force Report was  
42 that the City should review the current structure and composition of the  
43 Retirement Board. By City Charter, the membership of the Retirement  
44 Board is a total of five members with two appointed by the City Council,  
45 two elected by City employees (one each for the A and B classes) and the  
46 Chief Administrative Officer ex officio.  
47

48 However, the City Ordinances provide for an eight member Board  
49 comprised of three members appointed by the City Council, four members  
50 elected by the City employees and the Chief Administrative Officer, ex  
51 officio. The ordinance does not conform to the City Charter provisions.  
52 The Task Force believes that the current composition of the Board is not  
53 only inconsistent with the City Charter but has created an imbalance in  
54 representation of the interests over the Retirement Fund.  
55

56 In this regard, it is noted that there has evolved a misperception on  
57 the part of many employees that the Retirement Fund is “their” fund and  
58 therefore the employees should have significant control over the  
59 disposition and investment of the Retirement Fund. This misperception is  
60 reinforced by the fact that A employees have always contributed to the  
61 Fund, and more recently, B employees also contribute.  
62

63 Under a “defined contribution” (DC) retirement plan, it would be  
64 accurate that the funds belong to the employees. In fact, under a DC plan,  
65 each employee has an individual account with a specific amount of funds  
66 and typically each employee determines how those funds are to be  
67 invested. If the employee leaves or retires the employee is entitled to the  
68 funds specifically set aside for that employee.  
69

70 However, under a defined benefit retirement plan neither the  
71 individual employee nor the employees collectively have an ownership  
72 interest or right with regard to the assets of the DB plan. Instead, the  
73 employees both individually and collectively have an interest and vested  
74 right in the benefits under the plan. The employer owns the investment  
75 assets but has the liability to provide the defined benefit to which the  
76 employee is entitled.  
77

78 Under a DB plan the employer, in this instance the City, owns the  
79 assets, not the employee. The employee owns the right to the promised  
80 benefit. If the investment funds are not sufficient to pay for the costs of  
81 the benefit, the employer is obligated to still pay the full cost of the  
82 benefit. If the investment assets are greater than the liability of the  
83

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88

89 benefits, the employer, not the employee, is entitled to the excess or over  
90 funding.  
91

92 In this context, it is clear that the City created and owns the  
93 Retirement Fund as a means to finance the benefits it is obligated to  
94 provide employees. The employees contribute to the Retirement Fund in  
95 exchange for the benefit the City will provide at the employees  
96 retirement;" and  
97

98 WHEREAS, the issue of disability was noted in the Report of the Retirement Task Force  
99 and should also be reviewed and reevaluated as well;

100 NOW, THEREFORE, IT BE RESOLVED that the City Council's Ordinance Committee  
101 begin its work of reviewing the Ordinances regarding the composition of the Retirement Board  
102 with the intent of determining the make-up of said committee under the Ordinance; and

103 BE IT FURTHER RESOLVED that the City Council requests that the issue of disability  
104 be discussed at the Retirement Board level with a full report in the minutes of the said discussion  
105 so the matter can then be referred to the Board of Finance for further review before it could be  
106 then referred to the Charter Change Committee; and

107 BE IT FURTHER RESOLVED that the City Council requests that the appropriate two  
108 remaining points raised in Mr. Horenstein's letter be discussed as a Retirement Board meeting at  
109 the Board's earliest convenience with a full report in the minutes so the matter can also be  
110 referred to the Board of Finance for further review; and

111 BE IT FURTHER RESOLVED that recognizing the importance of the Board's work and  
112 the City's pension plan, this Council does request that Retirement Board minutes go beyond the  
113 State requirement and include a narrative of all discussions so a Councilor can follow what  
114 transpired at the meeting in a more enriching way than what the State's requirements entail.

