

BURLINGTON CITY COUNCIL REGULAR SESSION 10-6-2021

City of Burlington Governing Body met in Regular Session at City Hall’s address, 1013 N. 4th Street, Burlington, Kansas, at 6:00 p.m. Wednesday, October 6, 2021. Mayor Stan Luke called the meeting to order.

THE PLEDGE OF ALLEGIANCE

ROLL CALL: Stan Luke, Mayor

Council Members present:

- Jerilyn Curtiss
- J.J. Jasper
- VACANT
- Thomas P. Tschantz
- Lewis Lenard (President of Council)
- Sharon Hall

Superintendents Present:

- Kevin Boyce (Parks)
- Doug Jones (Chief of Police)
- Alan Schneider (Electric)
- Danny Hawkins (Water/Wastewater)
- Mark Davidson (Street)

Also Present:

- Anne Brown (City Clerk)
- Philip Wright (City Attorney)
- Kerri Weltha (Deputy City Clerk)
- Mary Mader (Administrative Assistant)
- Jimmy Hugunin (Zoning/Grants Clerk)

Media Present: Mark Petterson (Coffey County Republican)

VISITORS: Robert (Bobby) Skipper, Mike Belew, Paul Abendroth

AGENDA:

Council Member Lenard, “I move to approve the agenda as modified.” Council Member Tschantz, “Second.” Motion unanimously carried, 4:0.

MINUTES 9/15/2021: Mayor Luke, “You have before you the draft minutes of our regular session of September 15, 2021. Are there any additions or corrections?”

Council Member Curtiss, “I move to approve the draft minutes of September 15, 2021, as modified.” Council Member Hall, “Second.” Motion unanimously carried, 4:0.

APPOINTMENT: Bobby Skipper – 919 N. 4th Discussion

Bobby Skipper, “Thank you, Mayor and council, for allowing me and Mr. Mike Belew to appear before you today. I hope to introduce Mr. Belew. He is the gentleman, the real-estate developer, putting together the Family Dollar/Dollar Tree combo deal across the way here. What I am here for this evening is two parts. I would like to introduce the dilemma that we are in regarding that particular development and also to ask the council to consider something that you may take action on at a later date. To start, back in March, Mr. Belew contacted us to inquire about property in Burlington to locate a store. We submitted a few different sites, but eventually, Mr. Belew landed on the property right across the road at the Wolf Creek Lodge. Currently, he has a closing date set and is proceeding towards purchasing the property, demoing the facilities on that property, and building a new store. At this point, though, almost a month ago, Mr. Belew called me and said that there were some unexpected costs that he is anticipating incurring that may throw the project at risk. At that point, I came directly to the city and tried my best to look for a solution, but the problem is not one that can be answered very quickly.

“I think the city certainly has all the tools to do so, but we are not at the point where the city may be able to provide a lot of those costs. The contractors are actually proposing to build the facility, they are not at a point where they can define certain costs. There is this area of unknown costs that you anticipate to be over budget.” Mike Belew, “Correct.” Bobby Skipper, “If you would, if the council does not mind, I would like to interface with Mr. Belew to ask certain questions that may shed light on where he is at.” Mayor Luke, “That is fine.” Bobby Skipper, “Thank you.” Mike Belew, “My name is Mike Belew. I am a CBC real-estate group. We are based in Kansas City, Missouri. We are a national developer from the east coast to the west coast for government-oriented projects; we will develop on the behalf of the federal government, which is a separate book of business. We also have a deep background in health care and retail properties. On the retail front, this combination store we are talking about is called a Dollar Tree/Family Dollar. It is both concepts in one building. It is relatively new; it came out about 14 months ago. We have been developing these properties throughout the midwest and the southeast part of the country. This will probably make deal #42 for us. We know this book of business very well. We know the markets. I believe in Kansas alone; we are probably going to do 9 of them this year. We are very fortunate. We have been very fortunate in this market. This part of the country is dear to me. I went to school at Emporia State University. I hunt and fish around this area so I know it well.

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"When we came down this market, we knew what the economics of this transaction would look like. It is a total project cost. We went into this with our eyes wide open. We have the property under contract and we know what that price is. We have seen metal building prices increase over the last 12 months just due to natural ebbs and flows of the market. Probably the biggest thing that we have noticed is when we start to really get down into the drawings. We have two issues that we really have a conflict with. One is that we are trying to address potential stormwater discharge problems. We are coordinating with KDOT, and we are trying to make sure that we do not discharge any water from our site onto the highway. It is very important for us to do that. We are actually going to collect it and divert it back behind the building. We have a very large pipe that will be buried that will run the entire length of the site and slowly discharge into the retention pond. That is just a cost that we never would have envisioned to incur.

"The second cost that we potentially have is a conflict with the gas line with Atmos out front. As we put in the stormwater system and other utilities, the gas line depth is very well defined, we had a conversation with maybe someone in this room, with city staff. Our current design calls for a 4-inch separation from the gas line. We know we are going to have to reroute the gas line to ensure that we don't have that conflict long term. I think it is in the best interest of all parties involved. Those are the two biggest items that we are looking for some assistance with; the stormwater management program to ensure that we don't discharge out into the right of way and affect the highway, and we are going to have to address this gas line conflict we have.

"We have been able to absorb all the other costs associated with relocations of the power pole, metal building costs, and what-have-you. These two costs were just not envisioned when we got into this process. We do have a timeline. We are scheduled to close Tuesday on the project. Our financing is in place right now, but that is financing with the assumption that we have some type of assistance with it. If we are not able to get some type of assistance, the budget does not work, and we will not be able to close. It is just the facts of life in economics. That is a brief recap of where we are at as far as the overall project. If we are successful at moving forward, then we will close on Tuesday, work through city permitting and start construction. We envision this building being done in March that is how quickly it will be delivered. It is my client's responsibility to get it open and start producing sales tax and everything else to move forward. It is in their best interest to get open as soon as possible. I am here to answer any questions; feel free to shoot away."

Bobby Skipper, "If you wouldn't mind, I'd like to ask the first question. Is there a city.... The property behind the city.... your retention that you are having to put on the site is at the rear of your property?" Mike Belew, "We are holding it on our own property." Bobby Skipper, "It butts up to where the city property begins. Is there anything that the city could do in the rear of the property back there that may provide some kind of mutual benefit? Mainly benefit the city but also have an incidental benefit to the business?"

Mayor Luke, "The drainage issue is not just Dollar Tree/Family Dollar. It is our property as well as some of the others. We are looking into what we could do to assist not only us but the gas station, Apple Grove Apartments, and the Baptist church, so the moving water doesn't go into the highway. That is not an issue that is going to be resolved immediately. It is an issue that is going to take a little bit of time. I think it would help relieve some of your retention potential needs. Once again, it would be a benefit to a lot of people if it were to take place. We are investigating whether or not we can get that accomplished."

Mike Belew, "Maybe this is a way that we can work together. Maybe we would be able to size our retention a little larger or work together to extend our retention onto part of your property to where we could collect more stormwater from your neighboring properties that might flow to that. That is a joint cooperation that we could work together on." Mayor Luke, "We have a drain box to the south that we could move water towards. It would take some funds, and it would take some time. It is a matter of getting the property into our ownership so that we could proceed that way. That is not going to be an overnight resolution."

Bobby Skipper, "I tried to start the best I could by saying that a lot of the things are still unknown. Especially anything the city might be able to do or might not be able to do is still unknown at this point. One of the things that you are up against is the timeline that you mentioned. We discussed on the county side approaching the city with the possibility that whatever that cost is as it comes in, which is yet to be determined, we generally approve and fund from the county side whatever your shortfall is. That proposed budget that you sent over. At some point the city from its future revenue down the road, whenever that is, a year or two from now. Whenever those revenues start to flow in from sales tax revenues and reimburse the county for what was spent for construction to go ahead and begin, the county would take the approach that we would fund up an amount up to and not to exceed. As the work occurs, we will have proof of invoices for the actual work that was done, and we pay those. This is something that I would ask the council to consider. We don't need an answer tonight. I think the county may be willing to allow the project to at least continue. There are certainly a lot of things that the city could do, possibly do, as you alluded to, to diminish that cost. Those things may take a few weeks or months."

Mayor Luke, "It is going to take a while to get that resolved. As well as doing whatever we need to do work-wise to make it happen once the land issue is resolved." Mike Belew, "We probably found this out 30 to 40 days ago when we approached KDOT about the improvements within their right of way coming off of the highway some of the feedback regarding storm waters KDOT is looking to eliminate one of those curb cuts that are off the highway. The hotel has two access points into it.

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“They are looking to eliminate one of those, trying to help this flow of traffic and safety along the corridor as well. We are working with them on that as well. KDOT is engaged in the process. The one thing they are dead set on is we are not going to discharge any more water into the right of way. We recognize the importance of getting this done. I can't believe this is really the first time we have run into this problem with KDOT. There must be a history of some type of occurrence in the past.”

Mayor Luke, “I don't know if it's a 50-year flood stormwater study or 100 years one, whatever it is, but I will acknowledge that when we have a torrential downpour for 15 to 30 minutes, there is water out on the highway in the outside lane. After a point, it's gone the catch boxes and drains take care of it. For a short period of time, maybe four to six times a year, it happens the rest of the time, it just drains and doesn't back up into the highway at all.” Mike Belew, “I can tell you KDOT is not going to approve our improvement plans to the access point of the project until we can document to them how we are going to detain the water it goes hand in hand. We know what thresholds need to be met to get the right of way improvements done. We have to improve at least one of those intersections. We know that we are dead in the water with KDOT until we adjust this stormwater which is why we drew the plans and the reason we are going in that direction. I think we still need to coordinate with the city a little bit more and get some guidance or feedback may be to decrease the size of the piping. Obviously, that is a coordination issue with the city, and we will get that addressed. You know this market better than we do. We will take your guidance to go in that direction. We have to address the stormwater before we can get right of way approval.”

Council Member Lenard, “Just so I am clear, there was probably some level of contingency that was built into this plan, and what you are indicating is the escalation of the markets you built that in. But this piece of it, the \$80,000 exceeds that contingency, possibly?” Mike Belew, “First of all, this \$80,000 was never really contemplated, so it is an additional cost. We have spent our contingency on the metal building piece and so we still have a little bit left. This \$80,000 is an estimate based on the current sizing of piping and what it is going to cost to potentially relocate the gas line. If we are able to work with Atmos and we only have to move the gas line a certain amount of feet, then that cost will go down. We tried to get a worst-case scenario budget in front of you. We are not looking for this assistance we are just trying to cover costs. The piping if it is smaller; if our retention can change size, then those costs will go down. We had never budgeted for this stormwater management program or the gas line. This is just something that we would not normally do when coming to market. We would normally assume that there is a gas line that we could tap onto and not have a conflict. The stormwater thing is very very new to us.”

Council Member Lenard, “Then also, the discussion tonight, you mentioned the closing date. Does the closing date, is the stakeholder that owns that the county or is implied now that the city has a piece of this?” Mike Belew, “The contract that I have is with the owner of the hotel.” Council Member Lenard, “You mentioned it's closed and the city needs to assist for economic development, is the city bound in this assist for taxes?” Bobby Skipper, “No sir. You have made no guarantees, no obligations.” Council Member Lenard, “So if there are future overruns of contingency, where do we go from there?” Mike Belew, “The city and the county through the agreement that Mr. Skipper and I have been discussing, that exposure is limited. It is a number that will be documented and anything above that number will fall on us.” Council Member Lenard, “Between you and the county?” Mike Belew, “Yes.” Council Member Lenard, “Thank you.”

Bobby Skipper, “What would a store in this market, once it's up and operating, what would gross sales annually be?” Mike Belew, “I know that will be an excess of two million dollars the first year. It will open in probably nine months is the projection to get this open; March or April. A full year would be over three million dollars a year in revenue. It will have approximately 20 employees, and during the holidays, that will spike up based on seasonality. Obviously, we are going to be paying full property tax value. We are not looking for any type of property tax incentive by any means. Those are the general economics of what the retail produces.”

Bobby Skipper, “Before the closing and any more questions to Mr. Belew, I want to clarify that what I am speaking about in requesting assistance from the city, and that comes from two different ways. Something that the city may do in kind through some planning or project that you currently have going or may have going that may have mutual benefit to them that will diminish the cost that they have to spend for their own sites stormwater retention. For instance, if the city had a plan to redo or have a project for stormwater somewhere in the vicinity of where they are constructing that new facility, that would certainly have an impact on the size and nature of what they would have to construct, which would be some benefit to them. That would drop that cost that they are budgeting for in this overrun.”

“The other way of assistance that the city may be able to help continue this project with is where the city may propose to cover an anticipated shortfall up to \$80,000 which is what has proposed may be the shortfall or the overrun. The county would ask the city because you collect sales tax and the county doesn't if the county covers this, let's say it comes out to be \$50,000 at the end of the day, that the city pay from its future revenues at a future date once that store is open and that store is generating revenue, pay the county back.”

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“At this point, I can say that there are very loose terms to that. The relationship between the county and the city is naturally a good one and I think that if there was a returnable to be paid back to the county, that would certainly benefit the project. Again, that is something just to consider; we are not asking for any action on that for now.”

Council Member Lenard, "And we do have our guy that came in a few weeks ago (Jim Schussler – Capital Improvement Planning). We are not starting those capital projects until after the first of the year, and I can see that being if we had that accelerated, we might be able to piggyback. I think we had sidewalks and drainage. There might be something there, Bobby, if you could get those engineers and the commissioners moving on that." Mayor Luke, "I know that there are grants and other things in those possibilities." Council Member Lenard, "I will also say we have a good guy here, Jimmy, with zoning and involving him early on would help mitigate some of these." Mike Belew, "I believe our project has a new sidewalk that goes across our property out front, so it would be nice if we could coordinate that on both sides as well if that is part of the program."

Mayor Luke, "I think at this point we will continue to work towards a couple of different things. A portion of that is going to be beneficial to more than just the new business it is going to be beneficial to us and all of the neighbors around with respect to drainage. We will do what we can." Mike Belew, "That is all I can ask." Council Member Curtiss, "We are looking forward to having you as a neighbor, and we like to see improvements on any kind of retail or whatever." Mike Belew, "I appreciate that. We are excited I have been through this market. I have probably visited here ten times in the last four months. I've spent a lot of time down here; I have gotten to know Casey's very well." Council Member Curtiss, "We will surely see what we can do to help you out if we can." Mike Belew, "Thank you. Thank you, Mayor and council." Bobby Skipper, "Thank you so much."

PUBLIC COMMENTS

Paul Abendroth, “My comments have to do with your number ten condemnation and demolition on Yuba Street. Why are you after Jimmy Talley so much, and you are letting everybody else go off scot-free? You have Little Joe's down here that hasn't been cleaned up, the property behind The Appliance Store, 8th and 9th street of Alleghany, across from the swimming pool; all of this has been building up a lot longer than Jim Talley's property. Why are you after him so much? Why don't you get after some of these other people too to get their place cleaned up? No comments." Mayor Luke, "This is a comment section. It is not necessarily a question-and-answer period." Paul Abendroth, "Then am I able to say anything when you bring that up?" Mayor Luke, "And we have some discussion that is going to be coming up on nuisance properties in two reports that may address some of your same questions.”

Paul Abendroth, “But you have been after him a lot longer than you have any of these other people, and they have trash places a lot longer than Talley has.” Mayor Luke, “Okay.” Paul Abendroth, “Nothing has been done about it. I have been after you about a lot of this already before. Nothing has been done about it.” Mayor Luke, “There have been some things accomplished and done, not necessarily the spot that you are looking at.” Paul Abendroth, “I haven’t seen any of these other property owners be in jail because they didn’t get their place cleaned up.” Mayor Luke, “I’ll agree there has not been at this time.” Paul Abendroth, “It is not equally taken care of. I am not saying that Talley doesn’t need to clean up his place I am just saying other peoples need to have the same rules in place for them also.” Mayor Luke, “Okay.”

ELECTRIC DEPARTMENT: DISTRIBUTION Update

General: Electric personnel have been doing many line locates, customer service requests, tree trimming, shop maintenance, preventative line maintenance, street light maintenance, and vehicle and equipment maintenance.

Temporary Service: Superintendent Schneider, “We installed a new temporary service in the 1000 block of Penobscot for a new home being constructed.”

Tree Trimming: Superintendent Schneider, “The men are still doing a little bit of tree trimming.”

Apprentice Lineman: Superintendent Schneider, “Our apprentice lineman is doing some chapter testing. He is getting close to his first year and he will be taking his final test on that for the year in a couple of months.”

ELECTRIC DEPARTMENT: PRODUCTION Update

General: Power personnel have been performing normal power plant and equipment maintenance, over current relay maintenance, plant reports, DC power supply, and substation maintenance.

Grounds Maintenance: Superintendent Schneider, “We have been doing maintenance on the grounds around the outside of the power plant.”

Reports: Superintendent Schneider, “I have been completing plant and KDHE reports.”

Catalyst Recertification: Superintendent Schneider, “On September 21st and 22nd we had our recertification testing for the catalyst for the generators at the power plant. With them recertified we are in compliance for five years (2026). Just some information for you, the water department and the city hall generators are under 300hp so there is no need for catalysts. The only thing that we need to stay complainant is to keep the paperwork of our maintenance straight on that.”

Safety Training: Superintendent Schneider, “We did attend the KMU safety training yesterday.”

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Meetings: Superintendent Schneider, "I attended a couple of meetings with the developer for the proposed business next door to get the requirement for service."

Annual KPP Fall Planning Summit: Superintendent Schneider, "I attended the annual KPP Fall Planning Summit in Wichita on September 16th and 17th."

ELECTRIC DEPARTMENT: KPP - Voting Delegates

Mayor Luke, "We need to put a person as a voting delegate for the annual membership committee at the Kansas Power Pool meeting which will be in the month of December; the 14th I think but I won't swear to that one."

Council Member Curtiss, "I move to appoint Alan Schneider as City of Burlington's KPP Committee Meeting Voting Delegate, and Stan Luke as Alternate Delegate." Council Member Tschantz, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

ELECTRIC DEPARTMENT: Generator Purchase – Letter of Intent

Mayor Luke, "You also have in your packets a letter of intent to purchase the electric generator."

Council Member Lenard, "I move to authorize Mayor Luke to sign the letter of intent to purchase the electric generator from Wheeler World for \$ 3,000,000." Council Member Curtiss, "I second the motion."

Mayor Luke, "The letter of intent, Philip modified it, the seller will be Wheeler World acting as the agent for Rensselaer." Attorney Wright, "That is correct. There is a paragraph I believe it is under two, where I just specified that Wheeler was acting on behalf of the city of Rensselaer. I reviewed that contract as well, and everything looks good."

Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

Council Member Lenard, "Did we get an update on the permitting on that? That seems to be the..." Superintendent Schneider, "Yes, I'm assured it won't be an issue. When I talked to them the other day, we backed up from roughly 60 days down to a 30-day approval time frame on that. I haven't done it yet because until we moved forward, I didn't want to spend the money for that process until we had a letter of intent or something signed." Council Member Lenard, "So, is this the starting point now with the letter of intent?" Superintendent Schneider, "Yes, we are geared up and ready to go."

WATER AND WASTEWATER: Distribution Update

General: Personnel have been doing the normal duties: line locates, work orders, reading meters, meter rereads, cleaning sewer lift stations, maintenance on trucks and equipment, customer call-outs, and concerns.

Safety Training: Superintendent Hawkins, "The men attended the safety training."

Exercising Water Valves: Superintendent Hawkins, "The men have been going out to exercise water valves all over town. We are getting that completed that will take us some time."

Lower Meter Pits: Superintendent Hawkins, "We have been having a lot of calls from our customers that we lower some of their meter pits so they can mow over the top of them. The guys have been going out to do that."

WATER AND WASTEWATER: Production Update

General: Superintendent Hawkins, "The plant is running very well."

Maintenance: Superintendent Hawkins, "We have been spending a lot of time in the water treatment plant. We have had many things failing lately. We are repairing, replacing, and fixing things. We had some MAC45 in the filter in the air control system that went out. Those were ordered and are in and installed. We ended up purchasing a rebuild kit for the sludge diaphragm pumps for the sludge press. They are getting that completed. They are going through and putting all new gaskets, seals, and diaphragms in it. Our SODASH pump went down on us, so we had to purchase a new pump. It is installed and completed. Then our VFD for our high service clear well pump went out. So, we contacted Michael Douglas at Douglas pumping out of Olathe; he had a relay switch and the fan, thankfully, in stock. He was able to come down and get that installed. He is going to be sending us a spare relay fan so that we will have it in our inventory really soon."

Bulk Storage Container: Superintendent Hawkins, "We also got our new bulk storage container for our 2071. We will be able to buy our polymer in bulk and save us more money on cost and expense for customers as well. The guys are working on doing the plumbing work on all of that. We are doing everything in-house ourselves for that."

WATER/WASTEWATER DEPARTMENT: Personnel – Foreman Position

Superintendent Hawkins, “The last thing that I have is that we went out for applicants internally and externally for the Foreman position. I want to thank Anne and Tom Tschantz for helping me with the interviews. They were two really good interviews. I would like to recommend hiring Chris Hammond for the foreman position.”

Council Member Tschantz, “I move to hire Chris Hammond for the position of Water & Wastewater Foreman at the hourly pay of \$23.13, effective October 9th 2021.” Council Member Hall, “I second the motion.” Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

QUESTION/COMMENT

Council Member Lenard, “I have one question. We have been seeing a lot of.... Are you having any impacts with repair parts? It sounds like you are getting stuff in and getting your repairs but are you seeing any trends on long wait times for any of your things?” Superintendent Hawkins, “Right now, we have our fingers crossed, everything that we have been having go down, we have been very fortunate with the vendors that we have in place that when we need a part or piece, they have been in the warehouse and have been getting them fairly quickly. We still have our MAC45, we had one in stock, and we need to get about a dozen of those in. We are getting them. Thankfully the issues that we have been having with stuff and hopefully it will continue. The trend has been very good for us so far.” Council Member Lenard, “So, does most of your stuff come domestically, or is it imported?” Superintendent Hawkins, “Right now everything has been internally within the United States. Nothing that we have ordered has come from overseas yet. Fortunately, we want to keep it that way. We have some other issues going on but everything that I am hearing from the vendor out of JCI, they have it in-house.”

Council Member Lenard, “Probably just something that we learned this week with the Olympics and China shutting down a lot of their manufacturing because of the gas shortage and electric shortages, all of those things are hitting the supply chain. Plus, the ports are backed up. You may want to look if you do have anything coming from China, maybe stock up.” Superintendent Hawkins, “A lot of that stuff we are trying to make sure that we have one or two extra in house because of those scenarios. Same thing with our vendors Brenntag and chemical companies. We are trying to give those guys as much leave time as we can. Just like I ordered ferric chloride; I have 50,000 pounds of that coming. We are 60 days away from being out. I want to give them plenty of time to get that order in here. We don’t want to not be able to make water.” Council Member Lenard, “Thank you.”

STREET DEPARTMENT: Update

General: Personnel have been doing the normal duties: cleaning ditches, sweeping curb and gutter, fixing potholes and ruts, blading rock roads, repairing and re-rocking alleys, fixing and replacing street signs, and truck and equipment maintenance.

Equipment Maintenance: Superintendent Davidson, “We dug up the north side of City Hall to put in some more parking. We also cleaned out the fenced-in area behind City Hall. We removed some of the concrete sidewalks we had back there.

Highway 75 (4th Street) Drainage and Storm Drains: Superintendent Davidson, “When we were up here getting ready to take the equipment back to the shop, we noticed up here at Lewis BP there as a piece of concrete in their driveway had dropped. We coned it off to come back on Monday to investigate it. We called one-call. The storm sewer drainage pipes had a hole in it undermined the concrete to let it drop. We had an area about three by three and four feet deep. I am not prepared to discuss it but I am just letting you know that we are having some issues now with our storm drains out here. I have contacted B&G Consultants. They are doing a study from City Hall north to Cross Street, to see what we can do about the water and what it is going to cost. We are going to get an estimate for catch boxes and some storm drains but I haven't contacted them to see what we want to do south. That will be your decision for what we want to do.

“The biggest problem is that the storm sewer lays under the highway. In most places, it is under the curb and gutter and in the easement. They came through, I think, in the 1970s to widen the highway so now we have storm drains under the asphalt. This is going to be a tremendous project. It is going to be costly. There are about six to seven different areas that it crosses the highway east and west. I am just bringing this to your attention that this is going to be something to be addressed in the future.”

Concrete Street Patching: Superintendent Davidson, “We have been patching the concrete streets with oil. The concrete streets are starting to spald on us again. There are some fairly large holes. We found that we can use the patcher to put some rock on the holes and make them last. We do this about every year to year and a half. We are trying to keep them up so we don’t have to do a complete removal of a concrete street.

Curb and Gutter: Superintendent Davidson, “We have been sweeping curb and gutter.”

Safety Meeting: Superintendent Davidson, “We attended the safety meeting.”

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QUESTION/COMMENT

Council Member Tschantz, "As you are coming down HWY 75 or 4th Street, whatever you want to call it, on the inward side toward the curb you have a lot of these dips separating the asphalt. Is that part of the drainage?" Superintendent Davidson, "No. There is no drainage on that side of the street. I thought it was. It goes down to the intersection at the hospital then it cuts across to the west side. I was always under the impression it went straight through at Pizza Hut and it doesn't. We have gone in there in the last week and a half to do some investigating and there is nothing through there. One of Doug's (Chief's Jones) officers contacted me to see what we could do. The city is not responsible for the asphalt. The driving lanes are KDOT. I contacted Donna Schmidt at Garnett and there are no plans to do any overlays on the highway. I spoke with Kurt Graham out of Waverly, he takes care of this area. He is aware of the problem, but they are not coming down to fix it."

Council Member Tschantz, "So, what do we have to do to light a fire under them?" Superintendent Davidson, "Make some phone calls." Council Member Tschantz, "I hate to see the city get charged because somebody tore the front end of their car up." Superintendent Davidson, "I would assume make some phone calls to Donna Schmidt. I can get you the number. Maybe Mayor Luke can make some phone calls. I know how I contacted them hasn't made any progress." Council Member Tschantz, "I have had a lot of people call me and complain about them." Superintendent Davidson, "I have had complaints too. Other than you directing me to go get some patching material and go do it ourselves, that is the only thing we can do right now."

Council Member Lenard, "Several years ago, I think we had Tom send a letter about out by Stukey's on that but I don't know any other time we contacted the state or any of those entities. I was initially thinking this is another opportunity to get on that county list, but the highway wouldn't be in their scope." Mayor Luke, "No, we can talk to our representatives." Council Member Tschantz, "Roll your eyes and see how that works." Mayor Luke, "We can talk to both and see if we can put some pressure on them." Superintendent Davidson, "They have made no indication that they are interested in coming down and doing anything with it." Mayor Luke, "Okay, we will see about providing them some incentive." Council Member Tschantz, "Sounds good to me."

POLICE DEPARTMENT: Update

General: Normal Duties.

Cases: Chief Jones, "We have been staying busy. I was called out about noon on Sunday. I had a guy flee a domestic violence scene on foot. We located him and he is in jail. Apparently, he is still fighting them in jail on the booking process. State law says until he gets properly identified he is not even eligible for bond. All the paperwork has been turned in. That type of busy. It has been a while since I have been called out at noon on a Sunday."

Parade: High School Pep Rally: Chief Jones, "The high school has let us know that they are having a homecoming parade this year. It will be this Friday starting around 3:15 p.m. or 3:20 p.m. It will go from the Court House, 6th and Neosho, going east to the new school board office at 3rd and Neosho. They do plan to have the pep rally."

Health Department – Drive-Thru Flu Clinic: Chief Jones, "The Health Department let us know that they are going to do a Drive-Thru Flu Clinic. This will be on Wednesday, October the 27th from 10:00 a.m. to 1:00 p.m. Attempting to avoid the hassles of Medicare at the hospital this will be held at the Fire Station #3."

Nuisance: Properties/Vehicles Update: Chief Jones, "Over the last month we have identified or had identified to us 49 properties. Property owners have been contacted. A couple of them in person. The majority of them have been contacted by letter, with the majority of those letters served personally to them by an officer. Some of them had been sent with signatures required to out-of-town owners. Of those 49 properties, 17 have already been abated, 10 of them are in progress or working on them, so a little over half. We still have some more that we are going to do. I think we have made a significant effort so far." Mayor Luke, "Are we outside of the ten days?" Chief Jones, "On some of them we are, and depending on our workload, we are probably going to give them this weekend and Monday for trash pick up to see if they get anything accomplished this weekend. Then we will be citing those who are non-compliant starting next week." Council Member Curtiss, "Then how long do they have?"

Chief Jones, "Court in October is the 14th we are already writing tickets for the next court date which is December 9th. We do not have court on Veterans Day, November 11th. Once we take them into court...." Council Member Curtiss, "That would be in December?" Chief Jones, "That would be in December. Those properties that we can address ourselves if it is simply a matter of having the tow company come and remove vehicles which we have done a couple of them already. Then they will simply get a bill in the mail, and if they ignore the bill, it will be added to their taxes like on several others that we do, like mowing." Council Member Curtiss, "Have these people been notified of the clean-up? They know that that is next week." Chief Jones, "Yes. A lot of this stuff though isn't something that can be taken care of through the fall clean up." Council Member Curtiss, "Okay, thank you."

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Council Member Lenard, "I know the place over by the pool. I don't know how many years I've seen the stuff there but it is nice to see some of that to start to move." Chief Jones, "We have had some cooperation with over half of the people that we have contacted so far have been willing to do the work and get something done with it." Council Member Lenard, "Do most of the people have the physical ability to do this themselves?" Chief Jones, "Some of them don't because of physical infirmities or some of them are out-of-town property owners. A lot of them do or have people to help them. At this point, we are not seeing that they flat out can't do it." Council Member Lenard, "Okay, thank you."

Council Member Tschantz, "Is it possible to get a list of these 49 properties?" Chief Jones, "My stance on that has been that these are all potential criminal investigations, and I don't release investigative records. Once I take action to make it public, such as by issuing a ticket, and putting them into court, then it will be an open record. As long as these are considered investigative files, I won't release those."

PARKS DEPARTMENT: Update

General: Personnel have been doing the normal duties: cleaning public restrooms and buildings, building and equipment maintenance, spraying weeds, watering flowers and trees, and mowing.

Flowers: Superintendent Boyce, "We will probably water flowers this week and then be done with them."

Nuisance Mowing: Superintendent Boyce, "Since the last council meeting, we have mowed five nuisance properties, the normal ones that we have been doing throughout the summer."

Fogging/Spraying Mosquitoes: Superintendent Boyce, "We have stopped the fogging; the 15th of September was our last time. We fogged a total of 17 times; we started the 10th of June."

Kansas Camper Association: Superintendent Boyce, "The Kansas Camper Association has contacted me about coming back to Kelley Park September 23rd – September 28th of 2022. Is council okay with that? They will be renting Kelley Hall again for that time." Mayor Luke, "I think they enjoyed themselves last time." Council Member Lenard, "That was a great group of people. It is kind of honorable that they would come back to our city." Superintendent Boyce, "In 2021, we were their first group, camp out and in 2022 we are going to have them for their last group camp out, is how I am taking it. They already had the 2021 fall one set up, and they were at Winfield I believe. I will let them know, and we will do the paperwork for Kelley Hall."

QUESTION/COMMENT

Council Member Curtiss, "You put the veteran's banners up toward the end of this month?" Superintendent Boyce, "November 1st. Probably the 1st and 2nd we will work on that. The Electric Department and Water Department will be doing brush pick up. So, the Parks and Street Departments will be doing banners." Council Member Curtiss, "Okay, thank you." Superintendent Boyce, "I don't remember the date that those come down and the holiday banners go up. I think it is the first Monday in December." Council Member Curtiss, "Yes I think those banners are up most of November."

FINANCE: Claims Ordinance & Payroll Ordinance

a. Claims Ordinance	2021-19	\$	<u>150,419.06</u>
b. Payroll Ordinance	2021-20	\$	<u>86,235.28</u>
	TOTAL	\$	236,654.34

CLAIMS 2021-19: Council Member Tschantz moved to approve City of Burlington Claims Ordinance 2021-19 for the amount of \$150,419.06 for payment of city bills. Council Member Hall gave the second. City Clerk Brown, "The larger expenses we have tonight are Brenntag \$4,046.14, Core and Main \$4,639.80, JCI \$4,381.84, Power Plant Compliance \$32,802.93, Schmidt Excavating \$4,250.00, and US Line Company \$4,373.55." Hearing no additional discussion, Mayor Luke instructed City Clerk Brown to poll Council. All votes were in favor. Mayor Luke declared, "Claims Ordinance 2021-19 passed unanimously, 4:0."

PAYROLL 2021-20: Council Member Hall moved to approve City of Burlington Payroll Ordinance 2021-20 in the amount of \$86,235.28, as presented. Council Member Curtiss gave the second. Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. All votes were in favor. Mayor Luke declared, "Payroll Ordinance 2021-20 passed unanimously, 4:0."

PLANNING & ZONING: Update

General: Zoning Clerk Hugunin, "Normal duties."

City Wide Trash Clean-up: Zoning Clerk Hugunin, "Clean up will be starting on Monday. And if Mark will do us a solid and put in there, that brush will not be picked up until November 1st." Mayor Luke, "We have more brush than trash."

Nuisance: Grass: Zoning Clerk Hugunin, "I am still busy with nuisance grass. I have one property that did get taken care of but they did not sign anything everything came back to me. I know that they are aware of it. I did let the Parks Department know that 414 S. 6th, the Darnell property, will mow it if it continues to be an issue. I have been talking to Joe on the Little Joe's property. He is looking for someone to cut the trees there and get the brush hauled off. It is a commercial property, and we don't normally pick up anything at commercial properties. He was talking about getting them moved over somewhere else or getting someone to help him haul it off."

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Family Dollar – Storage of Materials (919 N. 4th): Zoning Clerk Hugunin, “I had a meeting with the architects with Family Dollar next door. Mark and Alan were able to attend that, Danny was gone. We talked about the drainage and some other issues. Mike Belew, who was here, I have had several conversations with him on the phone. He wanted me to ask that if their building shows up earlier than what they are ready for if we would allow them to store the building, how it comes in panels and components and everything, in our yard here? Rent or whatever he would make it work.” Council Member Lenard, “\$80,000. I don’t think there is any problem with storing it. I would just be worried about any liability or...”

Zoning Clerk Hugunin, “He said he would sign anything. I told him I would have to talk to you guys and that we may have to have the city attorney involved. We may have to write up an agreement on that. My plan would be that if they are going to do that and you guys allow that then we would allow them to remove some of this chain link so that way they could go back and forth through the property and not drive down through the ditch with the weight of the equipment that would be going back and forth. I talked to Danny; the sewer line is deep enough.” Council Member Lenard, “If any material comes in earlier enough, I’d be shocked.” Zoning Clerk Hugunin, “He said it is supposed to be on its way. They are worried about the timeline and it showing up before they have this building down.” Council Member Lenard, “But they are going to take it off and lay it down on the ground?”

Zoning Clerk Hugunin, “Yes. The trucks that come in, they will have somebody here to unload and they would stack it.” Mayor Luke, “Work with Philip to get a document together.” Attorney Wright, “I was going to say when that happens let’s do it.” Zoning Clerk Hugunin, “I can call him tomorrow and see if he has an exact date of delivery, and then we can just go from there.” Attorney Wright, “I would just have him assume any liability and make sure that he understands that the city is not going to be liable if somebody goes over there vandalizes the stuff.” Zoning Clerk Hugunin, “The only thing that I can think of is if they go through the chain link to make sure that fence is secured every night.” Mayor Luke, “Okay.”

OTHER COMMITTEE OR COUNCIL BUSINESS:

ORDINANCE

RESOLUTION 2021-07- Condemn Structures - Set Hearing

Mayor Luke, “We have resolution 2021-07 to set a hearing to condemn for 1303 Yuba Street which is owned by Edward E. Earnest.”

Council Member Lenard, “I move to approve Resolution 2021-07, to set the date, time, and place of a Public Hearing for 1303 Yuba Street to determine whether structures thereon should be condemned as unsafe and unfit, and to be demolished.” Council Member Tschantz, “I second the motion.”

Mayor Luke, “They have to let somebody in to verify that it is unsafe?” Chief Jones, “I am probably going to have to apply for a search warrant. Jimmy has not been cooperative and has not allowed anybody access to the trailer. Because of the Kansas landlord/tenant act, the owner, Edward Earnest, can only try to schedule an inspection. He can't simply go in unless it is emergency damage to the property. Philip and I can try to work with Mr. Earnest to do that inspection.” Council Member Lenard, “He did...come to the city courts, he did...” Attorney Wright, “This is what Mr. Earnest wants. He wanted us to condemn the property.” Chief Jones, “He even offered that the second that the trailer crosses the city limit line he would sign it over to Jimmy Talley. It would be his trailer as long as it left that property.” Attorney Wright, “Mr. Talley has been given a lot of heads up on this. I also spoke with his attorney with regards to the city moving forward. He has been more than given enough chances to take care of this. I doubt he is going to let anybody into the trailer.”

Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

LICENSE

LEGAL DEPARTMENT: Update

City Attorney CLE: Attorney Wright, “You guys have been keeping me pretty busy. On Friday I am going to be attending the City Attorneys Biannual CLE (Continuing Legal Education).”

Budget Booklet – Information Page Error: Attorney Wright, “I do have a brief matter that we need to discuss in regards to an error that was found on the budget on the worksheet that states what the cities' indebtedness is. There were some numbers transposed on there. I wanted to make the council aware of that. I am investigating that on what we need to do about that. Anne has worked with the county clerk who has basically instructed her to just correct it and submit it. That is what we need to do for now. I have had one conversation with one of the attorneys for the league and I think it needs further investigation so if we need to do anything further, I will advise the council.”

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City Clerk Brown, "On that indebtedness sheet it did not change the summary at all. The total amount was correct. It was other numbers so it did not affect what was published to the paper." Attorney Wright, "That is a good point. None of the numbers that were actually published were affected. It is what you call in law scrivener's error (an unintentional mistake in the drafting of a contract)."

CITY CLERK: Update

General: City Hall Staff have been busy with customers paying utility bills, many calls and inquiries, preparing work orders, vouchers for bill paying, payroll, and council meeting minutes. For September, we will be sending \$2,599.53 in delinquent accounts to the Kansas set-off program for collections.

Level Pay: City Clerk Brown. "We have been receiving a lot of the new level pay contracts for utility customers."

KPERs 3 Webinar: City Clerk Brown. "Kerri and I attended a webinar on September 29th for KPERs report of death. This went into detail for this side which it hasn't before. We knew we had it but they went into detail on how to report it and what we should do."

Interviews: City Clerk Brown. "I set in on the interviews for Water/Wastewater Foreman."

Documents for the City: City Clerk Brown. "I have been working with Philip and Mary on the resolutions, agreements, and many other city matters."

Thank you's: City Clerk Brown. "I would like to thank the Street Department for all of the work that they did out here. Thank you, Mark, and thank your guys. They do an excellent job no matter what they do for us. I appreciate that."

Annual Fall League Conference: City Clerk Brown. "I will be attending the Annual Fall League Conference this weekend as well."

COVID Pay: City Clerk Brown. "I would like to bring up the COVID pay that we talked about at the last council. The finance committee and I got together, and this is our recommendation: The council encourages all employees to get vaccinated as a concern for themselves, their fellow employees, and their families. I found out that the health office does do their monthly covid shot in November, and it is free. I would like to recommend that COVID pay will be reinstated for employees who test positive or are quarantined as a result of a household member testing positive. Any time remaining from the original 80 hours granted retroactive on July 1, 2021, may be used. Anyone quarantined because of close contact and is not tested or test negative will have to use their personal sick, vacation, or comp time. No extra cost has been incurred to the city as of July 1, with the exception of the Police Department. This cost was due to covering shifts in order to ensure public safety. This COVID pay is retroactive as of July 1, 2021, and expires February 1, 2022. If necessary, it will be reviewed after that date."

Council Member Lenard, "I move to reinstate the COVID pay retroactive to July 1, 2021, until February 1, 2022." Council Member Curtis, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

REPORT BY CITY OFFICERS:

Future Economic Development Commitments: Council Member Lenard, "I have one question. So, on our property back here, I don't need an answer for this. Do we have any space to where we could do anything with water retention on our property? If you don't know, that's okay. Just since we have the space..." Superintendent Davidson, "We have no place to take it." Zoning Clerk Hugunin, "That is the issue. We have space to do it, but where do we take it?" Mayor Luke, "It would have to be on somebody else's property to get it to a disposal spot."

Council Member Lenard, "Okay, and the 2nd thing, I'll just comment because I can't really say what I'm thinking. I think we are setting potentially setting some precedence on future economic development commitments. I would suggest that some key people in the city government sit down with Bobby Skipper and talk about some lessons learned of what has worked and hasn't worked to date. It feels like if certain people were involved earlier on maybe some of these things could have been avoided or mitigated. I have had other instances where the city appears to be the decision-maker on behalf of others' commitments. I want to be cautious of how that goes in the future. Call it lessons learned or call it what you want. I think Jimmy could have added some value along the way."

Zoning Clerk Hugunin, "They understand that too. We have had some conference calls with them. If we would have been involved from the beginning a lot of this could have been mitigated already." Council Member Curtiss, "And Bobby Skipper is aware of that also? He understands that and in the future will visit with you from the beginning?" Zoning Clerk Hugunin, "Yes."

Nuisance Grass: Attorney Wright, "I just have one other brief thing, and I should have mentioned this. In your packet, there is a draft ordinance for the grass on the top that I included behind that several ordinances from other municipalities. If you have any thoughts or recommendations on that, if you would like to add or subtract, shoot me something. Then I will plan on the next city council meeting if it is the governing bodies desire to have an ordinance ready to vote on." Council Member Lenard, "I did read all of those and there are some good ones and some of them are...but your proposed one there, I think, summarized it really well."

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Attorney Wright, "Some of the things that I would like input on is what kind of penalty do you really want to impose on people. That is just kind of whatever your desire is. There was an ordinance that allowed kind of a grace period. It would be hard to enforce, but it would be if someone warned them then they would have two hours to get it cleaned up before they were actually cited. I think from an enforcement standpoint, that would be a nightmare because they would have to go back again and check it. Despite what other people might think, I believe that the government should take a pretty soft-handed approach with people on some of this stuff and give them a shot to do things." City Clerk Brown, "And if they have somebody else mowing for them too."

Council Member Lenard, "Speaking of which, whatever happened with the ditch thing, what was the outcome of that where the lawn got mowed but the ditch didn't?" Zoning Clerk Hugunin, "It was rectified." Council Member Lenard, "Okay, I think we were at KPP and all we heard was that the ditch got mowed and the ditch didn't." Zoning Clerk Hugunin, "Right, she had to go back in a hire someone to mow the yard and do the ditches." Council Member Lenard, "Thank you." Zoning Clerk Hugunin, "It was done, probably the next day."

OTHER COMMITTEE OR COUNCIL BUSINESS:

MAYOR’S COMMENTS: Executive Session: Non-Elected Personnel Matters

Council Member Lenard, “I make a motion to enter a 10-minute Executive Session for Non-Elected Personnel Matters with the Governing Body, Mayor Luke, Chief Jones, City Attorney, and Personnel Officer Brown present.” Council Member Tschantz, “I second the motion.” Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

Council entered the Executive Session at 7:16 p.m. and exited at 7:26 p.m.

No action was taken.

FUTURE AGENDA ITEMS:

GENERAL: City Debt - How to fund projects Expense Tracking on Projects Budget 2022 Flooding 5-2019 – Updates	GAAP - Infrastructure Capitalization City/County Grant Funds – Discussion on Matched Funding Council Discussions on Evaluations, Succession Planning, etc. Plan Council Work Session
ELECTRIC DEPARTMENT: Power Plant - Additional Generation	RICE NESHAP Compliance
PARKS DEPARTMENT: Events in Parks (Updates) City Dam - West Wall Repair – Engineering Services Proposals	Kelley Park Light Poles – Repair/Replace (also see Legal) Girl Scout Rock Garden - Updates
LEGAL DEPARTMENT: Municipal Court Updates	Misc. Legal - Documents, Cases, Contracts, etc.
PLANNING AND ZONING Work with Advantage Computers and City Departments to improve Cyber Security Nuisance Structure & Properties: Work with PD FIRM Floodplain Map Changes – Updates Burlington Corporate Boundary Updates on Map (Work with State)	Quarterly Construction Valuation Report Prepare Easements for any City-owned property without one Addition Nuisance Structures for Possible Condemn/Demolish Permits - Building/Zoning/etc.
POLICE DEPARTMENT Nuisances (Work with Zoning Clerk) Voice Stress Analyzer Project	Department Activities and Cases
STREET DEPARTMENT: Concrete St. Repairs/Free State Ct. Replacement/Repair Pavement Management System/Asset Management System	Street improvement Plan, Paving Gravel Streets, Crack Filling, Street Improvements 2021 6 th & Alleghany Project Street Improvements 2021 Asphalt Project
WATER & WASTEWATER DEPARTMENT: Sewer Lagoon Maintenance/	Sensus Water Meter Replacement Updates Storage Building for Dirt -Construction Sewer Lagoons - Analysis (KRWA/funds for dredging) Sewer Liftstations –Flushing Rags, etc.

Mayor Luke declared the meeting adjourned.

Approved by Governing Body and signed by Anne C. Brown, City Clerk