

## BURLINGTON CITY COUNCIL REGULAR SESSION 12-1-2021

City of Burlington Governing Body met in Regular Session at City Hall's address, 1013 N. 4<sup>th</sup> Street, Burlington, Kansas, at 6:00 p.m. Wednesday, December 1, 2021. Mayor Stan Luke called the meeting to order.

### THE PLEDGE OF ALLEGIANCE

**ROLL CALL:**  Stan Luke, Mayor

Council Members present:

Jerilyn Curtiss

Maxi Berryman

Lewis Lenard (President of Council)

J.J. Jasper

Thomas P. Tschantz

Sharon Hall

Superintendents Present:

Kevin Boyce (Parks)

Alan Schneider (Electric)

Mark Davidson (Street)

Doug Jones (Chief of Police)

Danny Hawkins (Water/Wastewater)

Also Present:

Anne Brown (City Clerk)

Mary Mader (Administrative Assistant)

Philip Wright (City Attorney)

Jimmy Hugunin (Zoning/Grants Clerk)

Kerri Weltha (Deputy City Clerk)

**Media Present:** Mark Petterson (Coffey County Republican)

**VISITORS:** Paul Abendroth, Jimmy Talley, Gene Earnest

### AGENDA:

*Council Member Lenard, "I move to approve the agenda as modified." Council Member Curtiss, "Second." Motion unanimously carried, 6:0.*

**MINUTES 11/17/2021:** Mayor Luke, "You have before you the draft minutes of our regular session of November 17, 2021. Are there any additions or corrections?"

*Council Member Tschantz, "I move to approve the draft minutes of November 17, 2021, as modified." Council Member Curtiss, "Second." Motion unanimously carried, 6:0.*

### PUBLIC COMMENTS

#### **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.

**Christmas Lights/Decorations:** Superintendent Schneider, "We have been doing maintenance and minor repairs to the Christmas decorations and lights downtown on the buildings. The lights are up and on, as you all have seen, which was done Tuesday. The lights on city hall are on, look when you leave. They look really nice."

**Family Dollar/Dollar Tree (919 N. 4<sup>th</sup>):** Superintendent Schneider, "We have spent time next door to here. We have the conduit in place for the service from the road out to the transformer pad outback. The pad for that will be poured when they pour the parking lot Tuesday, I believe is what the schedule is or was as of earlier today."

**Personnel: Apprenticeship:** Superintendent Schneider, "Bill Cole's one-year anniversary date will be January 25<sup>th</sup>. He is working on his final test to complete his first-year apprenticeship."

**Outage:** Superintendent Schneider, "We worked one outage midmorning last Sunday in the 700 block of north 2<sup>nd</sup> street. The outage was isolated to the apartment complex. That was caused by a squirrel that got around our protection. It was a short outage."

#### **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.

**Reports:** Superintendent Schneider, "We are still completing plant reports."

**Bulk Storage:** Superintendent Schneider, "I have been working on bulk storage fuel tanks permits for KDHE. Those will be done by mid-December."

**Organizing:** Superintendent Schneider, "The men have been busy moving parts and materials into storage and organizing and sorting through that equipment."

**ELECTRIC DEPARTMENT: Generator**

**Generator Preparation:** Superintendent Schneider, “We started the trench needed for the supply cable from the power plant to the grid in the substation. I want to give a big thank you to the Street Department. They came out today, and they cut and pulled back blacktop for us so we could get in there with all the cabling and ground grid. That will be a complete vac job with our vac trailer. It will be slow, but it’s what we have to do.”

“I have spoken with Larry Wheeler about getting the scope of work lined out along with target dates for each part of the project. He will be down the first part of January with part of his crew to look the job over, and we can discuss how the whole job is going to flow at that time.”

**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.

**Family Dollar/Dollar Tree (919 N. 4<sup>th</sup>):** Superintendent Hawkins, “We have been working on the Dollar Tree over here. They have water and sewer now hooked up, so they are good with that. I have a meeting with Matt tomorrow morning for the 18-inch drain, which we may end up finishing that tomorrow.”

**Sewer Lagoon - Fence:** Superintendent Hawkins, “Midland Fence Company has been out at the sewer lagoons. They are about 80% done with the fence. All they have left is to tie the fence in and hang the gates.”

**Personnel- Exams:** Superintendent Hawkins, “I have two operators that are preparing for their water and wastewater exams. They will be taking it next Thursday on the 9<sup>th</sup>.”

**WATER AND WASTEWATER: Production Update**

**General:** Superintendent Hawkins, “The plant is running very well.”

**Equipment Replacement:** Superintendent Hawkins, “Our eight-year-old ferric pump went out on us. I tried to order parts, but they are outdated. They can’t get them. I had to order a new one. We put the spare pump in there for now.”

**QUESTIONS/COMMENTS**

**Equipment Replacement:** Council Member Lenard, “What kind of parts were they, Danny? I was just thinking we have Kan-Seal Precision and then you guys that can cut and have the abilities to fabricate.” Superintendent Hawkins, “It ended up being the diaphragm itself inside with the pre-thread that goes inside the cylinder that pumps it. It went out. I tried to order the diaphragm, but they said that it’s outdated and they don’t make that design anymore. We like the design, and we like the pump. It is a good longevity pump, and it does well with ferric chloride. We just went back with a similar model.” Council Member Lenard, “Gotcha, thank you.”

**APPOINTMENT: Public Hearing for 1303 Yuba Street to Condemn or to Demolish**

**Open Hearing @ 6:10 p.m.:** Mayor Luke, “We have an appointment for the public hearing for 1303 Yuba Street to condemn or to demolish. At this time, I would accept a motion to move to open the public hearing.”

***Council Member Lenard, “I move to open the public hearing for 1303 Yuba Street to determine whether structure(s) should be condemned as dangerous and unfit.” Council Member Curtiss, “I second the motion.” Hearing no discussion on the motion, Mayor Luke called for a vote. Motion unanimously carried, 6:0.***

Mayor Luke, “At this time, the hearing is open, and anyone that wants to make comments from the floor can now do so.” Attorney Wright, “Just so it is in the record, we have Gene Earnest here, who is the property owner, and we have Jimmy Talley, the tenant at the property. Gene, I didn’t know if you wanted to address the city council regarding your concerns, and then Jimmy, you would have an opportunity to address city council as well.” Gene Earnest, “If I may.” Attorney Wright, “Please.” Gene Earnest, “I am very sorry things have turned out like they have. I’m sorry that this is going on. We have been friends for quite a few years, and I have done about everything that I can do to try to help you. I have tried advising you on numerous occasions to try to clean that thing up. This is the second time that I have been drug into court over this. I don’t see any changes happening. Like I have said, I have worked with you as much as I can. You will pay me ahead, and I’m grateful for that, but then you’ll fall behind. It has just been an up and down road, Mr. Jim.”

“The house, I had hoped that you would have taken a little bit of pride in it. It was a chance that you and your wife would have had something and eventually could have built something on that place. I’m pretty ashamed of the place itself really right now. I didn’t want to see this happen, but now that it has... When I found out that this was going to happen, I made arrangements with Mike Skillman. I will have the place taken care of once Jim and his family vacate the premises, and it won’t cost the city a penny. I take full responsibility for getting it done. I am sorry that you folks have had to deal with this as long as you have. I wish we could have resolved this in the past. It’s one of those things I don’t believe it’s ever going to happen. Jimmy, you are a good kid. I really have enjoyed being your friend. I would like to think that this wouldn’t change anything, but I know that there will probably be some hard feelings. For that, I am very sorry, but I can’t keep coming to court. I can’t keep going the way I’m going now. Thank you, folks, for listening to me and hearing what I had to say.”

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Attorney Wright, "Gene, can I ask you a couple of questions? Is it your opinion that the structure that is on your property, that structure is unfit for human use at this point?" Gene Earnest, "Yes, and no offense, but if the inside looks like the outside, it's in pretty bad shape." Attorney Wright, "I don't know if, Chief, you want to talk a little bit more about the outside and what is going on with that?" Chief Jones, "I put a set of pictures, one on each side of the table, earlier." Attorney Wright, "And Jimmy, I guess what I'm hearing from you --."

Jimmy Talley, "You know I've come to court. I admitted to court to Judge Campbell that I got lazy." Attorney Wright, "You are going to have your chance to talk." Jimmy Talley, "I'm having my chance now. I have kids to feed. I lose hours coming here. My house is fit to live in. Just because I have shit on the outside doesn't mean my house is shitty on the inside. If you want to condemn my property or Gene's property, then maybe you should start driving around town because there are more places around town that is way worse than mine. I have admitted to Judge Campbell that I did get lazy there for a little bit. It happened. I cleaned up the derby car shit; I cleaned up a lot of stuff. Yes, I still have tires on the property; a lot of them have rims, a lot of them don't. I haven't hauled them off. I have a blue truck, and it is sold. Is it leaving my yard until I get money? No. When I get the money, the truck is out of my yard. Mr. Hugunin, I got with him one time about building a privacy fence there at the storage container. I have been checking on lumber to do that. I am not understanding. The last time I talked—it was kids toys here, and I have to keep these. . . . You explain to me how you keep the kid toys in line. I have five kids that play on the toys that drag them all over the place.

"Am I supposed to tell them to drag them back? There is three lots there that they can play on. Three lots there. Three lots that my kids can play on and have a great time. I don't care where they drag those toys. Does my trash get torn? Fuck yeah, it does. Look at all the stray cats we have in the damn county." Council Member Tschantz, "Stop Jimmy, there is no sense in swearing." Jimmy Talley, "Well, I'm tired of it, Tom. Every time I turn around, it's, 'this wasn't done, and this wasn't done.' I have a \$500 log splitter sitting in my driveway that I park my truck in front of. That log splitter is in my driveway. What is it hurting? Can anybody tell me? There are two boats on Alleghany that don't even run, but those are perfectly fine. The crackhead down the street from my house has stuff pouring out of the garage, but that's okay because he is a crackhead, right? When was the last time that dude held a job?

"We are more worried about stuff in the yard, but let's not worry about the dope in the county or the city. There is a trailer house just like mine on Alleghany that has stuff in it, but it's covered up, so we aren't going to do anything about that one. That grass gets taller than mine every year. The only thing I haven't done for the privacy fence is bought the permit and started buying lumber. The last time I checked on lumber, it was sky high, and I'm cheap, and I said no. I'll wait until it goes down. It has gone down; I've checked on it. I was going to get with Mr. Hugunin again, mark it out, ask if it's fine, get with the city on finding lines, so I don't hit anything, and then build the privacy fence right there at the conex building. Every picture that I have seen that you guys have taken on my property, my boat is in there. My boat runs. Do you want to know why my boat is there? I had to unhook it to go help my dad, so I backed my boat trailer right there next to that tree, which is where my picnic table sits, where I get my kids off the bus, at that picnic table. Yes, that big tree is where I strip derby cars; there are a few things around it.

"My yard is up to be condemned, but the crackhead can have all sorts of stuff, and it's fine. I'm a pretty mellow person. I get along with just about everybody in here, but it's ridiculous. My house is trashed, so we are going to condemn it? I have stuff in my yard. I know I have stuff in my yard because I put them there. Do I have a lot of things? Me? No. I don't think I do. To you guys, yes, I probably have a ton of crap in my yard. The other day, a buddy of mine called me asking if I had a cord. I went out to look, wrong cord and couldn't make the one I had work. I could stack it all next to the conex building. Is that going to be good enough for you guys? Probably not, probably not because you can still see it. I have a pick-up bed sitting in my yard. Why? Because my dad has a trailer that I'm going to take the bed that he has on it off, put the pick-up bed on it, and then put that bed in the pick-up bed so we can haul it off to the farm. Why am I going to do it in my yard? Because I have the tools to do it. Out at my dad's, he doesn't. I don't just put crap in my yard to put crap in my yard to see how far I can get with the city of Burlington.

"You were a great teacher, and I love you, but I have way better things to do than to come see you on a Wednesday. I don't know you, ma'am, sorry. J.J., I have known you for years; I have way better things to do than to come see you on a Wednesday. Anne yelled at me lots of times, 'you need some lunch money,' still beautiful, and I'd still take her to dinner. I have better things to do than come see her. There is Stan. You have Lewis; I don't care, you guys are all great, but I have better things to do than come see your asses. You, I don't know anything about you, it's whatever. You bitched about a car trailer that had stuff on it that was sitting in the yard. Okay, but if you're going to complain about the rest of the stuff, guess what I need to do it? The car trailer that I'm not allowed to bring into town and have it sit in my yard to load up. Because 'I don't use it every day.' I use it more than what you think.

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“I did pick up the trash around my front porch not too long ago. I went to take it to the dump and realized the dump was closed. I picked the wrong Saturday. Cats have gotten back into my trash. Are we going to do anything about the stray cats anytime soon? Everybody has been fighting stray cats for years in Burlington, KS. I fought them when I was in high school. I can go get the pick-up trailer again and fill it back up. I won't make it until Wednesday by the time the trash comes. There is nothing wrong with my house. It's livable. I live in it. My kids live in it. My wife lives in it. My three pits live in it.” Gene Earnest, “You have three dogs living in there?”

Jimmy Tally, “Oh yeah, we all sleep in bed together, buddy.” Gene Earnest, “Jim.” Jimmy Talley, “Ms. Foster yells at me a lot because I don't get my dog tags all the time or my shots. I tell her I'm going to get better at it. You tell me what you'd like moved out of the yard, and I will be more than glad to do it. Am I going to play the guessing game with the City of Burlington? No sir and no ma'am. It's not happening. You want the truck moved? I'll see if I can't get my brother down here with a tow truck to move it. I will move it out to my dad's until I get money from the guy to come get it. You want the tires moved? Not a problem, I'll move them. Why do I have tires? So, I don't run my daughter's flowers over. We are going to plant flowers in those. She hasn't decided what flowers, so I haven't gotten rid of tires. On the backside of the conex next to the alley, I have radiators that sit there. Why? That's just where I stacked them. They just lean against the conex. You want them gone? I'll get a hold of Kurt Skillman to come pick the bitches up.

“I don't weed-eat. I spray weed killer. I got lazy there for a minute. I fixed it. Sorry, I ruined Burlington's perfect little image. This town is far from perfect. You want to condemn a property, let's start driving around and bring other people in to condemn.” Attorney Wright, “I would say, Mr. Talley, as the city is, they have the resources to do that. As Judge Campbell explained to you probably at the last hearing --.” Jimmy Talley, “I didn't even come to the last hearing. I got a phone call saying I didn't have to come.” Attorney Wright, “Are you going to let me talk or not? At the last hearing or the hearing before that, you have been in court; I don't know, ten times?” Jimmy Talley, “I don't know, but it costs me money.” Attorney Wright, “If it's costing you so much money, one, why can't you just get this stuff taken care of?” Jimmy Talley, “Because I work to supply for my kids.”

Attorney Wright, “James Campbell explained to you if we were just dealing with one thing, then this wouldn't be a problem. It is a conglomeration of everything that you just told the city council. You have a problem with all of this stuff.” Jimmy Talley, “I don't have problems; I just set it there instead of leaving it scattered through hell's creation; I have stacked it and left it.” Attorney Wright, “Mr. Earnest, I was going to ask you a question before I was interrupted by Mr. Talley. It's my understanding that it is your desire to have this property condemned as the landowner. Is that correct?” Gene Earnest, “Yes, I believe so. Jim, I'm sorry, I've done everything I can, man. This is the second time I've been called to court. I should have never been called to court the first time. I just can't keep doing this. Not only does it make you look bad, Jim, but it makes me look bad as the owner of the property. You're buying it. I didn't charge you any deposit or any interest. I did you one heck of a favor that no one else would have done. We are friends and have been good friends, but now I'm in trouble with the city. I should have never ever been in trouble with the city.

“Our agreement was that you were going to keep that place clean, you were going to mow, and you were going to take care of it. You were going to be proud of it, and you had plans that you were going to put a house on there. I have even offered you several good deals. We agreed on a price here a while back, within a month or so ago. I said, if you come up with X amount of dollars, I'll throw the other dollars away. You can just have it. I'll sign it over to you. I appreciate you, Jim. You get two or three months behind, but then you come up with the money, and you get caught back up, and then you pay three months in advance. So, I have been working with you the best I can, but this is the last straw. No one else that I know of would do this. That would go to the lengths that I have gone to. I have asked you several times to clean this place up, and you will not do it.

“You make an effort. You are kind of like breaking an old mule, Jim. I can get your mind on the saddle, and I can get your mind on me, but after I step down off of you, you have forgotten everything that I have talked to you about, or I tried to show you. I can't do anymore. I can't keep coming over here to court. I imagine my name is going to be in the paper again. That's not the kind of person that I am. I'm sorry, I've gone far enough. I've done all I can. I can't do anymore.” Attorney Wright, “Thank you, Mr. Earnest.”

Gene Earnest, “I would like to ask mercy of you folks to at least, if you're going to do this, Christmas is coming on. He has babies. If we are going to do anything, at least give him until after Christmas if you do anything. I wasn't brought up this way. You cannot throw a woman and kids out into the cold. I'm sorry, I can't let you do that; if you want to condemn it, fine. I want it condemned too. I don't want his wife and kids out in the cold. If you would please, for God's sake, at least let him stay there that long, please.” Attorney Wright, “I can represent to the city council that Mr. Talley was initially prosecuted criminally on this. I can't as eloquently describe what happened any more so than Mr. Earnest with regard to having compared with an old mule.

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“He was told exactly what he needed to get cleaned up; he said he would get it done, and it would just never happen. On one occasion, I wrote out a list of things that needed to happen. He did a couple of things on the list, but not everything on the list. It was just constantly done like that. It has been almost a year like that since he was first cited and was put into municipal court. All you can do in municipal court is assess fines and put people in jail. I think Mr. Talley spent at least a weekend in jail. What do you do at some point, right? He just wouldn’t get it taken care of. I dismissed that case. We had some resources show up to be able to take care of this. That is where we are at. I don’t know if the city council has any questions; I don’t think anybody takes pleasure in doing this. I honestly don’t see any way to remediate the situation. I think we have tried everything we possibly could to get this property where it needed to be, and it just didn’t happen.”

Council Member Curtiss, “Is there a timeframe now, if that’s condemned?” Attorney Wright, “I think the city council certainly could decide a time.” Council Member Curtiss, “We can decide on a timeframe.” Council Member Hall, “Can we give him 30 days to get the stuff out? That would give him until after Christmas.” Gene Earnest, “If you would please.” Council Member Hall, “I’m okay with that.” Attorney Wright, “The city council can certainly prescribe an amount of time. The city council can adopt the resolution to condemn. You can go ahead and give Mr. Talley some more time to remediate. I would not recommend that option because we have already been there in municipal court for a year. Certainly, the city council could give a time frame in which to get things in order and get things packed up.” Mayor Luke, “Any other comments to be made?”

“Paul Abendroth, “I’ve brought this up before. You guys are picking on Talley all of this time to get it cleaned up. You have other properties that are just trashed also. You haven’t done squat about it. Why the difference? Why are you favoring him to pick on? I realize he needs to clean it up; I’m not arguing that point. I am just saying if you are going to pick on him, then get the rest of them also, before him. This is 20 years in the making, and they still have junk in their yard.” Gene Earnest, “May I say something? This is no offense to you, Jim. Sir, my name is on that deed.” Paul Abendroth, “That’s fine. I’m not arguing that point.” Gene Earnest, “That makes me look bad as well.” Paul Abendroth, “I am just saying--.” Gene Earnest, “I am not picking on Jimmy. I have been friends with Jimmy for years.” Paul Abendroth, “I know you’re not.” Gene Earnest, “I have asked Jimmy to clean that place up over and over again. I am telling you right now. I respect Jimmy; he is a heck of a good guy, but if he cleaned it up today, I guarantee within four months it’s going to be right back where it was.”

Paul Abendroth, “Gene, I’m not arguing that point at all.” Gene Earnest, “I’m tired of it.” Paul Abendroth, “I’m just saying other properties are trashed also. They have not done anything.” Attorney Wright, “Gentlemen. I can’t remember what your name is and I should because you’re here all the time. What’s your name?” Paul Abendroth, “Abendroth.” Attorney Wright, “Mr. Abendroth, I can answer your question, and the answer whether you want to hear it or not is this. The city has limited resources to be able to take care of properties, and they are, and they have been.” Paul Abendroth, “I understand, Phil.” Attorney Wright, “If you understood, then you wouldn’t have that concern because that is the answer to your question.”

Paul Abendroth, “Limited resources and they still can give tickets and put these other people in jail maybe too. They don’t clean up their lots either.” Attorney Wright, “As it has been explained in past meetings to you when you were here, there are processes in place--.” Paul Abendroth, “I understand that. So, you are using processes to take care of Talley.” Attorney Wright, “We have exhausted the process to take care of Mr. Talley.” Paul Abendroth, “Why haven’t you exhausted the processes on other people then?” Attorney Wright, “The city is currently doing that.” Paul Abendroth, “Why didn’t you get them before? They have been trashed a lot earlier than Talley’s. Why did you pick him to start on?” Attorney Wright, “I have answered your question, but you’re not hearing the answer.” Paul Abendroth, “No. I haven’t heard why you started with him and not the other people.”

Mayor Luke, “Any other comments?”

***Council Member Lenard, "I move to close the Public Hearing." Council Member Curtiss, "I second the motion." Hearing no discussion on the motion, Mayor Luke called for a vote. Motion unanimously carried, 6:0.***

**RESOLUTION 2021-08 TO CONDEMN 1303 Yuba Street (Edward Earnest)**

Mayor Luke, “What action does the governing body wish to take?” Council Member Lenard, “Do we need to make a motion before we have the discussion?” Mayor Luke, “Yes, we make the motion first.”

*Council Member Lenard, "I move to approve Resolution 2021-08, Declaring Structure(s) at 1303 Yuba Street to be Condemned and Demolished." Council Member Curtiss, "I second the motion." (Amended later)*

Council Member Lenard, “Okay, part of this is the bid process for the demo and the cleanup. If Gene is taking care of that, how does that work in here? I see giving Jimmy the time that he needs to take care of his stuff. Is that a parallel path, or what does that look like?” Council Member Jasper, “I would have to refer that to Philip on if he is the landowner and he is agreeing that it needs to be condemned. Does that fall back to Gene?”

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Attorney Wright, "I think what I would suggest is this, I think to answer both of your questions, I think they need to be on parallel paths. The city council can decide a day that Mr. Talley needs to have his stuff out of the property, then talk about another date where Mr. Earnest has the opportunity to take care of the structures that are there. At the same time, I think the city council needs to keep moving forward to set a date and go through the bid process after that. Does that make sense?"

Mayor Luke, "My understanding is Mr. Earnest has the process already completed as to what is going to happen." Attorney Wright, "I guess what I'm saying, Mayor, is to give him some time to let that happen, but in the meantime, we need to have the bid process still there in case it doesn't happen in a timely manner." Mayor Luke, "It makes sense." Attorney Wright, "I like having dates and fallbacks, so we don't have to address this again in another meeting." Council Member Curtiss, "Could we not make the bid process later to make sure that Skillman would have time to come in and do that also?" Attorney Wright, "That is what I'm suggesting and recommending." Gene Earnest, "My understanding of this, when I found out that I needed to be here tonight for this, I decided to take it on my own and call Mike to speak with him. We both are very regretful that this has come down to this. Mike says as soon as it is vacated, he will have the equipment in there, and it will be out of there."

Attorney Wright, "So, hopefully, the bid process will be moot, and it sounds like Mike is ready to roll on it. I would still recommend putting a date there to fall back on. No offense to you, Gene, or anything else. I think that would be prudent to do." Council Member Jasper, "I would like for those two to resolve when Jimmy needs to be vacated and leave that between those two." Attorney Wright, "When you say between those two, do you mean between Jimmy and Mr. Earnest?" Council Member Jasper, "Correct. Then let them resolve that as far as they can." Attorney Wright, "I wish it would work that way, but unfortunately, this is the city's deal." Council Member Lenard, "It would almost have to be within these dates that we set here, J.J., I feel if we set the date, then whatever they agree on within that set I think would be okay between the two."

Council Member Hall, "Can you go ahead and do the 30 days, and if it's not then.... that way he has time to get out." Council Member Lenard, "I believe Philip will support that." Council Member Curtiss, "30 days ... a little longer than that." Attorney Wright, "30 days would be on New Year's Day, and you probably don't want to do it then. I'd say a reasonable time frame would be around 45 days. That would put it into mid-January and past the holidays. That gives anybody plenty of time to find somewhere else to go." Gene Earnest, "How long would that give me to have it cleaned up?" Attorney Wright, "I would say something that would be reasonable would be 30 to 45 days after that." Mayor Luke, "If we were to put it out for bid, they would have 30 days to respond to the bids." Gene Earnest, "I could have it done within the week." Mayor Luke, "Okay, that would be the normal process; it would be the 30 days." Council Member Curtiss, "So about the middle of January, the 15<sup>th</sup>?"

Council Member Lenard, "You know I don't like any of those dates. We have done this a number of times, and there has been medical things come up, there has been family things, and we could get another vortex in January. There is never a good time for any of this." Gene Earnest, "I wish it never would have had to come to this." Attorney Wright, "We are all in that same boat Mr. Earnest. So, are you saying 60 days?" Council Member Lenard, "I'm saying it's unfortunate. If you go to January, then you go to February, and that's the worst of the winter months." Attorney Wright, "It is; I think you just have to pick a day." Council Member Lenard, "If you stick with the calendar days that we typically exercise, taking weather and holidays out of it, I hate to say it, but I would stick with those timelines that we have historically used."

Attorney Wright, "What are those timelines? You'll have to educate me on that." Council Member Lenard, "Like we said when you go out for bids and leave those times. We only had the one down here that we have done in the last couple of years." Attorney Wright, "Sounds reasonable to me. It really is up to you guys with what you.... I know this is not the kind of stuff that you guys signed on for." Council Member Lenard, "No, because when you use the term reasonable, there is nothing reasonable about any of this." Attorney Wright, "It depends on how you want to use the term. Let me just say; I'm glad I'm not the one who has to raise my hand and vote on this." Council Member Lenard, "I don't want to open up Pandora's box here, Jimmy, but is 30 days reasonable for you?"

Jimmy Talley, "Whatever. I mean, try to find a house in the wintertime. Try to find a house with COVID. COVID is going on; everywhere you turn around, COVID this and COVID that. You have a migraine for two days; you have COVID. You sneeze twice; you have COVID." Council Member Lenard, "It was just a ... trying to give you the benefit of the doubt." Council Member Jasper, "We were trying to help you there." Jimmy Talley, "I don't know where to go." Council Member Lenard, "That's all I have." Jimmy Talley, "I'll figure it out; it's whatever. I have to go feed my kids, guys."

Mayor Luke, "Okay, so we are looking at a possible 45 days and then 30 days for the bid process." Gene Earnest, "I'll get a hold of Mike. I could probably get a hold of him this evening if I know the date and time he will have to vacate. Then Mike will go within a week or two weeks. He will be in there, and it will be gone. I have traded him that conex container outback. He is going to use it as a job box, and that's going to pay to have it cleaned up. That will be off of there also. The three lots will be completely cleaned off. There will be nothing standing on the three lots other than the trees." Council Member Curtiss, "Well, the 15<sup>th</sup> of January is a Saturday." Council Member Lenard, "That's the drop-dead vacate date?" Council Member Curtiss, "If that's what we want to go with." Mayor Luke, "Normally, we give through the weekend." Council Member Curtiss, "The 17<sup>th</sup>?" Mayor Luke, "Monday is a holiday." Council Member Curtiss, "18<sup>th</sup>?"

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Council Member Lenard, "Let's say the 15<sup>th</sup> and be done with it." Council Member Jasper, "Yes, let's just be solid here, make a solid decision." Mayor Luke, "I'm just looking at 30 workdays with holidays and everything else, with Christmas and New Year's." Gene Earnest, "If it wasn't for Christmas, I'd ask to have him out of there by tomorrow. I wasn't brought up that way. I would be very ashamed if I was to have him vacated before Christmas and winter with his wife and kids; I couldn't live with myself. I have gone through a lot." Mayor Luke, "Okay, so the 15<sup>th</sup> of January is what everyone agrees upon?" Council Member Lenard, "Yes."

Mayor Luke, "So the vacate date would be January 15<sup>th</sup>, at which time we will start the 30-day process for the bidding." Chief Jones, "I can't put the ad in the paper ...I'd have to have it in by Tuesday for publication on Thursday. So, that would be a logical date." Council Member Curtiss, "Tuesday the 18<sup>th</sup>?" Chief Jones, "Yes. I'd inspect it on Tuesday morning the 18<sup>th</sup>; then, if nothing has occurred, then we start the bid process." Mark Petterson, "Correction, you have to have it by Monday." Council Member Curtiss, "That's a holiday." Gene Earnest, "I still don't quite understand this." Mayor Luke, "If it is not resolved in the 30 days, then we will go to bid; if it is resolved in the 30 days, then it's whatever you guys agree to do." Chief Jones, "What they are doing is putting a drop-dead date on there. It will be done; if you take care of it, then fine, but it will be done by this date, or the city will take care of it." Gene Earnest, "Well, you set the date, and if he has stuff in the house, then I guess it's gone. I've had it, guys. I have gone above and beyond."

Council Member Jasper, "So this January 15<sup>th</sup> is the day if nothing is resolved that is when, on the next meeting, will step in, and then we put it out for bid." Gene Earnest, "So, the 16<sup>th</sup>, I could have Mike in there starting." Superintendent Boyce, "But if the city puts it out for bid, that is going to be a 30-day process so he can still do what he has to do." Attorney Wright, "Absolutely." Council Member Curtiss, "Right, so that gets you into February." Attorney Wright, "You will have at least until February 15<sup>th</sup> and longer than that because if you come in and tell the city, you need a little bit longer. They will probably not say no, as long as you have some reasonable assurance that is happening. The last thing the city really wants to have to do is pay to clean this up." Gene Earnest, "Mike has been really good to me, and I know that we have had several talks about this."

Chief Jones, "The soonest the city would be able to take action and accept bids would be at the February 16<sup>th</sup> meeting." Council Member Curtiss, "You have time." Mayor Luke, "You have from the 18<sup>th</sup> of January to the 2<sup>nd</sup> meeting in February." Gene Earnest, "Could I have that written down, so I have something to tell Mike?" Council Member Jasper, "Yes, she's writing it up for you." Council Member Curtiss, "So, I'm understanding Jimmy has until the 15<sup>th</sup> of January to get out of there?" Attorney Wright, "Yes."

***Council Member Lenard, "I move to approve Resolution 2021-08, Declaring Structure(s) at 1303 Yuba Street to be Condemned and Demolished, and the bid process to begin for the demolition and cleanup of the property and all bids to be submitted no later than 10:00 a.m. on February 16, 2022, and bid opening to begin at that time, at Burlington City Hall, unless the cleanup and demolition is already completed." Council Member Curtiss, "I second the motion.***

Council Member Lenard, "I have one sidebar question. I want to make it clear the date that he has to be out." Mayor Luke, "He has to be out January 15<sup>th</sup>. On the 18<sup>th</sup>, Doug (Chief Jones) will inspect the place to make sure he is out; then we can start the process from there." Council Member Lenard, "Does a specific time need to be added?" Council Member Curtis, "Who notifies him of the date January 15<sup>th</sup>?" Chief Jones, "I'll take care of that." Mayor Luke, "Okay, and as far as I'm concerned, it can be anytime during the day." Chief Jones, "By 5:00 p.m." Mayor Luke, "It's dark by 5:00 p.m. anyway."

**Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 6:0.**

Gene Earnest, "Thank you, folks, for your help with this." Council Member Curtiss, "We appreciate you coming." Gene Earnest, "I am very sorry to the city." Attorney Wright, "You just tried to help him, and it didn't work out. We are all sorry it happened like this. It isn't just you." Gene Earnest, "I would have tried to do this earlier, but like I said, he has the wife and kids, and I just wasn't brought up that way." Council Member Lenard, "I'll say this too because I know we don't always all agree on stuff, I have said this to you too, Paul, but everybody being professional while they worked through this. I appreciate 99% of that happening tonight."

Gene Earnest, "I guarantee if we would have changed our minds and went the other way, he probably would have put forth better effort to clean it up, but within the next four months, it would have been in the same shape that it is in right now. I've gone over and helped him and tried to get it cleaned up. I have even taken my mower over there. I ran over the harmonic balancer, hid in the grass, and destroyed my brand-new ride along completely. After that, I just couldn't do it anymore. That cost me thousands of dollars, and that's money that I will never get back." Mayor Luke, "Okay, we need to move forward."

**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, tree trimming, fixing and replacing street signs, and truck and equipment maintenance.

**Banners:** Superintendent Davidson, “We helped the Parks Department change out banners.”

**Generator Preparation:** Superintendent Davidson, “As Alan said, we have been helping with the trench and conduit for the new generator.”

**Equipment Repair:** Superintendent Davidson, “We have a mechanical issue on our street sweeper, but we are about to work through that.”

**POLICE DEPARTMENT: Update**

**General:** Normal Duties.

**Activities & Cases:** Chief Jones, “We have had quite the day. We started out with a domestic at 9:00 a.m. this morning. We had a number of other things. Kevin (Superintendent Boyce) tried to burn down the riverbank. Then the reason I was late was because we had an unattended death this evening. It came in right at a quarter to five. The family has been notified; it was Wendy Bogue. The coroner ordered an autopsy.”

**Police Committee:** Chief Jones, “I need to visit with the police committee for a couple of minutes after the meeting. I have to find out if you all have a date available.”

**Nuisance: Properties/Vehicles Update:** Chief Jones, “Paul isn’t in here, but I’m going to hit nuisance properties anyway. We have 31 that have been abated, 12 in progress and making progress, three property owners ticketed and will be coming to court next week. One condemn – December hearing tonight, one new one added yesterday that was just added to the list, and one property owner with three properties that will be issued NTA (notice to appear) after Jan 1, 2022, to avoid the 12 months calendar thing. So, yes, we have been busy and quite active. We still have more to do, but we have been working it.”

**PARKS DEPARTMENT: Update**

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

**Burn Pile:** Superintendent Boyce, “I only burned our property. I did call the fire department before it got to anyone else’s property. I lit the brush pile this morning. The leaves were all the way over the berm. I hung around to watch it, and it dried out over lunch and broke over the berm. We got it taken care of.”

**Mulching:** Superintendent Boyce, “We have been mulching tree leaves in the parks and cleaning them out of walkways.”

**Inventory / Goals and Accomplishments:** Superintendent Boyce, “I have been working on inventory and goals and accomplishments.”

**Banners:** Superintendent Boyce, “Monday, we removed the veteran banners and put up the holiday banners. Thanks to the Street Department, Jimmy (Zoning Clerk Hugunin), and the electric department for their bucket trucks for that.”

**FINANCE: Claims Ordinance & Payroll Ordinance**

a. Claims Ordinance	2021-23	\$	<u>126,329.66</u>
b. Payroll Ordinance	2021-24	\$	<u>92,275.85</u>
	TOTAL	\$	218,605.51

**CLAIMS 2021-23:** Council Member Curtiss moved to approve City of Burlington Claims Ordinance 2021-23 for the amount of \$126,329.66 for payment of city bills. Council Member Lenard gave the second. City Clerk Brown, “The larger expenses we have tonight are Ametek \$2,692.54, Brenntag Southwest \$4,130.50, C&B Equipment DBA Douglas Pump Service \$2,879.04, David Milkey \$2,350.00, Lewis Oil Company \$24,112.85, and Stanion Wholesale \$5,465.62. **Hearing no additional discussion, Mayor Luke instructed City Clerk Brown to poll Council. All votes were in favor. Mayor Luke declared, “Claims Ordinance 2021-23 passed unanimously, 6:0.”**

**PAYROLL 2021-24:** Council Member Tschantz moved to approve City of Burlington Payroll Ordinance 2021-24 in the amount of \$92,275.85, as presented. Council Member Hall 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 2021-24 passed unanimously, 6:0.”

**PLANNING & ZONING: Update**

**General:** Zoning Clerk Hugunin, “Normal duties.”

**KACE Training:** Zoning Clerk Hugunin, “I attended KACE training in Manhattan the first of last month.”



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**Family Dollar/Dollar Tree (919 N. 4<sup>th</sup>):** Zoning Clerk Hugunin, “I have been working with the contractors next door on the Family Dollar project.”

**Planning Board Meeting:** Zoning Clerk Hugunin, “I have a planning board meeting scheduled for January 20<sup>th</sup>. That will be for reextending our comp plan. Foster and Associates have everything that they need to start working on redoing that.”

**Banners:** Zoning Clerk Hugunin, “I helped Kevin with the banners.”

**Permits:** Zoning Clerk Hugunin, “I have been working on permits.”

**Nuisance: Grass:** Zoning Clerk Hugunin, “Grass is not growing very tall right now.”

**Meetings:** Zoning Clerk Hugunin, “I attended the joint meeting between the county commissioners and the council.”

**OTHER COMMITTEE OR COUNCIL BUSINESS:**

**ORDINANCE**

**LICENSE**

**LEGAL DEPARTMENT: Update**

**Radar Systems:** Attorney Wright, “I just wanted to let the city council know that I have been in contact with Kustom Signals. I have talked with Chief quite a bit about this and worked with Anne on trying to get a sign. The one sign they had offered, the used big one with all the bells and whistles, I think they were asking \$8,000 or \$9,000. They dropped it to \$6,000. I told them we would take it and buy it with the diversionary funds that I bring in through municipal court. Anne is working with Amy at Kustom Signals to get that taken care of. I think the sign is over in Chanute, and they will notify us when it’s ready to pick up. They are going to warranty it for a year; they put new batteries in it and are making sure everything works. This is the big one with the secondary sign on it, so it will be useful to the guys in the street to get people to slow down. I think it will have multiple types of uses. I hope it works out.”

**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. We will be sending \$143.18 in delinquent accounts to the Kansas set-off program for collections for November.

**Budget 2022:** City Clerk Brown, “I have been working on keying in the 2022 budget figures to the line items.”

**Reports:** City Clerk Brown, “I prepared the revenue report for the electric, water, and sewer. Also, I prepared the sales tax reports.”

**Cereal Malt Beverage License:** City Clerk Brown, “The girls out front, have been preparing the cereal malt beverage and trailer court licenses which will be at the next council for approval.”

**Training:** City Clerk Brown, “We are continuing to do cross-training out front.”

**Year-End Reports:** City Clerk Brown, “Kerri has started sitting in on webinars for year-end payroll and year-end processing.”

**City Hall – Christmas Lights:** City Clerk Brown, “I would like to thank Alan and his guys for putting up the lights out front. They look very nice.”

**REPORT BY CITY OFFICERS:**

**Joint Meeting: City/County:** Council Member Lenard, “I was pleased with our joint meeting with the county yesterday. I thought that went really well. Hopefully, good things are to come. I think it was discussed last night that as public officials, sometimes, like tonight, we have responsibilities that we don’t want to have. Sometimes you do have to make tough decisions. I commend everybody for doing what they do.” Council Member Curtiss, “Stan did a good job at the opening of it, explaining the things that he had to say where we worked with the county. I appreciated that.” Council Member Hall, “You (Mayor Luke) did a good job.”

**OTHER COMMITTEE OR COUNCIL BUSINESS:**

**[10] CONTINUATION: December 1, 2021 Burlington City Council Regular Session**

**MAYOR’S COMMENTS:**

**Water Assistance:** Mayor Luke, “There is a new program out that went into effect today, December 1<sup>st</sup>. It is tied to those unable to pay water bills. It is not like the LIEAP program that pays electric. If you know someone who is having trouble paying their water bills, have them come up here, there are applications and paperwork for them to turn in. We have already registered the city as a water source. The money would come directly to the city and be credited to their account. They have to fill out all the paperwork and submit it, not the city.” City Clerk Brown, “It is for people who have been shut off already or who are in jeopardy of being shut off. It is not just for anyone and it’s not for all low-income households. There are nine million dollars available from the state, and when it runs out, it runs out. It is a one-time payment.”

**Pam Scott -Plaza Theatre:** Council Member Lenard, “Two other things, Pam Scott who came in to get the nomination. She put in for the emergency, and it was denied. They recommended that she put in for the one for December 20<sup>th</sup>. She is still working on that.”

**Loans through the City:** Council Member Lenard, “The other thing I was going to ask, our assistance with businesses on low-interest loans for frontage improvements; who from the office? Could you get with Vintage Sisters and provide them...?” City Clerk Brown, “They already have a loan through us. They can’t have two.” Council Member Lenard, “Okay.” Council Member Jasper, “I want to touch on that. I think a lot of business owners on our storefronts don’t understand that we do provide that kind of service.” Council Member Lenard, “I don’t know if that is something that we need to interface with the Chamber so they can let their constituents know that there is. That is a legitimate means within our control that has been miscommunicated, maybe. If that is something that we can help our local businesses with, then we need to do that.” City Clerk Brown, “We can advertise that on Facebook again. We had flyers out on our counter for people as they came in so they would see that. We can do that again.” Council Member Jasper, “Yes, let’s blast that out.” Zoning Clerk Hugunin, “A good place would probably be Economic Development too with the county as much as they deal with businesses.” Council Member Lenard, “You would think.”

**FUTURE AGENDA ITEMS:**

<b>GENERAL:</b> City Debt - How to fund projects Expense Tracking on Projects Budget 2022	GAAP - Infrastructure Capitalization City/County Grant Funds – Discussion on Matched Funding Council Discussions on Evaluations, Succession Planning, etc.
<b>ELECTRIC DEPARTMENT:</b> Power Plant - Additional Generation	<i>RICE NESHAP Compliance</i>
<b>PARKS DEPARTMENT:</b> Events in Parks (Updates)	
<b>LEGAL DEPARTMENT:</b> Municipal Court Updates	Misc. Legal - Documents, Cases, Contracts, etc.
<b>PLANNING AND ZONING</b> Work with Advantage Computers and City Departments to improve Cyber Security Nuisance Grass: Work with PD FIRM Floodplain Map Changes – Updates	Quarterly Construction Valuation Report Prepare Easements for any City-owned property without one Permits - Building/Zoning/etc. Burlington Corporate Boundary Updates on Map (Work with State)
<b>POLICE DEPARTMENT</b> Nuisances (Work with Zoning Clerk) Voice Stress Analyzer Project	Department Activities and Cases
<b>STREET DEPARTMENT:</b> Concrete St. Repairs/Free State Ct. Replacement/Repair Pavement Management System/Asset Management System	Street improvement Plan, Paving Gravel Streets, Crack Filling, Street Improvements 2022 Asphalt Project
<b>WATER &amp; WASTEWATER DEPARTMENT:</b> Sewer Lagoon Maintenance/	Sensus Water Meter Replacement Sewer Liftstations –Flushing Rags, etc. Sewer Lagoons - Analysis (KRWA/funds for dredging)

Mayor Luke declared the meeting adjourned.

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