

BOOK 26

November 1, 2023

BURLINGTON CITY COUNCIL REGULAR SESSION 11-1-2023

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, November 1, 2023. Mayor 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)

Lila Van Horn

Martin Ernst

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)

Greg Holmquist (Assistant City Attorney)

Kerri Weltha (Deputy City Clerk)

Media Present: Mark Petterson (Coffey County Republican)

VISITORS: James Hess, Valorie Higgins, James Higgins, Tyler Elsworth, Jay Hale, Michael Abendroth, Ryan Bjerke, John Kuhlmann

AGENDA:

Council Member Lenard, "I move to approve the agenda as presented." Council Member Ernst, "Second." Motion unanimously carried, 5:0.

MINUTES 10/18/2023: Mayor Luke, "You have before you the draft minutes of our regular session of October 18, 2023. Are there any additions or corrections?"

Council Member Curtiss, "I move to approve the draft minutes of October 18, 2023, as presented." Council Member Ernst, "Second." Motion unanimously carried, 5:0.

PUBLIC COMMENTS: (1)

John Kuhlmann, "I am John Kuhlmann. I have been in here before. I am here to make it publicly known if the council is unaware, but legal action has commenced against the city of Burlington. There are 21 days as of the date of service of the summons to you guys. I am open to any and all communications as they have been constantly and permanently closed since I have been in front of you guys since 2022 regarding the illegal use of my property that the city permits my neighbor to then illegally deprive me of my property on a yearly basis for at minimum 30 minutes for just the display. That doesn't include the deprivation of property where I have to clean it up and take care of all the mess. The city grants this individual rights over my private property, but the city has no ownership control or name on the deed. So, I would like for us to resolve this matter. I don't want to go to court because civil matters can turn into criminal matters, and there is a criminal in this room. Even though he is a lawyer and knows his --."

Mayor Luke, "Alright, John, John, we have--." John Kuhlmann, "I am public comments here. He failed to do his due diligence." Mayor Luke, "When you're attacking. – You are here to speak to the governing body, not any particular individual." John Kuhlmann, "Is the First Amendment not allowed here? I am providing an update to the public." Mayor Luke, "You have also filed a lawsuit that we have absolutely no response to at this point in time." John Kuhlmann, "Well, there is a limited time to get that response in, and I would like it to be known, and that's why I am here. I am not here to cause problems. I am here to make sure that you guys understand the timelines and the--." Mayor Luke, "Chief." John Kuhlmann, "Have I done anything wrong?" Chief Jones, "You've been asked to leave the meeting by the mayor." John Kuhlmann, "Don't I have five minutes of public comments? I've only used two and a half." Mayor Luke, "You had time for public comments, and I ended it." John Kuhlmann, "Okay."

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PUBLIC COMMENTS: (2)

Jay Hale, “I have a visitation to get to, so I won’t be able to stay for the whole meeting. When I come in here, I try to be positive, and I love living in this town, and I appreciate all the work that you do. Tonight, I am expressing my disappointment in you. Two weeks ago—we look around at very capable people, and some things were brought up that weren’t handled very well. I am just very disappointed. Each of you individually are very capable, and together, you are a great group to be leading the city. Paul maybe delivered in a pugnacious manner and maybe stiff-armed that, but there were some great points in there that should be considered. You can’t fix everything in a public meeting, but something to say is we are going to take that to heart and think about it and put some mind power to it. I was just disappointed in how that was handled last meeting. I wanted to express that. I try to be positive every time I come in here. I’m disappointed in you this time. We will look at better things next time. Thank you.” Mayor Luke, “Okay, I appreciate it.”

APPOINTMENT: Jim Hess – Roadway to Sewer – Lagoon

Jim Hess, “I know some of you. I don’t know if you all know me or not. I’m a farmer. I have an easement that goes through north of the lagoon down the driveway. I am under the impression that you have an ordinance that people in Burlington have to keep their land mowed and taken care of. You can’t get down that driveway. The weeds are Johnson grass and are higher than the cab on the truck. We have to drive through that to get to my field. Why doesn’t the city, you’d think, if they require everyone else to mow it, why don’t they mow it? Johnson grass is a noxious weed. You have a big dirt pile down there that is solid poison hemlock every year. The deer come through, and everything else spreads it on us.”

Mayor Luke, “I was unaware.” Jim Hess, “Just drive down there sometime. You put those gates in a year ago. They haven’t been closed all summer because the water department says it’s too much of an inconvenience to them to close them and open them, but yet we are supposed to. We had to get keys made and everything else to fit the locks, but they never close them. When I first bought it, that gate was up at the road. I furnished the gates for it, but they never closed them. The mayor then told me to take the gates, which I did. You guys want us to close them, but the employees won’t do it. That’s all I’ve got.” Mayor Luke, “Alright, “Thank you.”

PUBLIC HEARING for Environmental Improvement Refunding Revenue Bonds 6:10 p.m.

Council Member Lenard, "I move to open the public hearing for Environmental Improvement Refunding Revenue Bonds." Council Member Ernst, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

Ryan Bjerke, “I appreciate you having us here tonight. My name is Ryan Bjerke. I am with the law firm of Chapman and Cutler. Chapman is based in Chicago, but I am out of the Salt Lake office. Tyler (Elsworth) is joining me as well. He is from Kutak Rock out here in Kansas. He has been acting as your council on this transaction and reviewing all the documents. What we have before you tonight is a request from Evergy to refund certain bonds that were issued in 1993, to refund certain bonds back in 1983 to finance certain pollution control facilities. Basically, what we liken this to is when you refinance the mortgage on your house. That’s kind of what they are doing here. They are refinancing it, extending the time out so they can keep these bonds outstanding a little longer.

“They ask for the city to do this under Kansas statute as well as under federal tax law so then they can get a little lower interest rate. It goes out as a tax-exempt bond. It’s a little lower interest rate and allows them to finance these facilities on a more cost-effective basis. That is why we are here tonight. Federal tax law requires us to have a public hearing and then under Kansas statutes, and I apologize I made a mistake in the notice, so we are asking that you also hold a special meeting tomorrow night to adopt an ordinance to authorize the issuance of the bonds and certain bond documents. We appreciate all the time and effort you’ve given us and considering this so far. We appreciate that. I’d be happy to answer any questions for you both on the public hearing side and on the ordinance tomorrow night. I will have to join by Zoom tomorrow as I will be back in Utah. I appreciate you letting me be here tonight.”

Council Member Lenard, “I have one I’d like to ask. When I saw it came across as Evergy Metro, and this is old KG&E territory, which is now Evergy Central. Why the Johnson County link?” Ryan Bjerke, “So, there are a number of owners out at the plant. Each of them has a certain percentage interest in the pollution control facilities

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including--." Council Member Lenard, "Kepco." Ryan Bjerke, "Yes, and so this just happens to be the Evergy Metro portion of the plan that they have. It could be that other entities come and do their portions. At this point, it is just the one portion." Council Member Lenard, "So, it is only a small piece of the entire bond." Ryan Bjerke, "Well, it's a small piece of the facilities. I think a number of the entities issued bonds. This is \$79 million. I think there was actually about \$100 and some odd million here and probably more from the other entities. That's why it's the Evergy Metro piece at this point. The different entities may have different times when the bonds mature, and so they will come at different times." Council Member Lenard, "Thank you."

Council Member Lenard, "I move to close the public hearing." Council Member Curtiss, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

Ryan Bjerke, "Just the one other item that we needed to take care of was the request for the special meeting." Mayor Luke, "Yes, we will have everybody sign it before they leave tonight." Ryan Bjerke, "Perfect. Is there anything else you need from me before I head out?" Mayor Luke, "I don't. Tyler?" Tyler Elsworth, "Not for Mr. Bjerke, no." Ryan Bjerke, "Thank you so much for your time and help. I really appreciate it."

APPOINTMENT: James Higgins – Sewer Issues – 916 Shea

James Higgins, "Good evening, thanks for having me. I think you all have information in your packet that I provided. I just want to clear this whole thing up, so I'll entertain any questions that you may have. There was one document I didn't put in your thing. I kind of asked Anne to print it but couldn't. That shows where the sewer placement is in the City of Burlington. If you look at it, I don't think it's placed where it says it's placed, anyway. To begin with, I will tell you that no one has told me no that they won't fix it. I will tell you that. I got that it was going to be very expensive, and I said I realized and it's also going to have an expense to me. Just to summarize what this is, the sewer that currently runs out of the building, the 918 Shea Street, runs 90 degrees out of the building. It runs across property that is owned by Jake Cherry and then angles off towards the street, which is where the main sewer is on Sanders Street.

"It is plugged up there and has been for quite some time and plugged out in the middle of that yard. The last owners didn't want to mess with it, and I talked with the Cherrys, and they certainly don't want their yard dug up if they can help it. They purchased this property later from someone else, not knowing. I did research in the county. There is kind of a perpetual easement idea there, but I am still trying to understand why the city would not have extended the sewer line on down the alley to connect to this property that is there. They did it everywhere else, but they didn't continue. So, I have about 80 feet that they didn't continue on down the alley. So now my choice is that I've got to trench 80 to 100 feet to the city's main, the sewer from my building, or somebody said you could just start it from the other end of your building. All of those are costs to me.

"I am trying to understand why that if the city had sewer that...I don't believe they just...if you look at this drawing, I don't believe it shows it stopping short. It stops short of the property line and doesn't come on out. I think I gave you a drawing that where the sewer is presently, and then I asked for the proposed sewer. However, that's done; I don't know, I am not a plumber. I did ask the city and Danny, and they have been very receptive, but I think it's eight feet down to where I'd have to connect into it even if I did trench it there. There are lots of variables here, and I'm trying to get some resolution with the city to bring that line straight on down the alley where it was. I don't know if that has to be a whole main or just a line."

Mayor Luke, "Can I ask a question? At the time the church was built, did they own the same property that the Cherry's now own?" James Higgins, "The church was built in the 1960s." Mayor Luke, "Right. Did they own that piece of property south of them between--?" James Higgins, "No, no, somebody else owned that. I don't know who it was. It's on the county's--." Mayor Luke, "In the 1960s." James Higgins, "I don't know. I didn't research that far back. I know the church didn't own that. Somebody else owned it." Mayor Luke, "Okay, I'm trying to figure out why it would have stopped there." James Higgins, "Exactly my same question." Mayor Luke, "If the church owned both of those pieces of property, then it came to the property line." James Higgins, "If I read the easement documents in there, it looks like they have been around for a while at the county. When Cherry said they brought the new sewer there, Cherry's just elected to go straight over from their house and hook on."

Mayor Luke, "I guess my... not knowing back to the 1960s when it was built who owned that piece to the south, maybe a little more investigation needs to go into that. I know there are multiple ways to solve this and

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come to a solution. You currently already have a force main sump lift pump in the building, correct?" James Higgins, "Correct." Mayor Luke, "If it went to the--." James Higgins, "It shows there where it currently comes out of the southeast corner. How big that is? I have no idea how big that is going across that yard." Mayor Luke, "I guess the issue is twofold. If you went to the existing manhole there at the corner of your property, that could probably be gravity feed and would not need that lift station, that grinder pump." James Higgins, "I don't have a grinder. I'm sorry, I just have a sump pump. It's gravity-fed to the corner of my building and goes out. So, I'm sorry, I don't have a lift station."

Mayor Luke, "Okay, so your line from the church to Sanders Street is gravity-fed?" James Higgins indicated yes. Mayor Luke, "Okay, I was under the impression when we talked that you had a lift." James Higgins, "I'm sorry, no." Council Member Lenard, "The thing I'm unclear on is if we go back and find out who owned the property, what good does that do? Will it do us any good at all?" Mayor Luke, "All it meant was at the time we installed our line, we stopped it because the property was owned--." James Higgins, "If you look at the document that is hanging down at the water department, that shows kind of where the manholes are. It shows the manhole basically straight out from my property. The manhole is actually clear back to the west at the property line. So, I don't quite understand why. I can show it to you. That's what I was asking Anne to print out." City Clerk Brown, "I did not get that email." Council Member Lenard, "West and in the middle?" James Higgins, "West and in the middle of the block."

Layouts of where the manholes are and where lines run were discussed. Council Member Van Horn, "So, to clarify, what you are wanting the city to do is to put the line out here so you can come straight out and not have such a huge line." James Higgins, "Correct. I understand I'll have to trench and put a different line in there to hook into the city, but this right here (referring to a map) is the one where it shows the manhole. It almost shows it at the end of the block." Council Member Curtiss, "This red line is blocked?" City Clerk Brown, "Yes." Council Member Curtiss, "But we don't know where, and we can't find out because of Cherry's owning the property and not wanting us to dig up there." City Clerk Brown, "It's on private property." Mayor Luke, "That is correct. And it is a private line." City Clerk Brown, "And we don't go onto private lines." Council Member Curtiss, "There is nothing we can stick down there to see it?" Mayor Luke, "Sure, there are cameras that can go in, but we don't do private lines."

Attorney Wright, "This happens all the time in the big city where something gets plugged between your house and the main, and it ends up being a \$35,000 bill that nobody is happy with, but that is the homeowner's responsibility. What you're asking to do is for the city to actually extend it out like what is on the plan so that you can tap into it. The answer to your question is, I don't think anybody knows why it is the way it is." James Higgins, "That is my question—(inaudible)." Attorney Wright, "I don't know if we can find out since it happened so long ago that it's probably going to be virtually impossible--." James Higgins, "So, I'm asking for relief from the city to bring that line on out to where I can straight across hook into it." Attorney Wright, "At the same time, you also understand it sounds like from what you were saying that you do have a sewer easement where the current line is, and so you could fix that line."

James Higgins, "Sure, I could dig up that whole lot from front to back." Attorney Wright, "You could." James Higgins, "We don't know where exactly all the plugs are at." Attorney Wright, "Well, as long as you stayed within the easement." James Higgins, "Yeah, the easement goes all the way across both of those lots." Attorney Wright, "Right, just where the easement is at. I just wanted to be very clear: you can dig up the easement." James Higgins, "The easement covers that entire line." Council Member Lenard, "How big of a line is that?" James Higgins, "So the easement covers the property to the north of the Cherry's. The Cherry's do not have an easement on theirs, so if it goes back into Cherry's lot..."

Attorney Wright, "Oh, you're saying the Cherry's lot there isn't an easement through it?" James Higgins, "It is Cherry's whole lot, but they bought this lot here." Attorney Wright, "So, you're saying there isn't an easement through here?" James Higgins, "Correct, there is one here." Attorney Wright, "I think that you would need to speak with a lawyer because that would be a civil issue at that point, at least with regards to that." James Higgins, "Well I, well whatever, if the city wants me to get a lawyer to do this--." Attorney Wright, "That's not what I'm saying." Council Member Curtiss, "No." James Higgins, "Okay." Attorney Wright, "I'm saying I can't give you legal advice because I am not your lawyer, but I think where your line currently sits would be a civil issue between you and whoever."

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James Higgins, "It appears to me it's black and white." Council Member Lenard, "We aren't making this a civil issue, I don't believe. We are trying to figure out --." Attorney Wright, "I understand that--." Council Member Curtiss, "Trying to figure out what to do to try to help him out." Attorney Wright, "Right. That is what he is asking the city to do. So, it's either you have to work it out with his neighbor on a civil issue, or the city would extend the line." Council Member Lenard, "That's true." Attorney Wright, "That's all I'm saying. Everybody thinks I'm trying to pick a fight, but I'm not." James Higgins, "I agree with that. And I realize this won't happen overnight, but I would like more investigation into it."

Council Member Lenard, "What's the length on that Danny? Do we know what the distance we would have to add into that line?" Superintendent Hawkins, "It would depend on what is going to take place. If he is going to continue with a grinder pump, you would have to come out of a force main, which means you could tap the manhole." James Higgins, "I don't have a grinder pump now." Superintendent Hawkins, "I am just talking in generalizations because it depends on what specific type of plumbing that you want. So, what we have told James is if he would like to do like Cherry and dig downstream like we tell everyone else to do, downstream of the manhole, then tie into the gravity. Like he said, it is probably eight feet deep." James Higgins, "That's what your guys told me." Superintendent Hawkins, "Then tie into downstream to gravity feed it. If you go with a sewer pump station, you wouldn't have to go as deep, but you would force it and pump it directly into the manhole, which would have to core drill the manhole, seal it, and make it tight, so surface water couldn't get into it. These are options, is what I am saying."

James Higgins, "But my question is it's about 80 feet back, so then that would be at my expense to have to trench that all the way back to hook into your manhole?" Council Member Lenard, "And what I am trying to ask is how many feet would we have to add? 80 feet? 110 feet?" Superintendent Hawkins, "I don't know that answer." Council Member Lenard, "Just to get it to the end there." James Higgins, "I'm going to guess it's about 80 feet." Council Member Lenard, "Okay." Superintendent Hawkins, "I don't know because I don't know where his personal line is coming out." Council Member Lenard, "Okay." Council Member Curtiss, "Well, we need to find out some answers." Council Member Lenard, "I'm going to suggest this; maybe the water committee could facilitate some of this, Danny, and interface with James." Superintendent Hawkins, "Yes, absolutely." Council Member Lenard, "We can figure out the distance, and some will be... we can figure out the cost to add that, what James will have, everybody will have a piece in the solution." Superintendent Hawkins, "Not a problem." Council Member Curtiss, "Sounds good." Mayor Luke, "That alright?" James Higgins, "Thanks for listening." Council Member Curtiss, "Thank you, James."

Council Member Lenard, "Can I ask when did this first come up? How long has this been on the radar?" Mayor Luke, "When he first bought the building." Council Member Lenard, "How long has that been?" Superintendent Hawkins, "Months and months ago." Council Member Curtiss, "It's been a long time." Council Member Lenard, "Is this the first time we have heard about it?" Mayor Luke, "The first time he has asked for us to --." Superintendent Hawkins, "It's the first time he has asked for this, yes. Because we actually came and helped him when he came to me, me and Tyrell Udy, came down and hooked into the manhole, and we told him we would run our sewer gravity main to see if it would help with the blockage." Council Member Lenard, "And when was this?" Superintendent Hawkins, "Oh gosh, spring?" Mayor Luke, "Yeah, I talked to Jim in like April or May." Superintendent Hawkins, "It's been some time back, but this is all new to us."

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.

Equipment Maintenance: Superintendent Schneider, "We have been doing maintenance to our department equipment to make sure those are ready for the winter time."

Services: Superintendent Schneider, "We installed a new electric service on Lynx Terrace. That was just the meter set. The customer is adding his disconnect and going on from there. We removed a service that Atmos Energy used to use for the cathodic protection on their gas main. They have updated, and they no longer need that service, so we removed it. We worked on a service in the north part of Burlington for a customer and making preparations for the changes he is doing."

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Street Light Repair: Superintendent Schneider, “We had one set of street lights not working on 2nd and Hudson, and we fixed those.”

ELECTRIC DEPARTMENT: PRODUCTION Update

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

City Hall – Generator: Superintendent Schneider, “The men did a maintenance run on the generator here at City Hall.”

Reports: Superintendent Schneider, “We have been submitting reports to KDHE.”

Winterization: Superintendent Schneider, “The men there are also doing winter preparations. We are checking our boilers. For our cooling systems, the radiators outside the plant, we do have temperature sensors on those. They automatically dial out to plant staff around that 50-degree mark, which gives us time to come into the plant and make repairs before there are any icing issues in the radiator system so they don’t freeze up. The men have checked that all out.”

KMEA Conference: Superintendent Schneider, “I attended the KMEA conference with Stan. It was Thursday and Friday after the last council. As always, it was a very good conference. Lots of good speakers. Plenty to think about on some of the outcomes of what is going on with possible changes coming about. I believe we are in good shape with that. I know everyone isn't quite so lucky, but we are in good shape.”

Generation Project: Superintendent Schneider, “On the power plant project, they are continuing to assemble parts. The control panel crew is actually going to be onsite late tonight in Burlington, and they will start on the control panel wiring tomorrow. They should be in here for a couple of weeks for them to complete that.”

ELECTRIC DEPARTMENT: Personnel – Rodney Breeze Jr.

Superintendent Schneider, “We have Rodney Breeze Jr. He has completed his first-year apprenticeship program. He did very well. His final score on his final test was 98 %. His overall average through the last year was 93% on his testing. His anniversary date was the 24th of October. I would like to recommend to move RJ to second-year apprentice.”

Council Member Ernst, “I make a motion to move Rodney Breeze from Apprentice Lineman One to Apprentice Lineman Two at the hourly rate of \$23.92, effective November 4, 2023.” Council Member Van Horn, “I second the motion.” Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

QUESTIONS/COMMENTS

Generation Project: Council Member Ernst, “What is going to be the process after the control panel gets in?” Superintendent Schneider, “Once they get the control panel wiring tied to the generator to read all of the sensors basically at that point, we should be getting very, very close to being able to start up. What they will do is they will run it to make sure that something didn’t happen in shipment and it works as it should still. After that happens, Donna Ohm with Power Plant Compliance will come in, and she will run an emissions test. It will be two one-hour runs. She will measure inlet and outlet pressure on the catalysts, and those have to be within a certain margin. She will also measure the particulates to verify that the catalyst is catching the particulates that need to be caught before being released into the atmosphere. That would be the next process coming up.” Council Member Ernst, “Thank you.”

Council Member Lenard, “Then from there, when do we go back to KPP to get dialed in?” Superintendent Schneider, “Okay, so I have visited with Kansas Power Pool. What will need to happen since we are past the summer months and then we prove our compliance and our rated capacity what will happen is KPP staff will take that to the KPP Energy Board of Directors, explain the situation, and they will make the decision to approve us to go ahead and get our capacity payments. Then, when we get into the summer months of 2024, what we will do is verify that with our annual testing, which will also put us in compliance, with lack of a better word. We will prove our capacity is putting out at the rated KW. They will pay us based on that KW for our annual payments for 2024.”

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Council Member Lenard, "To summarize though, there will be potentially be some kind of reconciliation if the output is...." Mayor Luke, "Is not what it's designed for." Superintendent Schneider, "Yeah, and that is what we will discuss if that's what does happen." Council Member Lenard, "Okay, but what I would like to make sure of is that we get this on KPP's agenda now, and we make sure we start getting these payments." Mayor Luke, "Until we actually have it run, once we have it run, then we can go to KPP and say here it is." Council Member Curtiss, "How often does that board meet?" Mayor Luke, "Every month." Superintendent Schneider, "Every month. So, probably what I think might be helpful, maybe someone from the electric committee or Stan and I; Stan has a very good relationship with them as well, obviously, that we would actually go to their board meeting should they have any questions for us." Council Member Lenard, "I'd just like to see it happen sooner rather than later. If we can at least get it to say hey, this is the formula that we are going to use, and we will reconcile." Mayor Luke, "We are going to the rate forum Friday, and I will talk with Colin Friday and see how soon we can get it on their agenda." Superintendent Schneider, "We are getting really close. So, it is all coming into play."

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, attending safety meetings, customer call-outs, and concerns.

Water Leaks: Superintendent Hawkins, "We have had tremendous water leaks all over town because of the dry weather, and now the rain is coming. I am very indebted to Mark and his crew; without those guys.... I personally want to thank each and every one of them. We couldn't have gotten it done without them. I am very grateful. I appreciate that."

Equipment Maintenance: Superintendent Hawkins, "We hauled our skid loader up to Case Equipment in Topeka. We are having an issue with the left cylinder on the skid loader. We took it up there to have him fix it and service it as well."

Winterization: Superintendent Hawkins, "We have been going around to our lift stations, water towers, and water treatment plant doing winterization and maintenance inside. We are getting ready for winter. Making sure heaters are coming on. We have been purchasing a few heaters as well."

New Lights: Superintendent Hawkins, "I'd also like to thank Alan. He came in and got us our lights for our lime room and for our ferric room as well. The guys went out today to get them installed."

WATER AND WASTEWATER: Production Update

General: Superintendent Hawkins, "The plant is running fine."

Water Usage: Superintendent Hawkins, "The water usage has gone down to 1000 gallons a minute. The big rain that they had up by Emporia, about 10 inches of rain that is, that was a huge help to us because the usage has gone down tremendously. We have been able to slow the plant down. We have been averaging around 480,000 – 500,000. We have slowed it down, which has really helped with Cody Cowan. He is a guy that we have been training in-house, and he is coming on really good and understanding that plant. We are going to keep him plugging away. I am really pleased with his advancement with what he has going on."

Laboratory Certification: Superintendent Hawkins, "I also got a letter from KDHE on our laboratory certification. I am trying to get it completed. It is due by December 1."

QUESTIONS/COMMENTS

James Higgins Appointment: Council Member Lenard, "Just one comment: if you could go ahead and start pulling together data on what this line would cost, then once you get that all done, let us know, and we will schedule a meeting with James and kind of get this ball rolling." Superintendent Hawkins, "Absolutely."

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.

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Culvert Replacement: Superintendent Davidson, “We have installed several street culverts. We installed a new drive culvert on Jarboe. We installed a new culvert on Kennedy and Wilson.”

Winterization: Superintendent Davidson, “We have been winterizing equipment.”

Department Assist: Superintendent Davidson, “We did some welding for the police department. We helped hang the Veterans banners for Kevin.”

Projects: Superintendent Davidson, “We have been working on some projects in the shop.”

Water Leak Assist: Superintendent Davidson, “As Danny said, we had assisted him with several water leaks.”

Alley Repair: Superintendent Davidson, “We also worked in an alley downtown. It was a water issue that was caused by the gas company. They raised the alley up, and water couldn’t get away from the building. We went down and bladed the alley and resolved the problem with the land owner.”

STREET DEPARTMENT: PERSONNEL- Advertise to Hire

Superintendent Davidson, “I would like to ask permission to advertise to hire two positions. One would be an equipment operator, and the other one would be a street foreman. Richard Mason is retiring in December after 20 years with the city. He had about seven years with the Police Department before coming to the Street Department. He was very instrumental in getting projects done. He is really going to be a hard person to replace. I would like to attempt to replace him. With the inclement weather that we could be having by December, I would like to get somebody trained as an equipment operator and get them. I know this isn't usually the norm, but I am asking that we can do this.”

Council Member Van Horn, “I move to authorize Superintendent Davidson to advertise for a heavy equipment operator and foreman until filled.” Council Member Ernst, “I second the motion.”

Council Member Lenard, “So, I am guessing this has been through the committee, and we have the budget.” Council Member Davidson, “Yes, really, nothing is changing. My plan is succession planning. My thoughts are to move one of our employees up to foreman, and then I will have an opening for the equipment operator, so we will maintain our same staff.”

Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

QUESTIONS/COMMENTS

Council Member Curtiss, “Thank you for the cones.” Superintendent Davidson, “Absolutely, anytime.”

POLICE DEPARTMENT: Update

General: Chief Jones, “I’ve been staying active.”

Activities/ Cases: Chief Jones, “DUI arrests and a couple of domestic violence incidents that we have made arrests on.”

Halloween Parade: Chief Jones, “We helped out with the grade school Halloween parade yesterday and then the trunk or treat downtown yesterday. We had a pretty good turnout with as chilly as it was.”

Personnel Training: Chief Jones, “Victor Burr is scheduled to graduate from the academy a week from Friday, November 10th.”

City Court: Chief Jones, “The day before that, we have city court on the 9th. We are up over 2,550 cases assigned to our department for now.”

Nuisance: Properties/Vehicles Update: Chief Jones, “On Monday, the mayor went to the county commission and asked them to waive landfill fees for the 507 S 6th. They agreed to do that. And if you haven’t been by today, demolition has started on that house.”

PARKS DEPARTMENT: Update

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

BOOK 26

November 1, 2023

Tree Trimming: Superintendent Boyce, “We have been trimming trees.”

Winterized Restrooms: Superintendent Boyce, “We have all of the seasonal restrooms winterized, the sprinkler systems, and the livestock barn at Kelley Park.”

Hazardous Tree Removal: Superintendent Boyce, “Monday the 6th, the hazard tree removal will start taking place.”

QUESTIONS/COMMENTS

Veterans Banners: Council Member Curtiss, “Thank you for the banners.”

Hazardous Tree Removal: Mayor Luke, “How many trees are we taking down?” Superintendent Boyce, “You didn’t ask me when I had it with me. 13-14, I believe.” Mayor Luke, “Okay, I couldn’t remember either.”

FINANCE: Claims Ordinance & Payroll Ordinance

| | | | |
|----------------------|---------|----|-------------------|
| a. Claims Ordinance | 2023-21 | \$ | <u>115,060.78</u> |
| b. Payroll Ordinance | 2023-22 | \$ | <u>101,011.34</u> |
| | TOTAL | \$ | <u>216,072.12</u> |

CLAIMS 2023-21: Council Member Lenard moved to approve City of Burlington Claims Ordinance 2023-21 for the amount of \$115,060.78 for payment of city bills. Council Member Curtiss gave the second. City Clerk Brown, “The larger expenses we have tonight are Advantage Computers Jayhawk Software \$11,445.00, Core and Main \$15,504.04, Stanion Wholesale \$6,628.32, U.S. Lime Company \$5,337.97.”

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 2023-21 passed unanimously, 5:0.”

PAYROLL 2023-22: Council Member Curtiss moved to approve City of Burlington Payroll Ordinance 2023-22 in the amount of \$101,011.34, as presented. Council Member Ernst 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 2023-22 passed unanimously, 5:0.”

PLANNING & ZONING: Update

General: City Clerk Brown, “Normal duties, and he is gone to training this week.”

OTHER COMMITTEE OR COUNCIL BUSINESS

LEGAL DEPARTMENT: Update

General: Attorney Wright, “I don’t have anything except for what is to be discussed in executive session.”

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 October, we will be sending \$997.38 in delinquent accounts to the Kansas set-off program for collections.

Reports: City Clerk Brown, “You have in your packets the utility revenue and sales tax reports and 3rd quarter financials.”

Closed: City Clerk Brown, “City Hall will be closed on Friday, November 10th in observance of Veterans Day, which is Saturday the 11th.”

Day Light Savings: City Clerk Brown, “Daylight savings time starts at 2:00 a.m. Sunday morning, November 5th. Don’t forget to set your clocks back.”

Special Meeting: City Clerk Brown, “A reminder about the special meeting tomorrow, November 2nd, at 5:15 p.m.”

Elections: City Clerk Brown, “Elections are next Tuesday, November 7th, so don’t forget to get out and vote.”

QUESTIONS/COMMENTS

BOOK 26
November 1, 2023

Special Meeting: Council Member Lenard, "Are we going to do this Zoom, or do we need to physically be here?" City Clerk Brown, "We are going to be here, but there is a Zoom link if you cannot make it." Tyler Elsworth, "I have a question." Mayor Luke, "Sure." Tyler Elsworth, "Anne, did you get a chance to get the signatures to that request for the special meeting?" City Clerk Brown, "We will sign them." Mayor Luke, "They haven't signed it yet, but I have it right here. They will before they leave." Tyler Elsworth, "That is perfect. That was one question I had. The second question I had is something just to put on everybody's radar. It is unusual where the city issues bonds for the benefit of a private company as we have here, and so that raises questions of conflicts of interest. So, one of the things that I would ask that the governing body members think about between now and our special meeting tomorrow evening is whether they or any of their spouses work for Evergy or have any connection to Evergy that might be like a contractual relationship, employee-employer relationship, or if you own any Evergy stock. I just raised that because part of the city proceedings when we close this bond issue with Chapman and Cutler later this month will be a certification that there is no conflict of interest present. I am guessing that there probably isn't, but I wanted to put that on everybody's radar. If there are questions, I am happy to answer them, but I wanted to put that out there before tomorrow evening."

Mayor Luke, "The stock with respect to Evergy is if you own it directly in their name, not if it's through a mutual fund or any other?" Tyler Elsworth, "That's exactly right."

REPORT BY CITY OFFICERS:

MAYOR'S COMMENTS

Executive Session: Mayor Luke, "At this time, I would accept a motion to enter into executive session for a period of seven minutes."

Council Member Lenard, "I make a motion to enter a 7-minute Executive Session for consultation with an attorney on matters that would be deemed privileged in an attorney-client relationship per K.S.A. 75-4319(b); with the Governing Body, Mayor Luke, City Attorney Wright, and City Clerk Brown present." Council Member Ernst, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

Mayor Luke, "We will be back in seven minutes, giving you all a minute to leave."

Entered 6:56 p.m. Exited 7:01 p.m.

Mayor Luke, "Let it be known we came back into open session at 7:01p.m." Attorney Wright, "So I wanted to discuss a little bit of the request by the school district with regard to the deed restriction and also the contractual restrictions with regards to them developing further on the Floral Park site. What I am picking up is the city council is generally okay with basically eliminating the restrictions. I believe that we probably need to have some title work done just to make sure that there isn't something there that I didn't see. I would probably request the school district go ahead and pay for that since they are asking for that to happen. It is not going to be very much money; it would be \$50 to \$100 or something like that. We need to get that title work ordered, and then I will prepare an ordinance for consideration by the city council as soon as I can. It will probably be in December with regard to that which would authorize the mayor to sign a quick claim deed of the site over to the school board and also eliminating any of those contractual restrictions, assuming that the title work comes back and there isn't any reason why we shouldn't do that. Does anyone have any questions for me with regard to that part of it? Is everyone okay with me proceeding that way?"

Council Member Curtiss, "Yes." Attorney Wright, "Thank you." Council Member Lenard, "Do we need a motion?" Attorney Wright, "No, we don't need anything. I will have the ordinance prepared, and I will work out with Anne or somebody on contacting the school district to see if they are okay with paying for the title."

Executive Session:

Council Member Curtiss, "I make a motion to enter a 30-minute Executive Session for consultation with an attorney on matters that would be deemed privileged in an attorney-client relationship per K.S.A. 75-4319(b); with the Governing Body, Mayor Luke, City Attorney Wright, Tyler Elsworth, and City Clerk Brown present." Council Member Ernst, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

BOOK 26
November 1, 2023

Mayor Luke, “There will be no action taken after this, and there will be no action taken after the next executive session, so you are free to leave if you so choose.”

Entered 7:03 p.m. Exited 7:33 p.m. No action taken.

Executive Session:

Council Member Ernst, “I make a motion to enter a 5-minute Executive Session for consultation with an attorney on matters that would be deemed privileged in an attorney-client relationship per K.S.A. 75-4319(b); with the Governing Body, Mayor Luke, City Attorney Wright, and City Clerk Brown present.” Council Member Curtiss, “I second the motion.” Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

Entered 7:36 p.m. Exited 7:41 p.m. No action taken.

Executive Session:

Mayor Luke, “While Anne is making a copy at this time, I accept a motion to enter into a 10-minute executive session.”

Council Member Curtiss, “I make a motion to enter a 10-minute Executive Session for consultation with an attorney on matters that would be deemed privileged in an attorney-client relationship per K.S.A. 75-4319(b); with the Governing Body, Mayor Luke, City Attorney Wright, and City Clerk Brown present.” Council Member Ernst, “I second the motion.” Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

Entered 7:44 p.m. Exited 7:54 p.m. No action taken.

FUTURE AGENDA ITEMS:

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|---|--|
| GENERAL: City Debt - How to fund projects Expense Tracking on Projects Budget 2024 | GAAP - Infrastructure Capitalization City/County Grant Funds – Discussion on Matched Funding Council Discussions on Evaluations, Succession Planning, etc. |
| ELECTRIC DEPARTMENT: Power Plant - Additional Generation | <i>RICE NESHAP Compliance</i> |
| PARKS DEPARTMENT: Events in Parks (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 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) |
| 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 2023 Asphalt Project |
| WATER & WASTEWATER DEPARTMENT: 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