

**BOOK 26**  
**June 7, 2023**

**BURLINGTON CITY COUNCIL REGULAR SESSION 6-7-2023**

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, June 7, 2023. Mayor Luke called the meeting to order.

**THE PLEDGE OF ALLEGIANCE**

**ROLL CALL:**  Stan Luke, Mayor

Council Members present:

<input checked="" type="checkbox"/> Jerilyn Curtiss	<input checked="" type="checkbox"/> Maxi Berryman	<input checked="" type="checkbox"/> Lewis Lenard (President of Council)
<input checked="" type="checkbox"/> Lila Van Horn	<input checked="" type="checkbox"/> Thomas P. Tschantz	<input type="checkbox"/> Martin Ernst

Superintendents Present:

<input checked="" type="checkbox"/> Kevin Boyce (Parks)	<input checked="" type="checkbox"/> Alan Schneider (Electric)	<input checked="" type="checkbox"/> Mark Davidson (Street)
<input checked="" type="checkbox"/> Doug Jones (Chief of Police)	<input checked="" type="checkbox"/> Danny Hawkins (Water/Wastewater)	

Also Present:

<input checked="" type="checkbox"/> Anne Brown (City Clerk)	<input checked="" type="checkbox"/> Mary Mader (Administrative Assistant)
<input checked="" type="checkbox"/> Philip Wright (City Attorney)	<input checked="" type="checkbox"/> Jimmy Hugunin (Zoning/Grants Clerk)
<input type="checkbox"/> Greg Holmquist (Assistant City Attorney)	<input type="checkbox"/> Kerri Weltha (Deputy City Clerk)

**Media Present:** Kourtni Christensen (Coffey County Republican)

**VISITORS:** Steve Gifford, John Kuhlmann, Tom Hugunin, Ronda Gilbert, Paul Abendroth, Shelly Underwood, Carrey Spoon, Wade Bowie, Bill Parker

**POLICE DEPARTMENT**

Chief Jones, "I'd like to introduce our new police officer Victor Burr to the council. He started officially last Friday."

**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 Clerk Brown, and Attorney Wright present." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

Council entered Executive Session at 6:05 p.m. and exited at 6:15 p.m. No action was taken.

**AGENDA:**

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

**MINUTES 5/17/2023 & 5/24/2023:** Mayor Luke, "You have before you the draft minutes of our regular session of May 17, 2023, and the special session of May 24, 2023. Are there any additions or corrections?"

*Council Member Curtiss, "I move to approve the draft minutes of May 17, 2023, & special session of May 24, 2023, as presented." Council Member Tschantz, "Second." Motion unanimously carried, 5:0.*

**APPOINTMENT: Steve Gifford – Street Closure – St. Lawrence between 8<sup>th</sup> and 9<sup>th</sup>**

Steve Gifford, "We are going to be doing our party and fireworks. We want to block off the street as we normally do at the same time as last year from 7:00 p.m. to 11:00 p.m. so we have plenty of time to clean up afterwards. I'd be happy to answer any questions if you have any. Mayor Luke, "Any questions?"

*Council Member Lenard, "I move to approve Steve Gifford's request to block St. Lawrence Street between 8th and 9th on July 4, 2023, from 7:00 p.m. to 11:00 p.m." Council Member Curtiss, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 6:0.*

**APPOINTMENT: Water Rate Analysis**

Shelly Underwood, "I have been working with the City of Burlington, the water committee, and Anne for a few months here. We basically have been reviewing the city's revenue versus expenses for your actual 2022

## BOOK 26

June 7, 2023

expenses exceeded just for the water utilities. We did a comprehensive rate analysis. Sorry, I'm overwhelmed by the amount of people in the room. So, I'm Shelley Underwood with Midwest Assistance Program. I'm the state field manager for the state of Kansas. In your packet is actually a brochure that says who we are and what we do. I have one of my coworkers, Carrie Spoon, here with me. She is from Yates Center. So, if MAP's staff continues to work with Burlington Carrie will actually be the project manager that works with you guys.

"On the left side of your packet is part of the analysis that we had done. I'll show it to you here. Each of you should have one. It should look like this. After working with the water committee-- and we did not include the entire analysis for each council member even though you are welcome to review it and anybody else that wants to review the outcome. It's about 35 pages long and it's extremely detailed and extremely difficult to understand if you don't have a couple of hours to sit down and go through it. So, after working over the past couple of months we felt as though there were a couple of solutions for you guys. I actually don't consider the cover-page page one.

"So, the next page talks about why you would want to do a rate analysis and the ultimate purpose behind it. It shows you guys your water consumption from 2016 to 2022 and then your previous analysis that my predecessor, Philip Fishburn, did from 2011-2016. In comparing your guys' water sales, the city has lost about 31 million gallons of water sales annually over the last five years. So, your revenue is all based off of water sales and I am not sure what happened here in the community, if you lost a business, or what is it, but 31 million gallons is substantial in the amount of revenue you are generating. In 2016, they did the rate analysis and you guys adopted the current rate structure that your bulk sales and your residential sales are based off of. It did create a new revenue for you guys to maintain as you had been. With the loss of sales, you are actually showing about a \$131,000 deficit in your water fund to actually cover your annual expenses.

Maybe looking at the rates more than every five years would probably have made you guys more aware of this faster but.... It was about 2016 when your sales decreased from 93 million to 70 million and that just continued to decrease on your residential side. It goes from 70 million in 2016 to 63 million in 2017 65 million in 2018. When we look at your water sales with this particular tool we don't base it off one year, we base it off of a five-year running average. We take your highest annual sale and your lowest annual sale and then we kick them out and we take an average of three remaining years. That's why you can kind of see these lighter yellow boxes on this particular table. Those were the two that we kicked out then took the average. It is a lengthy process to get to the point that we are at now.

"So, page 2 shows you the breakdown of expensive versus revenue, your total expenses for the water utility were 1.3 million roughly. Your total revenue was 1.18 with a deficit of \$140,000 in your water utility for 2022. That is your actual figures, your actual numbers, that would be in your budget, it came right out of your utility billing system. On pages three and four are two different alternatives for increasing your rates. When you think about increasing your rates you need to consider your base rate which is a flat fee that is charged to every customer in the city. So, it's basically per EDU often there is no water provided with your base rate. Some people call it your access charge or fee. It is just to be a customer of the utility, you pay, say \$25.00. Your current base rate is charging \$21.35.

"Then there is a consumption charge. So, your base rate is fixed and it doesn't fluctuate. We know that we have 1,147, something like that, EDUs here in town. That revenue will be consistent. Then you have variable rates so that is based on sales. Your consumption whether it goes back up to that 90 million gallons or stays down around that 65 million that would be what your per 1000 gallons revenue would bring in. Right now, you guys are basically charging \$4.84 per 1000 gallons. These two alternatives in this very brief five-page document basically give you an example of what if you increase by \$1.70 a 1000 (gallons) and \$2.00 a 1000 (gallons). If we increased our base rate from \$21.35 to \$25.00. Now, I will just say, that the first time that I was going to be here I provided a whole bunch of other alternatives, and really the sky is the limit. You can say, let's increase the base rate and decrease the consumption charge and there are just alternative ways you can look at it. The bottom line is that you need to figure out a way to cover expenses with that charge. So, do you guys have any questions?

"In your packet, I did include the full analysis. This is the full analysis and you guys' utility billing is amazing. You break it out into distribution, storage, admin, and office. Your records are very very good. So, it's several pages long which fully supports all the different solutions we looked at. There is a difference in one of the alternatives that provides a different rate for your rural water district and your utility customers. That could be

## BOOK 26

June 7, 2023

justified by the water committee or by anybody that does rate analysis after completing that because your rural water district makes up 58% of your expenses and your residential customers make up 42% of your expenses. Whether or not you would want to have that rate different for your rural water sales versus your utility customers is completely up to you guys. The rural water districts are 58% of your overall expense though."

Mayor Luke, "And this provides us with an expense ratio over 1.1?" Shelly Underwood, "That is correct. The last two alternatives will show you what the ultimate revenue would be. Basically, page three shows a \$220,000 profit roughly and page four shows a \$242,000 profit roughly. It is really really hard to fully stand behind that because it is based off of water sales. So, if we have a really wet spring, fingers crossed, then your water sales might go down. If you have a really dry and hot spring and summer then your water sales might go up. So, that portion is not something we can easily predict."

Council Member Curtiss, "And we do want an operation ratio of at least 1.1." Shelly Underwood, "I think so, yes." Council Member Curtiss, "Well, and in 2022 we had 2.889 and we were negative." Shelley Underwood, "Yes, substantially. Anne has all the tools. This is something that might just be a starting point for you guys to start going back and reviewing it annually or every two years. If you needed to go back and lower it because your sales do go up or new business comes to town then there is nothing that says that you can't do that. You just shouldn't operate in a deficit." Council Member Curtiss, "And we have discussed looking at it yearly."

Council Member Lenard, "So, are we ready to jump over to the committee's recommendation?" Mayor Luke, "Go ahead." Council Member Lenard, "So, I'm going to the presentation page three, option A. It was the 1.168 ratio. Then the page four with the ratio of 1.183, I'll call that option B. The committee's recommendation is to proceed with option A at the 1.168 ratio. I'll pause there. There are several recommendations to go with that. Then develop the timeline to roll this out where we would adjust annually. When we looked at the last five years it was like 15% which averaged about 3% a year but when you make a 15% jump that is pretty incremental. We need to get back to adjusting this like we do our trash rate and our CPI. We are wanting to come up with a schedule that won't impact city hall where we adjust these annually."

Mayor Luke, "Is the committee's recommendation to go with alternative A at this point in time or is this still something for the whole council to evaluate?" Council Member Curtiss, "It was our recommendation to go with A." Mayor Luke, "Okay, are there any questions for any of our presenters?" Council Member Lenard, "We will need to take probably a month or so Stan to get the ordinance written up and socialize this." Mayor Luke, "At this time, what we will do is get Philip involved on this ordinance and get all the numbers in there and at that point in time go back to this and then approve the ordinance that this goes into effect with. So, all the committee was looking for tonight was the recommendation to go ahead and move forward with this alternative for A and prepare the documentation to support that for the ordinance?" Council Member Curtiss indicated yes. Mayor Luke, "Does anybody disagree with that process? Hearing no disagreement, Philip, you and everybody can move forward with the ordinance and get it in place and we will address it when it's available." Attorney Wright, "I will start working on it." Mayor Luke, "Thank you, Shelly."

### **APPOINTMENT: Ronda Gilbert - Housing Authority**

Ronda Gilbert, "I think you all have a packet that I brought in earlier to be distributed. I have some board members here. We want to come and kind of talk to you a little bit about our project. I don't know if all of you know about it. We bought some property a couple of years ago out here on Lynx and Cross and we wanted to develop it out and everything. That is five acres that you'll see on the map. It is city around it but the five acres are in the county. We were talking with some developers and stuff that wanted to come and look and consultants on funding that's coming from the state and everything on developing that out. My problem was I didn't have it zoned the way I would need it for multifamily. There is also a picture in there that kind of tells what our phases are that we would like to possibly go with. We went and got the zoning because it was in the county, so we wanted to do the steps right. We went to the county zoning board, presented our case, they went over it, then they recommended it go to the commission.

"I went to the commission with it and showed them. In my file which I also put in the file to get the zoning started, I had to make sure all the utilities were correct and everything. There were some options that Carl Lee had given us. Of course, one was to try to get the city to annex our property in and for us to get the sewer and water. We knew when we bought the property that there were some problems with the utilities. So, who better to take

## BOOK 26

June 7, 2023

that challenge on than to get the housing authority to do it? For our first phase would be eight apartments with a clubhouse because that is part of our grant; it's something that we need to do. We presented that to the commission. They were not against it but they wanted to kind of know what the city was thinking. I said I had to go to the county first and then my second stop would be here.

"They suggested that I come in and talk to you guys about possibly opening that up and maybe annexing it in and see how we can work together. I did have a meeting with the department heads, Jimmy, and Lewis. We discussed what my next steps are and present them correctly. I want to do what needs to be done and where we are going with this. So, they said a developers agreement needed to be signed and we talked a little bit about things like that. Do you have anything, Mike?"

Mike Skillman, "Well, like she said we are trying to work together, you know. We all know, you guys as well as anybody know, that we are getting blessed with an opportunity to bring some people into our community through possible projects, possible development at Beto, and everything. So, housing is a problem. It's a problem now without more people coming. We, at the Housing Authority, are really going after every dime we can get a hold of to try to get housing in here whether it's single-family multi-family, or whatever it is. The reason we are really pushing the multi-family is because that is what the first grant was that we were able to go after. She is going after many more already; some single-family and multi-family. In order to make this happen at that piece of land which we have we know there are some issues but it is nothing that we can't work through as long as we can work together.

Ideally, we would love to work with the city and have city utilities. One of the deals at the county is nobody wants a lagoon out there and we are not going to do that. I'll tell you right now. We are not going to junk up a neighborhood to try to better our own purpose. We want to be good stewards to the neighbors. We want to work it out however through some engineering and different things. Back when we did the Christian church, I can't remember maybe seven or eight years ago, I did all that work there. I issued all the elevations. I know what the sewer system is. It can be put over there but it will take some rework. When we did the Christian church, we put a four-inch line just to get the church up and running because otherwise, we would have to cut the street. It gets more intense into making it happen. It wasn't justifiable for just a church.

"So, we put a four-inch line in for 300ft, they put in a small lift, and that got them going. Going over to the other property we need to get engineers involved and get it designed and everything. Come into one of the main manholes there at the street and run that over there closer to our property over there where we could be able to hook on. Not only would we hook on but Payne's and all the others that live over there are hooked on the 4-inch now. So, technically we would be trying to bring the sewer system up to better specs anyway. Plus, the land right north of the meadows cannot be serviced right now because it has to be serviced off of a four-inch line. So, there are a lot of pluses by trying to work this out. Not only do we open up our corner we open up the property to the north; it ties the Christian church in and who knows where it goes from there. It's something we would like to work with the city and get the utilities and all the stuff that we need to make this happen. I guess basically what we are after is your blessing that you'll work with us. We will try through engineering and things to get the best option we can to make this happen. That is what we are really after. The county is willing to zone it. We need that and we need it badly to zone it so we can keep in our time frame with our grant. We have to meet certain criteria and if we fall out of that criteria then we get kicked back a year. We are kind of on a timeline too. They move fair pace but at the same time if we have an, 'oh what,' moment then we get kicked back.

"So, we are trying to be progressive, trying to get our stuff done, trying to make it a--. Trying to improve the city, literally, trying to improve our community. If anybody knows – when people come into this community, they don't go look for a house immediately. They usually try to find an apartment. If you can get them in here in an apartment and then get their kids in the school, you have an 86% chance that you are going to lock them in here for the duration of the kids going to school. If we have no place for anybody to go Emporia is going to make it happen, Ottawa is going to make it happen, and we are going to be sitting here four- or five years from now in the same deal we are right now. We are trying to be progressive. Everybody knows kids help our school system. If we don't bring in younger people, we know wolf creek is...we missed a huge advantage out there when they just rolled over here seven or eight years ago and not picking many of them up. They live in Ottawa and Emporia. Young people with kids. I know a lot of them. Some of them even went to school here and we missed them.

## BOOK 26

June 7, 2023

“So, we really need to and want to work with the city. There are other people that are going to be coming to you also that are going to be looking to help push houses in this community. I am working with the city of New Strawn; I am working with every town in this community actually. I sent out a deal about three or four months ago trying to get everybody to sign up for the grant program going through the state of Kansas. I spent a whole day, just took it upon – because I’m working with the grant writers that are writing the grant for the Beto deal. In meetings with them oh yeah there's money there and money there. We have just got to get our ducks in a row.

“So, I took it upon myself to get this out so the cities would at least be tied into that deal. Let’s start moving forward and try to get as much money as we can. You also have the advantage because the state knows it is getting ready to dump money into this project, that also puts us at the forefront of they know we need housing. So, when that stuff comes around, we will have a better ability to take some of that money because they know we are going to need it to take on what’s coming. It’s another one of them deals pushing and getting our name out there and applying as much as we can in order to pull as much as we can. That’s just another spiel of what’s coming and what we could try to do to work together to not only do these apartments but way more.” Council Member Curtiss, "So, you are requesting we look at water, sewer, and electricity to this area?" Ronda Gilbert, "Well, we want the sewer and the water. I know 4-Rivers has the electric."

Mayor Luke, “And Rural Water District 2 has the water. We are in the process of talking with Rural Water District 2 to determine whether they, because we have stuff all around them, whether they want to do it or sign the documents to serve the water. Later on in tonight’s meeting, we are going to discuss the ordinance associated with the restriction of going outside the city limits with the sewer system. If we modify that ordinance then we would be able to serve the sewer to the property. That doesn’t require anything other than a change of our ordinance and the governing body to agree to it. We will work toward that.

“If we need to, we can fight the fight at the KCC because 4-Rivers is designated for the service for the electric side for everything outside of the city limits in 2018. If we meet the 11 requirements that they have then we have a chance of being the service for the electric side. If it stays in the county the developer’s agreement is not a requirement because you are in the county and their jurisdiction rules. We can supply the sewer and if Rural Water District 2 allows us, we will serve the water. We will gladly work in that direction and as far as I know, the governing body is willing to work in that direction. I am not saying we can get the final answer tonight but we are going to have a good discussion on it towards the end of the meeting. I realize that is the key thing. It totally changes the density of housing around the city limits. We are interested in having people as well as everybody else is. It means more for our businesses more for our schools and more for a little bit of everything.”

Mike Skillman, “You can kind of look at us like the guinea pigs of getting through this first deal because there are going to be more coming.” Council Member Curtiss, “Somebody has to do it.” Mike Skillman, “We will step up and take the beating.” Mayor Luke, “Once we address the issue and it’s in the ordinance then there isn’t anything we have to do after that.” Mike Skillman, “That would be awesome.” Mayor Luke, “I have been to KCC before. We are willing to fight the fight with them if we have to on the electric.” Council Member Curtiss, “Okay, phase one, eight units, two stories. How many bedrooms?” Ronda Gilbert, “We are going to do two and three bedrooms in this area.” Council Member Curtiss, "Good, I was wondering when you were talking about bringing families what the size of them were." Ronda Gilbert, "Three bedrooms are just like gold. I have been at the housing authority for 23 years and I have never seen our rent guide so low for so long, except for outage time. It's just crazy." Mike Skillman, "And we aren't in an outage." Council Member Curtiss, "Right, thank you."

Mike Skillman, "So, if anybody knows what happens during an outage which you all do, you've lived here long enough to know, you know. We do have some people here that are here for some work at Wolf Creek because we have some stuff at the RV Park and we have a decent amount of people here for this Wolf Creek deal but it's nothing like outage time. Again, thank you for your time, and surely, like I said, there will be a lot more to come." Mayor Luke, "If you want to stick around until the end of the meeting and listen to our discussion that would be great, or if you want to leave that's up to you. You'll get all the information anyway."

### **APPOINTMENT: County New Parking Lot – 6<sup>th</sup> and Neosho – Jail Project**

Tom Hugunin, “Parking is progressing. There was some concern about the large canyon that was created for lack of better terminology at the moment. We are addressing that, we presented that to the engineer, I’ll take the heat on that one. I guess my focus was on the parking stalls and the ADA and I didn’t pay much attention to what

## BOOK 26

June 7, 2023

was happening down towards the creek. We have since approached the engineer. I think Wade got in contact with them late this afternoon.” Wade Bowie, “Not the engineer, the River City who is the construction manager and he has been working with the engineer and then Killough construction. We are just waiting on a revision to be designed to present to the commissioners for a proposed change order.”

Tom Hugunin, “What that is going to entail is basically is there is not going to be a ditch when it’s done. That’s pretty much what I told them in last Monday’s meeting from Neosho Street to the creek, we own the ditch. It will look like 14<sup>th</sup> and Alleghany, there is a big ditch over there. I don’t like big ditches so. That wasn't the plan to create a big ditch, well my thoughts anyway. I think things have been going short fused, if you will, where here’s a drawing one week, bids in two weeks, you know. With any project, you are going to have change orders.”

### **PUBLIC COMMENTS:**

John Kuhlmann, “My name is John Kuhlmann. I presented myself to you guys last year after the Gifford's party. I am a little disappointed that you guys went ahead and blanket-approved it as a block party as we all know it's not just a block party. It has a public fireworks display but they publicly advertise for the public to come and sit and watch. You guys block roads, and obstruct the roads, against city code 13-102a that states, 'any obstruction of the road has to be either approved by city ordinance or by public necessity,' and a public party is not a public necessity. I have \$20,000 in damage from last year's party alone that was corrected; verifiable through my insurance company. I presented a claim to you guys on May 26<sup>th</sup>. I failed to hear back from it. I see you guys are taking into consideration changing the permit code that pertains to public displays. I have yet to see what that is.

“I hope it is a positive change to include all fireworks instead of just commercial-grade fireworks because I have shown through my claim that a professional-grade magnitude show can be achieved through the commercial-grade fireworks you can buy at the firework store if you take hours of time to set it up, line it out, like a professional show. It damaged my home, it damaged my vehicles, and it assaulted me personally. I stood outside and was rained on by debris weighing up to one ounce. I have sent physical proof to you guys. I still have all of that physical evidence as well that I am either waiting to present to you guys in a manner that we can settle on mutually or through other matters if we have to go down that road.

"I have taken the appropriate steps to further those actions with my claims. I've submitted to you guys, which was 65 pages in length, which includes colored photos and time-stamped video marks, of the insanity that was permitted to go out behind my house since we have complained about it since 2018. It has assaulted my personal property, damaged my property, assaulted my personal being, and my children who at the time of the first one age one and three and now they are ages three and five. So, you have now approved for Steven Gifford to block the road without a city ordinance or public improvements so he can put on his 45-minute public fireworks display that is going to assault and damage my person and my property. I hope you guys maybe take into reconsideration after whatever it is that you are going to change with the ordinance pertaining to public displays. I am very disappointed that you guys went ahead and approved that knowing that it caused damage last year and assaulted persons.”

Mayor Luke, “Thank you.”

### **ELECTRIC DEPARTMENT: Larry Paine**

Superintendent Schneider, “I’d started off today with Mayor Luke in Hillsboro for a retired City Administrator and KPP Energy Board of Director Larry Paine had passed away. I’d like to say he was a very good supporter of KPP and the municipal world. He did many good things. Larry was a great guy.”

### **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.

**Line Locates:** Superintendent Schneider, “We are still doing many line locates.”

**New Service:** Superintendent Schneider, “We installed a new service in the apartment above 102 N. 3<sup>rd</sup>.”

## BOOK 26

June 7, 2023

**Pole Attachments:** Superintendent Schneider, “Annually we count our pole attachments of which Mediacom and century link are attached to our structures. So, we get an annual count of that and turn it in for an annual payment.”

**New Service:** Superintendent Schneider, “We did install an area light in the 1300 block of Neosho Street. We replaced a service pole in the 800 block of South 6<sup>th</sup> that had fallen over in the wind.”

**County New Parking Lot – 6<sup>th</sup> and Neosho – Jail Project:** We have been busy with the courthouse project. The street lighting circuit runs on Neosho from 6<sup>th</sup> to 8<sup>th</sup> and then a small section that runs south of Neosho on 6<sup>th</sup> in front of the courthouse. We have been working with the contractors to allow for new diagonal parking so we have moved some of that conduit, we had to lower it. We had some conductors in that conduit that had been replaced. We are keeping up with them the best we can so they can proceed forward with that project without any delays.”

### **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.

**Generation Maintenance:** Superintendent Schneider, “The men did a maintenance run on generators #1 and #6 on May 23<sup>rd</sup> and 24<sup>th</sup>.”

**Generation Project:** Superintendent Schneider, “The crews have had a little bit of a setback due to some health issues. They are regrouping and have men onsite. Things are getting done. I am told that there will be more crewmen next week to assist in that project as well.”

### **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.

**Line Locates:** Superintendent Hawkins, “Many line locates for all the contractors in town.”

**County New Parking Lot – 6<sup>th</sup> and Neosho – Jail Project:** Superintendent Hawkins, “As Alan had said we also have been down at the courthouse doing a lot of work down there moving meters and manholes and finding stuff that we didn’t even know was in there. The contractor hit an old irrigation pipe that stuck up off of the main. It was an easy fix. We got it done. We are hoping that tomorrow we will have some answers on the northwest corner of that intersection. Things hopefully for our department will be slowly coming to an end here shortly.

“I really want to thank Mark and all his guys at the street department. They came out and helped us with vac-ing and a couple of leaks and stuff. I am very appreciative of those guys. That has been going on quite a bit.”

**Water Leak:** Superintendent Hawkins, “We had another contractor with Atmos hit a corp on top of a main over at 2<sup>nd</sup> and Miami. We jumped in and got that fixed as well. That was completed.”

### **WATER AND WASTEWATER: Production Update**

**General:** Superintendent Hawkins, “The plant is running fine just lots of water.”

**Pump Station #3:** Superintendent Hawkins, “We have been running out to pump station #3 we have been out there several times pulling rags and stuff out of the sewer pumps.”

### **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.

**Drake Park Maintenance:** Superintendent Davidson, “We corrected an erosion problem down at Drake Park on Cross Street.”

## BOOK 26

June 7, 2023

**USD #244 Assistance:** Superintendent Davidson, “We had a request from the school district to help move some bleachers for the ball tournament they were having. We were able to move them with our track hoe trailer and our skid loader.”

**Country Club Heights -Ditch Maintenance:** Superintendent Davidson, “We went to Country Club Heights and did some brush cutting out here. We recut a ditch to see if we can help with some drainage that we have been having a problem with for the last several years.”

**Ditch Maintenance:** Superintendent Davidson, “We have been tilling and seeding the ditches.”

**County New Parking Lot – 6<sup>th</sup> and Neosho – Jail Project:** Superintendent Davidson, “We have been helping a little bit with River City and Killough Construction up at the courthouse.”

**2023 Street Improvement Projects:** Superintendent Davidson, “Our asphalt project started last week I believe and they finished it up today. We have been following behind them and putting rocks in driveways and alleys.”

**Storm Clean Up:** Superintendent Davidson, “We also had some storm damage out at Graceland cemetery from the storm the other evening. Several stones were knocked over and several tree limbs were down. We will address that tomorrow.”

### **STREET DEPARTMENT – Sidewalk Cost-Share Application 2023-01**

Superintendent Davidson, “I have one sidewalk application for James Higgins at 417 Niagara. He had applied for that last year. He wasn’t able to get it completed. He notified me that he had done it this year and I told him he would have to reapply for the application. The sidewalk was put back at four feet. We require five feet but we had some issues with some trees. Instead of having either the trees taken out or having them go around the trees we just decided to do four foot. He was fine with that. I think we had 84 feet for \$840. We need to approve that please.”

***Council Member Curtiss, “I move to approve Sidewalk Replacement Cost-Share Application 2023-01, James Higgins for 417 Niagara Street.” Council Member Van Horn, “I second the motion.”***

Mayor Luke, “Is that already completed?” Superintendent Davidson, “Yes.”

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

### **POLICE DEPARTMENT: Update**

**General:** Chief Jones, “We have been really busy. So far this week it has been a Monday, a Monday, and a Monday. We are morbidly curious about what tomorrow is going to bring.”

**Storm Issues:** Chief Jones, “We had some issues with the wind the other night with some signs and tree limbs.”

**Activities/ Cases:** Chief Jones, “We are still working on fraud and scam calls. Most recently the school district got hit for about \$75,000. We have been working on some theft reports and non-injury accidents. We have been working on a number of animal calls. Bonnie will be in court tomorrow night to talk to Philip about one of them. We had one arrest for battery.”

**City Court:** Chief Jones, “We have city court tomorrow night.”

**New Police Vehicle:** Chief Jones, “Victor and I are going to drive over to Andover morning and pick up a new car and get it back in town. The graphics should be going on tomorrow evening.”

**Nuisance: Properties/Vehicles Update:** Chief Jones, “We have had some property nuisances abated. So, we have had some success with some of these. We served some more letters. We had an out-of-state owner contact us to find out exactly what they needed to do and what time frame they would be looking at.”

### **PARKS DEPARTMENT: Update**

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

**Mowing:** Superintendent Boyce, “We have been doing a lot of mowing and spraying weeds.”



**BOOK 26**  
**June 7, 2023**

**Watering:** Superintendent Boyce, "We have been watering flowers and trees."

**Nuisance: Grass/Weeds:** Superintendent Boyce, "We have mowed three nuisance properties. Two are normal ones and one is a new one. Hopefully, once they get the bill on it, we won't have to mow it again."

**QUESTIONS/COMMENTS**

Mayor Luke, "We will have the same setup in Kelley Park for the 4<sup>th</sup> of July."

**FINANCE: Claims Ordinance & Payroll Ordinance**

a. Claims Ordinance	2023-11	\$	<u>311,173.84</u>
b. Payroll Ordinance	2023-11	\$	<u>96,963.91</u>
c. Payroll Ordinance	2023-12	\$	<u>98,995.78</u>
	TOTAL	\$	507,133.53

**CLAIMS 2023-11:** *Council Member Curtiss moved to approve City of Burlington Claims Ordinance 2023-11 for the amount of \$311,173.84 for payment of city bills. Council Member Lenard gave the second.* City Clerk Brown, "The larger expenses we have tonight are Brenntag Southwest \$6,186.80, Core and Main \$12,299.76, Kansas Power Pool \$137,334.36, KMEA Mid-States \$4,710.35, and Stanion Wholesale \$11,489.78." **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 2023-11 passed unanimously, 5:0."**

**PAYROLL 2023-11:** *Council Member Tschantz moved to approve City of Burlington Payroll Ordinance 2023-11 in the amount of \$96,963.91, as presented. Council Member Curtiss gave the second. Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. All votes were in favor. Mayor Luke declared, "Payroll Ordinance 2023-11 passed unanimously, 5:0."*

**PAYROLL 2023-12:** *Council Member Tschantz moved to approve City of Burlington Payroll Ordinance 2023-12 in the amount of \$98,955.78, as presented. Council Member Curtiss gave the second. Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. All votes were in favor. Mayor Luke declared, "Payroll Ordinance 2023-12 passed unanimously, 5:0."*

**PLANNING & ZONING: Update**

**General:** Zoning Clerk Hugunin, "Normal duties."

**Zoning:** Zoning Clerk Hugunin, "I have been busy measuring setbacks for different projects. I have had a lot of phone calls and people coming into city hall with questions about different things; basically decks, pools, fences, and a couple of garages."

**Nuisance: Grass/Weeds Update:** Zoning Clerk Hugunin, "On top of that trying to keep up with yards that need to be mowed. I have 26 yards on my list as of today. I think all but two of them have been mowed. Everything on this list has gotten a letter. I think that's the most letters I have sent out in a couple of years. I went to talk to next door and they had someone here Monday night and I think she mowed that until the lawn mower got flooded out from the rain. She was back again yesterday and the same thing happened to her."

**OTHER COMMITTEE OR COUNCIL BUSINESS**

**ORDINANCE 894 - Amending Burlington City Code Chapter 7, Article 3, Regarding Public Displays of Fireworks Within the City**

Attorney Wright, "This is an ordinance that we are just slightly modifying mostly with regard to sections 1.C and 1.D to define consumer fireworks. The premise of this ordinance is already--- let's just say from a legal standpoint I'm not sure it's 100% necessary. We are just adding some clarification here so that when people read it they can understand what this ordinance governs and what it doesn't. So, I am adding the definition of consumer fireworks that is specified in the Kansas Administrative Regulations which actually falls back on the National Fire Protection Act 1123. That's a regulation, it's like a trade regulation that everybody kind of falls back on but it defines what consumer fireworks is. That's basically the fireworks that have small amounts of gunpowder, essentially stuff you can buy at a firework stand."

## BOOK 26

June 7, 2023

"So, we are adding that definition to this ordinance and then also under section D, I am going to slightly reword this. So, you can see where it initially says, 'For the purposes of this chapter public displays of fireworks shall not include any use of consumer fireworks by private individuals. I wanted to clarify that a little bit more. So, I would propose and this would be a change to the ordinance you have in front of you that section D would read, 'For purposes of this chapter, use of consumer fireworks by private individuals shall not constitute a public display of fireworks.' There were a couple of other slight changes that were just wording changes that didn't significantly change any meaning. It was already there in the ordinance.

"Along with that, you'll see that there is an application for the city's information. We are not changing any of the application procedures under section 3.a.1 and 3.a.2 I believe. We went ahead and did an application for fireworks displays. I will remind the governing body that it is the governing body that ultimately approves the applications for fireworks displays. A public firework display would essentially be a display that is done by somebody that does that sort of thing professionally with commercial grade type of fireworks. I know we haven't really talked about this. I think we talked about it a little bit last year and I did follow through with it. If the city council wants to vote on it, they can or if they want to take some time to think about it that's fine too, I just wanted to get it in front of the city council just so I didn't let it go again. I don't know if the council has any questions for me."

Council Member Curtiss, "Tell me again your change for D." Attorney Wright, "Yes, section 1 on the first page this would be a subsection 1.D. – for purposes of this chapter use of consumer fireworks by private individuals shall not constitute a public display of fireworks. I will just say under a common meaning of public if you think of a public fireworks display if anybody has fireworks out in the open in the public without further defining that other than the natural meaning of a public fireworks display would need a permit. So, that would be basically anybody on the 4<sup>th</sup> of July setting off fireworks and their neighbor comes out and watches. That wasn't the intent of the original ordinance, I think the intent of the initial ordinance was to adopt the definitions of public fireworks and consumer fireworks. I am just explicitly putting that in there."

Mayor Luke, "What is the governing body's pleasure? Do you want to table it until the next meeting so we can review it and think about it?" Council Member Curtiss, "Yes, please." Attorney Wright, "If there are any questions about it get ahold of me and I'd be happy to talk to you about it."

Council Member Curtiss, "Who has to fill out this thing?" Attorney Wright, "Anybody that wants to put on a public fireworks display would need to fill that application out. That would need to be presented to the city council. It's the city council that approves that." Council Member Curtiss, "Okay."

### **LEGAL DEPARTMENT: Update**

**General:** Attorney Wright, "Normal duties."

**Personnel Policy Handbook Update:** Attorney Wright, "As the city council knows we met with Jennifer Hill an attorney from Wichita with regards to helping us update and take care of our personnel policy guidelines. She had sent an engagement letter. I would ask the city council to go ahead and approve the mayor to go ahead and execute that engagement letter so that she can get going on this." Mayor Luke, "I guess my key question on this is the prices that were included in the document we received is not what was discussed in our session. We discussed a \$200 an hour rate and she priced \$250 and her assistant at \$225." Attorney Wright, "Okay, I will bring that up with her. So, what I would do is go ahead and approve the mayor signing the engagement letter if it is corrected to show the rates that she told us that she would charge us. I'm sure that is just an oversight." Mayor Luke, "Okay."

Attorney Wright, "Is the council okay with that?" Council Member Curtiss, "That was the question I had." Attorney Wright, "I didn't even catch that." Mayor Luke, "The rest of it is what we discussed." Attorney Wright, "Okay, so I'll let her know that and let her know to send an engagement letter indicating her rate at \$200 an hour. That's my recollection." Council Member Curtiss, "Yes, it was. It's in the minutes." Mayor Luke, "My thought is do we get a confirmation from her, and then we sign it?" Attorney Wright, "I'm sure that was just an oversight so it really depends on how fast the city wants to start moving on that project. It will put it off another council meeting." Mayor Luke, "We can get the approval to sign it provided that is done then whenever we receive it from her, we can go ahead and sign it." Attorney Wright, "That's what I would recommend. I'm sure it's just an oversight."

## BOOK 26

June 7, 2023

***Council Member Curtiss, "I move to authorize Mayor Luke to sign the retainer agreement for McDonald Tinker PA to update the Personnel Policies and Guidelines handbook, once the fees are modified for her rates to be \$200 an hour." Council Member Van Horn, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.***

Mayor Luke, "Once we receive that I will sign it and get back to her." Attorney Wright, "I will get with her immediately and get that taken care of."

### **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 May, we will be sending \$2,083.35 in delinquent accounts to the Kansas set-off program for collections.

**Water Rate Analysis:** City Clerk Brown, "I have been working with Shelly, the water committee, and Danny on the water rate analysis."

**2024 Budget:** City Clerk Brown, "I have been working on the 2024 budget."

**Finance Meeting:** City Clerk Brown, "I have scheduled the budget finance meeting for Wednesday, June 14<sup>th</sup>, at 3:00 p.m. in the back meeting room."

**Reports:** City Clerk Brown, "I have handed out the revenue reports for electric, water, sewer, and sales tax report."

### **REPORT BY CITY OFFICERS:**

Council Member Curtiss, "The flowers are looking great." Superintendent Boyce, "Thank you."

### **MAYOR'S COMMENTS**

**Housing Development:** Mayor Luke, "At this time I want to enter into discussions with respect to the ordinance that restricts the extension of wastewater sewer lines outside of the city limits of the city of Burlington so that we can service the residential projects that are being proposed adjacent to city property. With that, I would like to touch on a little bit that we will not open this up to extensions off one mile, two miles, three miles, out for one hook-up. We can establish some form of a density amount that would help justify the cost of the sewer and waste water extension, The discussion that I want to enter into is do you believe that we should enter into changing or modification of the ordinance to extend sewer wastewater sewer systems outside of the city limits and establish during that process the density and distance that we are willing to extend?"

"Right now, both properties such as the Housing Authority's and Mike Abendroth's is 4-Rivers is the electric service we believe for both of those. We are investigating whether Mike's property is 4-Rivers or not. Both properties are in Rural Water District 2. We have spoken with the manager there and he is meeting with his board of directors there to determine if they want to service that water there or we serve it. Either way, they are going to buy the water from us if they serve it but then they have to install the infrastructure. Both parties if they stay outside the city limits then the developer's agreement does not come into play because it stays under the county's zoning authority. If we don't extend the limits the capabilities of the growth in both pieces of property, as Mike explained, they don't want to do septic fields, lagoons, and etc. I don't think it's a wise use of the property myself. I think also that adjacent property which has been restricted in the past had the potential of expansion and whether we get 100 homes, 200 homes, or what we get out of this, it will be a major boost to the economy of our particular city and county. But I need to hear from you guys as to what we look at doing and the timeline that we would be able to address all the issues that would be associated with it."

Tom Hugunin, "I was just thinking with you talking about this, I believe county planning and zoning, if it was in the county you had to have so many acres to develop and they changed that to where if you're within a mile of the city you can attach to city utilities and you wouldn't have to go to the five-acre limit. You can plot it out." Mayor Luke, "With respect to sewer wastewater." Tom Hugunin, "Yes, as long as you could tie on to city utilities or had an avenue to eliminate sewer lagoons." Mayor Luke, "That's a mile?" Tom Hugunin, "The correct verbiage I probably don't have. In a sense that is a meaning of them changing that zoning. It takes away the five-acre minimum for a development, not just a single house, for a development; like what the Housing Authority is talking

## BOOK 26

June 7, 2023

about and Mike Abendroth is talking about. So, when it does come in the county planning and zoning then as long as they communicate with the city or any sort of utility, say yes, we can get sewer, water, or we can get it all, then we would change it for that reason. I'm probably not explaining it correctly."

Mayor Luke, "Okay, I'll make sure I got it correct. If the city agrees that in this one-mile range, that it is a multiple housing facility, that we would work with the developer in the extension of the water/wastewater system, basically the wastewater system to serve at that property." Tom Hugunin, "Yes, sir. As commissioner I would be glad to sit down, I would like to see the entire commission maybe, the entire council, and who the developer is where everybody sat down and all come up with an agreement to at least talk and knows. Like the housing authority deal that was our question from the commission, can you tie into city utilities? Is it going to be a strain on your sewer or a strain on your water? Those are questions we wanted answered. That's why we tabled it and sent them your way. I don't want to approve something without knowing in full what your lines are capable of or what you are capable of supplying that development." Mayor Luke, "Any way you look at it there are going to be modifications because it is something that is not in existence. So, there will have to be modifications." Tom Hugunin, "Correct." Mayor Luke, "The key thing is if the governing body is willing to move forward to look at that. Whether it's Wade and Philip that puts together something or whoever and we come up with a game plan and look for mutual agreement on that particular game plan so that it is basically cost-effective for all parties."

Tom Hugunin, "Correct, and my thought too that some of these improvements, if you would, say its 50 lots 50 houses, it's going to cost three million dollars, you divide that by 50 houses and that's what the assessment is in taxes to get infrastructure to them. In turn, you get your money back in 20 years but you have to spend it upfront." Council Member Curtiss, "You can just give us more infrastructure money." Tom Hugunin, "No." Council Member Curtiss, "No? Oh." Mayor Luke, "There is also grant money as well." Tom Hugunin, "True, there are all kinds of avenues anymore." Mayor Luke, "I don't know on Mike and Ronda's part if there is grant money available to extend the sewers in the projects right now. That would offset some costs or all. I don't know because I don't know the projects well enough and the grant systems that you guys are looking at and involved with. Am I hearing you are willing to participate and look into and we will have Philip work on putting together something that will allow this to happen?"

Council Member Curtiss, "Yes, definitely." Council Member Van Horn, "Yes, sounds like a plan." Council Member Curtiss, "We need to." Council Member Lenard, "Let me say this though because you talked about potentially adding 50 houses, and the tax base that could come to that and some of the proposals out there for developments is that the county may cashflow up front and then we relieve taxes later. So, we have to come up with a model that doesn't forego the taxes later and we need these projects to cashflow as much as they can." Mayor Luke, "Correct, understand. Okay, so what we will do is have Philip start working on looking at the options that we might have, and with the thought process of the commission is looking at a mile for multiple housing connections versus individual. There is absolutely no justification for one house on a mile run, none whatsoever. The economics would be more than the lifetimes of everybody here. It would not pay back."

Tom Hugunin, "Now if they want to foot the bill for that." Mayor Luke, "I fully understand. Ronda, does that answer your question from earlier?" Ronda Gilbert, "Yes." Mayor Luke, "Okay, is there anything else we need to discuss at this point in time?" Zoning Clerk Hugunin, "I will say like Ronda and Mike, but Ronda that situation there is a little different with the sewer. I wouldn't annex anything until it has been engineered and can be feasible. Because if you annex it now, I don't think you can get it unannexed, and if it's something that doesn't work, which I hope it does work, but then you have an almost unusable piece of property that has been annexed in that's just farm ground. That would be one of those things once it's engineered."

Ronda Gilbert, "But until I get it zoned properly, I cannot get funding." Zoning Clerk Hugunin, "Right,." Mayor Luke, "And annexation is down the road because with everything going on with the KCC and the water district that there are major expenses that the city would obtain based upon what the law says that we are required to do. After everything is built in then the possibility of annexation takes place then the electric utility and water utility would have to pay a franchise fee to the city to continue to serve within the city limits, that's by law also. Annexation will not take place for a while but that doesn't mean that we can't serve the sewer."

### **FUTURE AGENDA ITEMS:**

**BOOK 26**  
**June 7, 2023**

<b>GENERAL:</b> City Debt - How to fund projects Expense Tracking on Projects Budget 2023	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 2023 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