

BOOK 26

July 5, 2023

BURLINGTON CITY COUNCIL REGULAR SESSION 7-5-2023

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, July 5, 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 type="checkbox"/> Lewis Lenard (President of Council) |
| <input checked="" type="checkbox"/> Lila Van Horn | <input checked="" type="checkbox"/> Thomas P. Tschantz | <input checked="" 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 type="checkbox"/> Philip Wright (City Attorney) | <input type="checkbox"/> Jimmy Hugunin (Zoning/Grants Clerk) |
| <input checked="" type="checkbox"/> Greg Holmquist (Assistant City Attorney) | <input type="checkbox"/> Kerri Weltha (Deputy City Clerk) |

Media Present: Mark Petterson (Coffey County Republican)

VISITORS: John Kuhlmann, Paul Abendroth, Becky Petterson

AGENDA:

Council Member Tschantz, “I move to approve the agenda as modified.” Council Member Ernst, “Second.” Motion unanimously carried, 5:0.

MINUTES 6/21/2023: Mayor Luke, “You have before you the draft minutes of our regular session of June 21, 2023. Are there any additions or corrections?”

Council Member Curtiss, “I move to approve the draft minutes of June 21, 2023, as presented.” Council Member Ernst, “Second.” Motion unanimously carried, 5:0.

APPOINTMENT: John Kuhlmann – Fireworks

A table was set up with different pieces of used fireworks showing what he had picked up. John Kuhlmann, “It’s funny we start with the pledge of allegiance and talk about justice for all; my family has not had justice. You guys laugh in our faces. The time for kindness, formality, and patience has come and gone because the city council of Burlington failing to stop damage, battery, and litter upon my property without my consent every year since 2018 and failing to grasp the real seriousness of this matter. You shrug it off like a joke, but if it was your house, you would be feeling the same anguish and pain that I am feeling.

“I have approached the police to handle this matter, and they have come and advised me to speak to this group sitting before me. They advised me it is a civil matter even though I present Kansas statute criminal charges with absolute proof of where it came from. We all know that I am here to address my house getting damaged, littered and my personal body getting touched and contacted rudely and without my consent at the consent and express permission of Burlington City Council, Burlington Kansas Police Department, and Coffey County Sheriff’s Office. While the Gifford block party has been going on for years before we moved into 825 Niagara Street, the issue of litter and damage was never brought up because 825 Niagara was vacant or rented most of the time prior to 2018.

“The city of Burlington also needs to educate all of its officers on what a permit is and what is verbal permission. A verbal motion and vote by the city council does not create a permit. It only creates a verbal agreement that what was asked for shall be done. A permit requires a filled-out application, the application to be reviewed, and the application to be approved. A road closure permit does not exist. A road has to be closed by city ordinance per city code 13-102a. They are being given false information or misconstrued information to avoid writing citations and substantially suppressing and infringing upon my rights under the U.S. Constitution and Kansas state constitution. This has happened year after year since 2018. It is now 2023, and the same result has occurred this year as last year.

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"So, it's high time the city steps up to the plate, rights my family, and ends the Giffords' reign off special rights and permissions over my property at 825 Niagara Street. This is the United States, not a communist country. This has happened – sorry, hold on. The city council is giving special rights to Steven Gifford. These rights allow that he can do whatever he wants to any, and especially my property, during the time from July 1st – July 5th when the fireworks are permitted. We are talking about hard solid objects being shot at my house at explosive force, hitting my house, hitting myself, and hitting my cars. These are designed after military mortars. It is simulating what was done on the 4th of July in 1776. We attacked, we shot, we fought our way to our independence. These are merely a way to signify that fight. It is not intended to cause damage or batter people. They are supposed to be a celebratory thing, not damaging.

"We have two young children, five and three, who are afraid of the Giffords fireworks. They complain to us before the 4th of July about the fireworks scaring them and keeping them up at night because they are allowed until 11:00 p.m., and my children go to bed at 10:00 p.m. Actually, they go to bed before 10:00 p.m. They go to bed at 9:00 p.m. Our five-year-old has epilepsy. This yearly event causes her to become sleep deprived during an already busy time with the family holiday. It's about family and independence, not blowing everybody apart. This makes her sleep deprived during an already busy time which makes her more at risk of having seizures because of all of the stress on her body.

"All of this is on the hands and actions of this shameful body that represents and guides our town. What are you going to do about the last five years of damage, stress, mental anguish, and malicious out lashing towards my family? Bottle rockets are illegal in the state of Kansas. These came from Burlington. Mortar tubes of consumer-grade are not to be longer than three inches. This is six and a half inches. This is a consumer-grade tube that was kindly donated. Perfect fit. Nobody would know the wiser. You can go online and google five-inch shells, you can order them from whatever site you want because it is not regulated online. I would like to end really quick with one video clip. This is a compressed clip at two times the speed and is about a minute and a half long. This is the constant barrage. This is a five-minute finale, and this is just part of it."

A video clip of fireworks that John Kuhlmann recorded was shown.

John Kuhlmann, "You can watch the smoke blow directly to my property which directs all of the debris to my property. This is the worst part. This trash was picked up last night by 10:30 p.m., and I tried to give it to Burlington Police Department and Coffey County Sheriff's Department for criminal damage to my property, criminal littering, and battery. They refused at the direction of Philip Wright. Same as last year when he was illegally the city attorney. So, again I ask what are we going to do to right the years and years of wrong done to my family at the permission of this council?"

Mayor Luke, "I have two questions for you." John Kuhlmann, "Yes." Mayor Luke, "Last evening, you mentioned the potential of a lawsuit against the city. Have you contacted an attorney?" John Kuhlmann, "I don't need an attorney to file a lawsuit. I can file the petitions myself in the court of law. My notice of claim is the legal beginning of that process. If I don't follow that process, I can't legally file a suit. It will be denied instantly because I didn't notify you guys of the damage beforehand." Mayor Luke, "Okay, I'm just checking--."

John Kuhlmann, "So, I have already given you a claim for last year, and I am waiting on the response for that. This will be another claim if we don't get the first one resolved, and it will immediately follow whatever action or determination comes from the first claim. I'm not playing around. My family is at the risk of having our house burned down. This is not acceptable. This right here, these round black balls are what is inside the motor shells. They are what makes your effects. They are shooting so many off so close together they are exploding and then releasing unburned explosives all over my property. Unfortunately, I would have a ton more to show you, but immediately following the firework show, we got 1.4 inches of rain, glorious, we needed it, and wind. It blew it all off, so it's probably washing away into the storm system now, and that will be fun for the pumps to deal with. They are large pieces of cardboard; it's not just little pieces of paper; these are chunks that can damage."

Mayor Luke, "The video that you took, was this in your yard?" John Kuhlmann, "That is from my private property against the back of my house as far back from their property as I can get." Mayor Luke, "Okay, I just wanted the clarification." John Kuhlmann, "I did actually go out and record them on July 2nd from the public property, the roadway, and the ditch, which is the city right of way, right? That is a public right of way, the ditch, and the sidewalk? I do not need permission to walk on that in front of somebody's house?" Mayor Luke, "That's correct." John Kuhlmann, "An officer grabbed me because I wanted to go home from my public filming on public property, and the Giffords called in a false claim of trespassing. I was detained for over an hour and manhandled by your officer under your command. He said, to not write any citations and to leave the Giffords alone."

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Mayor Luke, "Alright, we will end the discussion at this point, and we will, I'll use the word, take it under advisement, review what you already submitted to us, and we will work on whether or what response will be made." John Kuhlmann, "I just want to make note that you guys can ignore the claim this year and not get me an answer or deny it, and I still have 90 days to file a lawsuit no matter what answer comes from you guys. Unless it is a complete acceptance or an agreed mutual settlement against the claim." Mayor Luke, "I understand that part." John Kuhlmann, "I just want to hope that everybody knows and that will make everybody in this council liable." Mayor Luke, "Okay, we will go from there. At this point in time, there will be no public discussion."

PUBLIC COMMENTS:

Paul Abendroth, "I was wondering who selects the band that plays at the 4th of July?" Mayor Luke, "This year's band was done by the Council of the Arts." Paul Abendroth, "But who selects them?" Mayor Luke, "The Council of the Arts." Paul Abendroth, "Okay, I'm wondering why they can't play some patriotic songs instead of all the stuff that they played. I didn't hear anything patriotic at all." Mayor Luke, "I did not either. That was a comment I made to them." Paul Abendroth, "There is a whole bunch of people that died so they could play their music supposedly. That needs to be addressed and have some patriotic music played at these things." Mayor Luke, "Normally we do. This year it did not happen, and I have already spoken with Pam about that. That will be addressed next year." Paul Abendroth, "Sounds good." Mayor Luke, "I have family with those that didn't come back." Paul Abendroth, "Okay."

ELECTRIC DEPARTMENT: DISTRIBUTION Update

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

4th of July – Freedom Festival: Superintendent Schneider, "We got ready for the band down at Kelley Park for the 4th and made sure all of that stuff was working."

Line maintenance: Superintendent Schneider, "Men are doing normal line maintenance."

Chipper Maintenance: Superintendent Schneider, "We did maintenance and repairs on our tree trimming chipper."

County New Parking Lot – 6th and Neosho – Jail Project: Superintendent Schneider, "We have completed all but putting the light up at 6th and Neosho on the southwest corner. We have everything done there as we have been working with the contractors. As soon as some of that heavy equipment stops swinging around there, we will look at putting that one back in that one intersection and get it back in service."

Service Interruption: Superintendent Schneider, "Last Thursday evening, a little after 5:00 p.m., everybody's lights flickered once or twice. That momentary interruption was ahead of our system, which was ahead of our tiebreaker and substation. As I understand, it affected LeRoy briefly as it did here in Burlington and the surrounding areas there. Just wanted you all to know that was ahead of our system, and we did what we could for that."

Fuse Failure: Superintendent Schneider, "During that momentary interruption, we had one block over in the 1300 block of Alleghany that did not come back on. We had a fuse failure there, feeding that single transformer to that alley. That has been somewhat of an issue with a certain brand of fuses that have been in service. We do not install those anymore due to the failure of those at random. So, we have gone to a Burndy fuse, and they are very reliable."

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.

Generator Maintenance: Superintendent Schneider, "One of the items we have been working on is a three-phase contactor for our oil heating unit for generator #4. We also did a maintenance run last Wednesday on generator #4 and last Thursday on generator #6, just a normal maintenance run."

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Generation Project: Superintendent Schneider, “A lot of the crew has gone back home for the holiday. There was somebody on site until Thursday last week. One of them traveled in today, and we had the gentlemen there on site today and tomorrow that are working on the electronics of the conduit and everything on that. It slowed down right now, but they should be back on site.”

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/ Thank you’s: Superintendent Hawkins, “We have been working on a few water leaks around town. We had one Saturday night that had us up until about 2:00 in the morning. We had a situation at 15th and Potomac. The fire hydrant came undone from the ground being so dry it just pulled the bottom of it. Tyrell and I went in and put a valve on that. We are going to come back later and put a new fire hydrant on that end so that way we can isolate it so it's got a valve on it now.

“We had another water leak at 16th and Hudson as well.

“The leak that we are working on right now is at 6th and Neosho. That is the one that we put out on the webpage. I would really like to thank Mark and his guys because they are the ones really helping me. We thought we were able to fix the leak that we had that was there. It’s not it. The bottom of the saddle is leaking on the main line. So, we decided that we are going to go in and put all brand-new lines in that area since there is so much construction going on and try to get new hydrants put in, new valves, and get the valves out of the streets. We will be starting on it around 6:30 in the morning on Monday morning. Again, I want to thank Mark and his guys. Without those guys, there is no way we could do what we are about to do. I am grateful for those guys.”

WATER AND WASTEWATER: Production Update

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

Water Usage/ River TurnOver: Superintendent Hawkins, “If you all have been noticing a little musty smell or taste in the water, we know it. We have been adding a tremendous amount of carbon to the water to try to absorb the odor from the river. It would be nice if we could get a few more rains, flush the river out, and get some of that nasty out of the river. The usage is really up right now. We are pumping well over 600,000 gallons; some days, it's well over 700,000 gallons of water. That’s what we have been working on other than repairing and getting parts and pieces ready for the water replacement on Monday.”

QUESTIONS/ COMMENTS

Council Member Van Horn, “Is the EV battery plant still a possibility that they were talking about out at the airport?” Mayor Luke, “I have not heard if that’s still in the works or not. That would be better for Bobby Skipper to answer. I was involved with it, but I have not heard anything in the last three weeks.” Council Member Van Horn, “I was just wondering because if the water smells bad now, if we were pumping that much more if that was going to be a problem.” Superintendent Hawkins, “No. Basically, what it is, this time of the year, we have not gotten the spring rain. You get a turnover when the temperature in the lakes and rivers turns over.

“You get the nasty off the bottom and then it comes to the top. Generally, in the spring, you get a good heavy runoff, and it helps wash it downstream to get rid of it. It has been so dry we haven't had that. We are stuck with what we have. The only way to fight against it is to add more carbon. When we were getting the calls, we were already adding more and more carbon. I'll give you an idea. Generally, we add between 10 and 12 parts of carbon every day just for the algae and stuff in the water. We are running almost 48 parts right now. With that said, that's going from a bag a day to three bags a day, so we are putting a lot of carbon in the water trying to absorb that nasty stench. We are hearing everybody. We don’t like it either. We have to drink it too.”

Council Member Van Horn, “Thank you, we appreciate it.” Superintendent Hawkins, “Absolutely.”

STREET DEPARTMENT: Update

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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.

Crack Filling: Superintendent Davidson, "Most of our time has been consumed doing crack filling. We have the north part of town, basically from HWY 75 to Cleveland and Kennebec to Cross, that has all been crack sealed. We also have the road down to the city dam done."

Waste Hauling: Superintendent Davidson, "We have been hauling waste to the landfill."

Rock Hauling: Superintendent Davidson, "We started hauling more rock in from the Paxton Quarry west of town."

Drain Boxes: Superintendent Davidson, "We have been cleaning drain boxes."

Tree Trimming / Thank you's: Superintendent Davidson, "I want to thank Alan and his crew for removing a tree. I had a complaint about a tree blocking a stop sign. We had a power line running through it, and he graciously offered to take the tree down. We helped clean that up."

County New Parking Lot – 6th and Neosho – Jail Project: Superintendent Davidson, "I have also been up at 6th and Neosho trying to watch them put in our drainage, drain box, how they were getting everything tied into the court house, and taking it north to the creek. Basically, from the courthouse to Hudson Street is complete. They are setting new drain boxes going across Hudson Street with another culvert and setting the drain box and then taking it onto the creek. That will all be filled in. I think that was planned for tomorrow but with the rain we had; I think that has been put off until next week."

POLICE DEPARTMENT: Update

General: Chief Jones, "The last week and weekend was very busy."

Activities/ Cases: Chief Jones, "I'll just run down the list: theft of fishing equipment Monday, arrest of adult male for domestic battery on Tuesday, arrest for aggravated burglary followed by a search warrant that we and the Sheriff's Office did jointly in LeRoy; four of our officers and four of their deputies, arrest adult male for theft Wednesday morning, non-injury accident downtown Thursday, arrest adult male for domestic battery Friday, hit and run accident Friday, fireworks-related call Saturday, Sunday, Monday, and Tuesday, arrest adult male on a court warrant, assisted with a structure fire in New Strawn and helped with traffic control people were way out of position, assisted with a suicidal subject in Gridley, while that was going on we got a call of a suicidal subject in Burlington, welfare checks, property recovery, 911 lines, reckless driving complaints, and attempted theft next door at Dollar Tree."

City Court: Chief Jones, "City court is next week."

Holliman Trial: Chief Jones, "The Holliman trial, which I mentioned I had been called to testify in at the last council meeting. The jury came back, and he was found guilty on eight of the nine charges."

Nuisance: Properties/Vehicles Update: Normal duties.

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 mowing and spraying weeds. Mowing has slowed down a little bit, but with this rain, it will pick back up."

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

July 4th – Freedom Festival: Superintendent Boyce, "We set up and take down for the July 4th celebration. They left it clean."

Storm Cleanup: Superintendent Boyce, "We had tree limbs to clean up this morning throughout the parks from the storm last night."

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Nuisance: Grass/Weeds: Normal Duties.

FINANCE: Claims Ordinance & Payroll Ordinance

a. Claims Ordinance	2023-13	\$	<u>443,456.08</u>
b. Payroll Ordinance	2023-14	\$	<u>101,045.43</u>
	TOTAL	\$	544,501.51

CLAIMS 2023-13: *Council Member Curtiss moved to approve City of Burlington Claims Ordinance 2023-13 for the amount of \$443,456.08 for payment of city bills. Council Member Tschantz gave the second.* City Clerk Brown, “The larger expenses we have tonight are Brenntag Southwest \$5,665.60, Hoyts Truck Center \$5,677.33, Killough Construction \$362,071.62, Protective Equipment Testing \$4,362.00.” **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 2023-13 passed unanimously, 6:0.”**

PAYROLL 2023-14: *Council Member Tschantz moved to approve City of Burlington Payroll Ordinance 2023-14 in the amount of \$101,045.43, 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 2023-14 passed unanimously, 6:0.”*

PLANNING & ZONING: Update

General: Council Member Van Horn, “Normal duties.”

Setbacks: Council Member Van Horn, “He has been measuring setbacks for different projects.”

Census Reporting: Council Member Van Horn, “He has finished his monthly census reporting.”

Nuisance: Grass/Weeds Update: Council Member Van Horn, “He has been trying to keep up with yards that need to be mowed. He has a few he is still working with. He is trying to educate people that they are responsible for the ditches surrounding their property and half of any alleyway.”

OTHER COMMITTEE OR COUNCIL BUSINESS

ORDINANCE 895 - Amending Chapter XIII Streets and Sidewalks, Article 1. General Provisions and Article 2. Sidewalks

City Clerk Brown, “With the cost of concrete and everything going up, Mark had talked with his committee, and Mark felt like the cost share needed to be raised. We usually put \$10,000 a year in that for the cost share, we want to raise that to \$13,000. Then the linear foot that we pay out to the applicants, we raised that from \$10 to \$15.”

Council Member Van Horn, “I move to adopt Ordinance 895, Amending Chapter XIII Streets and Sidewalks, Article 1. General Provisions and Article 2. Sidewalks, Of the Code of The City of Burlington, Kansas; Edition June 1997, And Repealing Ordinance 807 And All Ordinances in Conflict.” Council Member Ernst, “I second the motion.” Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

LEGAL DEPARTMENT: Update

General: Attorney Holmquist, “I don’t have anything extra. The only thing is we did a summary for this ordinance which was just passed in the paper, as opposed to publishing the entire ordinance. The only requirement is that we have to make sure the full ordinance is on the website.”

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 June, we will be sending \$646.04 in delinquent accounts to the Kansas set-off program for collections.

Tholen HVAC Quote: City Clerk Brown, “We received a quote from Tholen HVAC to replace the compressor for the geothermal unit that cools this council room. It has gone out. It is \$3,483.79. That will fall under repair and replacement. They are working on that as far as getting a day set to come in and do that.”

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Reports: City Clerk Brown, “I have handed out the sales tax and utility revenue report.”

Annual League Conference: City Clerk Brown, “Again, you each got a reminder about the League conference that’s coming up in October. It’s in Wichita this year. It’s a good conference to go to. I would encourage all of the council members to go to that. Let me know. I have the three ladies here that are going, and Stan and I will go.”

Mayor Luke, "The key thing is between and just before the end of the month is the discounted period which we can register people at a lower rate. After that, it keeps going up every month. It goes up to a higher cost. If we have any indication of going, we should do it now." City Clerk Brown, “We have until the 23rd before it goes up.”

Budget 2024 - Finance Meeting: City Clerk Brown, “A reminder that the next budget finance meeting is set for Monday, July 17th at 3:00 p.m.”

REPORT BY CITY OFFICERS:

MAYOR’S COMMENTS

Mayor Luke, “Take advantage of the training and opportunities that you can through the League. They are there as our support and will lead us. Any time we need questions asked, they are available.”

FUTURE AGENDA ITEMS:

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 PARKS DEPARTMENT: Events in Parks (Updates)	<i>RICE NESHAP Compliance</i>
LEGAL DEPARTMENT: Municipal Court Updates PLANNING AND ZONING Work with Advantage Computers and City Departments to improve Cyber Security Nuisance Grass: Work with PD FIRM Floodplain Map Changes – Updates	Misc. Legal - Documents, Cases, Contracts, etc. 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 Lagoons - Analysis (KRWA/funds for dredging) Sewer Liftstations –Flushing Rags, etc.

Mayor Luke declared the meeting adjourned.

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