

BOOK 26
October 2, 2024

BURLINGTON CITY COUNCIL REGULAR SESSION 10-2-2024

City of Burlington Governing Body met in Regular Session at City Hall's address, 1013 N. 4th Street, Burlington, Kansas, at 6:00 p.m. Wednesday, October 2, 2024. Mayor Luke called the meeting to order.

THE PLEDGE OF ALLEGIANCE

ROLL CALL: Stan Luke, Mayor

Council Members present:

Jerilyn Curtiss (President of Council)

Maxi Berryman

Cara Mays (6:32)

Lila Van Horn

Nathan Strawder

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 (Executive Administrative Assistant)

Philip Wright (City Attorney)

Jimmy Hugunin (Zoning/Grants Clerk)

Kerri Weltha (Deputy City Clerk)

Media Present: Mark Petterson (Coffey County Republican)

VISITORS: Paul Abendroth, Jay Hale, Mike Abendroth, Craig Marshall, Callie Zirkle

AGENDA:

Council Member Strawder, "I move to approve the agenda as amended." Council Member Curtiss "Second." Motion unanimously carried, 4:0.

MINUTES 9/18/2024: Mayor Luke, "You have before you the draft minutes of our regular session of September 18, 2024. Are there any additions or corrections?"

Council Member Curtiss, "I move to approve the draft minutes of September 18, 2024, as presented." Council Member Strawder, "Second." Motion unanimously carried, 4:0.

APPOINTMENT – Callie Zirkle – Coffey County Chamber of Commerce

Callie Zirkle, "So I'm Callie Zirkle. I'm the new Chamber of Commerce Director. I started September 3rd. I officially have my email address and I officially have a phone number. I got the Facebook up and rolling today as well. So, kind of once we get things going a little bit more, I'll keep you guys updated. I'm also having Teresa and Chad Hazen from Burlington, create my website, my logos, and everything for me. So, we're rolling with that. Hopefully, soon the website will be up, and then yeah. We're moving along slowly but surely. Did you guys have any questions for me?"

Council Member Curtiss, "Welcome." Callie Zirkle, "And soon, if we ever hold ribbon cuttings, I snagged all of your guys' business cards. I will send you guys an email letting you know about who in the community is having them. So that way if you guys want to show up, you're more than welcome to." Mayor Luke, "Welcome. You're free to stay or if you want to leave that is also okay." Callie Zirkle, "Sounds good, thank you."

PUBLIC COMMENTS

Paul Abendroth, "Yes, I have a question about last time. I want to know how you decide when you don't have enough money to pay your bills, how you take your money out of the accounts that way, who decides that? Which accounts and all of that." City Clerk Brown, "I don't think that I'm quite sure what you're asking. What accounts?" Paul Abendroth, "You took money out of the three accounts last week or last period to pay for something or other." Council Member Van Horn, "In the budget, in next year's budget." City Clerk Brown, "For next year's budget? Is that what you're talking about?" Mayor Luke, "Are you talking about the transfers?" Paul Abendroth, "Yeah, on talking about the transfers, the three transfers. Who decides which accounts they come out of? Do you do that, Anne? Does Stan do it?" City Clerk Brown, "I do then it goes to the finance committee. The council has to approve it. It's the same transfers we do every year so just adjusting them. I do it and then it comes to the council

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for approval.” Paul Abendroth, “The finance committee says how much comes out of each account then? We kind of just stick with what we have always done over the years.”

Mayor Luke, “When we do our transfer, anything that’s moved before the budget is approved, goes through the finance committee, their recommendation then comes to the governing body for their final decision.” Paul Abendroth, “So are you saying you take the same amount out of each account every year the same?” Mayor Luke, “Most of the years, yes. This year, we did it different because we were at the revenue-neutral rate, and to meet the needs of the general budget, we transferred some additional funds out of the revenue-generating funds.” Paul Abendroth, “Did you have enough money in the budget this year to cover what was needed to be paid last period or did you need extra money out of these accounts?” Mayor Luke, “To balance the expenditures that were projected for the general budget, we transferred money out. We normally transfer money from the revenue-generated accounts to the general budget or to capital programs that’s going to be coming into those particular departments. That is not a new thing. In the 18 years I’ve been here, that has happened every year.” Paul Abendroth, “So, it’s not a matter of needing the money transferred to cover any expenses you have at that time?” Mayor Luke, “No.” Paul Abendroth, “Okay.” Mayor Luke, “We’ve got one minute before we have to go to hearing.” Paul Abendroth, “Well it’s going to take longer than one minute on what I had to ask you.” Mayor Luke, “Then we’ll just hold for a second here until we can go into the hearing.”

APPOINTMENT: Public Hearing for 1120 Penobscot

Mayor Luke, “Alright, we need a motion to open the public hearing.”

Council Member Curtiss, "I move to open the public hearing for 1120 Penobscot Street to determine whether structure(s) should be condemned as dangerous and unfit." Council Member Strawder, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

Council Member Van Horn, “Maybe it would be helpful to know why this is happening?” Chief Jones, “This is a property that we have been keeping an eye on. It had been vacant for some time now. There is a lot of damage to the exterior, skirting has either been ripped off or is falling off. It is vacant and it’s not being maintained or taken care of at all. It is a property that is considered a blight on the neighborhood. The last page of your packet there is recent photographs of the property and what it currently looks like.” Council Member Van Horn, “Well, that looks lovely, Doug.” Mayor Luke, “The owners have been properly notified?” Chief Jones, “Certified mail of the notice mailed to the owner. It was signed for and we received a signature card back. Plus, it was published in the newspaper twice.” Council Member Strawder, “But they haven’t contacted?” Chief Jones, “Nope. No, contact. My understanding is that he is currently a resident at Life Care Center right now.” Mayor Luke, “Any other comments with respect to the public hearing?”

Council Member Curtiss, "I move to close the Public Hearing." Council Member Strawder, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

RESOLUTION 2024-06 -TO CONDEMN 1120 Penobscot

Council Member Berryman, "I move to approve Resolution 2024-06, Declaring Structure(s) at 1120 Penobscot Street to be Condemned and Demolished and the bid process to begin for the demolition and cleanup of the property and all bids to be submitted no later than 10:00 a.m. on November 1, 2024, and bid opening to begin at that time, at Burlington City Hall." Council Member Curtiss, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

PUBLIC COMMENTS

Mayor Luke, “All right, we’ll go back to Paul.” Paul Abendroth, “Okay, you have ordinances to run the city and keep it clean, right? Okay. Why isn’t the ordinance taking care of the same for all the people of the city other than just one? One person had trash in their yard and you guys kept after him and kept after him for keeping it clean. You went so far as to put him into jail for not doing what he’s supposed to. Why are all these other houses some get by with that and that’s been there for all the time you’ve been in office, Stan. Some of them have. One of them has a tree growing up in a truck. Why are these allowed to continue this way?” Council Member Van Horn, “I would say one reason is because somebody has to make a complaint.” Paul Abendroth, “There’s been complaints. I even complained about myself.” Mayor Luke, “Doug, is that one of them on our list?” Chief Jones,

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"I'm not sure which address he's referring to, but we're constantly looking. All of the officers are keeping an eye out for nuisance properties." Mayor Luke, "Give Chief the address." Paul Abendroth, "Doug, you know one of them I'm talking about right behind the appliance store. It's been that way for over 18 years now. Why don't we have something cleaned up on it?" Chief Jones, "You're talking about Iseman's property?" Paul Abendroth, "That's right." Chief Jones, "He doesn't live in the house where he used to, his son--." Paul Abendroth, "Well then somebody ought to be cleaning it up." Chief Jones, "I will look at it."

Mayor Luke, "Alright." Paul Abendroth, "You made the appliance store put up a fence to hide all their stuff back there, and then even going across the road now, to the east, that's a junk hole over there now with all them vehicles. Mayor Luke, "Paul." Paul Abendroth, "I don't know what they're trying to do on it." Mayor Luke, "Anything else? You had your five minutes. That's normally what we allow." Paul Abendroth, "Yes, one other question. How long does it take to annex property into the city?" Mayor Luke, "The entire process? I can't answer the timeline because it's all how fast people want to work whether you get the final plats, whether --." Zoning Clerk Hugunin, "If it's annexation. It doesn't take any time at all. They have to come in and request to be annexed and then it goes before the council--." Paul Abendroth, "It was brought up in May to annex a property that Michael has and he hasn't heard nothing, Jimmy." Zoning Clerk Hugunin, "They have had discussions on it and I think they're still discussions going on." Paul Abendroth, "Why does it take so long to annex?" Mayor Luke, "Alright. We'll address that but we won't do it at this time. 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.

New Service: Superintendent Schneider, "We did install a new electric service to a new build in the 400 block of South 4th since last council."

Callout: Superintendent Schneider, "I don't have any callouts to report this Council."

Tree Trimming: Superintendent Schneider, "They are doing tree trimming."

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.

Equipment Maintenance: Superintendent Schneider, "They've been preparing bushings and electric motors and working on pump valves."

Painting: Superintendent Schneider, "They're still painting."

Reports: Superintendent Schneider, "They are completing reports."

Resource Advisory: Superintendent Schneider, "We got an email, there's another resource advisory out there until sometime Friday. That doesn't guarantee that we're going to have to generate but there is that possibility."

ELECTRIC DEPARTMENT: Personnel – Bradley Fischer

Superintendent Schneider, "Bradley Fischer has completed the second year of this apprenticeship program. He did score very well, 90% was his final test score and that was his average for the year, on all the chapter testing. He is ready to advance to third year apprentice. And I'd like to recommend that advancement from Apprentice 2 to Apprentice 3."

Council Member Curtiss, "I make a motion to move Bradley Fischer from Apprentice Lineman Two to Apprentice Lineman Three at the hourly rate of \$25.91, effective October 5, 2024." Council Member Van Horn, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 4:0.

WATER AND WASTEWATER: Distribution Update

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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.

Sewer Lagoons: Superintendent Hawkins, "I'd like to thank Kevin Boyce for mowing the sewer lagoons. I really do appreciate that. He goes out there and keeps that maintained for us. I'm very grateful for that."

AMI Meters: Superintendent Hawkins, "We did finish installing the last of the meters that we had from the previous. We've installed another 115 meters. I want to thank you guys for that and doing a good job. So, we've got another shipment coming in next Wednesday. We will start working on that as well."

Pre-treatment Clarifier: Superintendent Hawkins, "I have still been working with Jeff Shamberg. We've been talking back and forth calling one another on the water plant and getting that stuff done."

Lead and Copper Surveys: Superintendent Hawkins, "We did complete the lead and copper survey. I really want to thank Mary for helping me; without her help, it had been almost impossible. I want to thank her for that."

Equipment Maintenance: Superintendent Hawkins, "Our backhoe was needing new tires. So, we put new tires on the backhoe. Got that completed."

WATER AND WASTEWATER: Production Update

General: Normal duties. The plant is running well. We are still running roughly about 600,000 gallons a day. The usage is still up a little bit.

QUESTIONS / COMMENTS

Tour: Council Member Berryman, "I'd like to thank Danny for the tour and the time that you took to explain things so I know there is more to water than turning on the tap."

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.

Tree Trimming: Superintendent Davidson, "We have been doing some tree trimming. We had a couple of tree limbs fall on 12th Street between St. Lawrence and Yuba. We went in yesterday and cut everything back close to the right of way. It looks so much better than it did before."

Crack Filling: Superintendent Davidson, "We have been crack filling since last Wednesday and that is what we have been doing up until yesterday when we did the tree trimming."

Sign Maintenance: Superintendent Davidson, "We changed out several signs and signposts."

Culvert Maintenance: Superintendent Davidson, "We also checked culvert ends that were plugged."

POLICE DEPARTMENT: Update

General: Chief Jones, "Normal duties."

Activities/Cases: Chief Jones, "Non-injury accidents, arrests on city warrants, one arrest on a district court warrant, working domestics, working DUIs, doing welfare checks, and taking harassment reports."

Homecoming Parade: Chief Jones, "If you don't catch up homecoming is this Friday. There will be a homecoming parade downtown starting at 3:30 p.m. going from the courthouse down to the old city hall."

City Court: Chief Jones, "Then a week from tomorrow is City Court."

QUESTIONS / COMMENTS

Nuisance: Properties/Vehicles Update: Council Member Strawder, "So, you hit on the nuisance properties and vehicles and stuff like this. I mean tracking it, it's basically just driving around to see what you see. Is that how?" Chief Jones, "And we document it, we take photographs of the property so we have a reference as to what we were seeing." Council Member Strawder, "So, I mean is there a mechanism for the general public to submit?"

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Chief Jones, “Yeah, it’s in the city code. If I get complaints from two individuals, it’s a property that I deal with. If I see the property or one of my officers sees the property, we can initiate the process from that.” Council Member Strawder, “Okay, so it takes two individuals to do it. Is it anonymous? What do they have to do?” Chief Jones, “I don’t do anonymous.” Council Member Strawder, “How often is that utilized; the general public submitting complaints?” Chief Jones, “We don’t even require to be in writing. I will accept verbal complaints from citizens. Just like Paul has told me about different properties. If it’s not something I’ve already seen then generally, I treat it as here’s something to direct your attention to and then I take a look and if meets the criteria then we start the process.” Council Member Strawder, “Okay, on the two complaints and like not being anonymous and all that. Is that just city ordinances?” Chief Jones, “The verbal is my policy. It doesn’t have to be in writing, it can be verbal.” Council Member Strawder, “But that’s not state statute that it takes two complaints or anything like that.” Chief Jones, “No, that’s just city.” Council Member Strawder, “I was just trying to get a good understanding of stuff because I mean I know, you do hear about different stuff from different people and I do wonder if it’s communication, you know, barrier.” Chief Jones, “No, I’ve had complaints made to one of my committee members and the committee member will bring it to me. I had complaints made to the mayor and the mayor will bring it to me.” Council Member Strawder, “Well, no, what I mean by is just that the general public understands that’s what it takes or that’s the mechanism in place is two complaints per property then it’s investigated essentially.” Chief Jones, “Well, I often generally, will go look at the property on just receiving one complaint and that’s sufficient. If I’ve got somebody that’s upset about a particular property, I’ll go take a look at it and see where we’re at.” Council Member Strawder, “As I said I was just trying to make sure I understood what the practice was.” Chief Jones, “Yeah.”

PARKS DEPARTMENT: Update

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

Mowing and Spraying: Superintendent Boyce, “We are still mowing and spraying weeds in gravel areas and sidewalks downtown.”

Watering: Superintendent Boyce, “We are still watering flowers and trees.”

QUESTIONS / COMMENTS

Mayor Luke, “Do we have to do anything for Boofest?” Superintendent Boyce, “Take picnic tables, trash cans, and the grill down.”

FINANCE: Claims Ordinance & Payroll Ordinance

a. Claims Ordinance	2024-19	\$	<u>445,164.19</u>
b. Payroll Ordinance	2024-20	\$	<u>111,393.55</u>
	TOTAL	\$	<u>556,557.74</u>

CLAIMS 2024-19: Council Member Curtiss moved to approve City of Burlington Claims Ordinance 2024-19 for the amount of \$445,164.19 for payment of city bills. Council Member Strawder gave the second. City Clerk Brown, “The larger expenses we have tonight are Brenntag Southwest \$19,367.47, Core and Main \$37,003.16, Kansas Power Pool \$240,188.47, Kurita America \$18,212.50, Power Plant Compliance \$23,069.27, and Schwab Eaton \$19,967.50.” **Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. Mayor Luke declared, “Claims Ordinance 2024-19 passed, 4:0.”**

PAYROLL 2024-20: Council Member Curtiss moved to approve City of Burlington Payroll Ordinance 2024-20 in the amount of \$111,393.55, as presented. Council Member Strawder gave the second. **Hearing no further discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. Mayor Luke declared, “Payroll Ordinance 2024-20 passed, 4:0.”**

PLANNING & ZONING: Update

General: Zoning Clerk Hugunin, “Normal duties.”

City Hall – Front Sign: Zoning Clerk Hugunin, “I’ll start off with the sign. Spent about four hours with them today. Did some different things and I think we’ve got it figured out. I think there’s some bad cables in there. Did

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a lot of tests with them over the phone. They have now gotten ahold of Coffelt Signs who will be down to do the repairs that Daktronics says is needed. So, fingers crossed. We did a lot of testing. I think we found where the communication is not communicating to let me change the display, but we think we've got that."

Permits: Zoning Clerk Hugunin, "I've been busy with a couple of permits."

New Computers: Zoning Clerk Hugunin, "The new computers are in so that's taking a little time. There's been some stuff I've had to hook up for the girls and I have to find some stuff but other than that it went pretty smooth."

Cleanup: Zoning Clerk Hugunin, "And then cleanup is starting October 14." Mayor Luke, "And brush is?" Zoning Clerk Hugunin, "Brush is the 21st." Mayor Luke, "The following week."

QUESTIONS / COMMENTS

Council Member Curtiss, "Where's that Coffelt Signs or whatever, where are they from?" Zoning Clerk Hugunin, "Emporia." Council Member Curtiss, "Oh, okay, so they should be here soon." Zoning Clerk Hugunin, "We will hope." Council Member Van Horn, "They should reimburse you for all of the hours you spent working on that." Zoning Clerk Hugunin, "I don't know how long it's going to take for the part to get to them. So that Coffelt has been really good in all of this. I mean they're just installers so they're not the programmers so that's all on company." Council Member Curtiss, "Okay, thank you."

OTHER COMMITTEE OR COUNCIL BUSINESS

LEGAL DEPARTMENT: Update

General: Attorney Wright, "Normal duties."

City Court: Attorney Wright, "I have been working with a couple of municipal court things."

Pole Attachment Agreements: Attorney Wright, "I spent quite a bit of time reviewing pole attachment agreements for United Telephone Company, now it's BrightSpeed, with regard to an inquiry they have. I think they are wanting to install and upgrade the fiber optic stuff."

Developer's Agreement: Attorney Wright, "I also spent quite a bit of time reviewing the minutes and background on the developer's agreement that was done in, I think, 2011."

Executive Session:

Council Member Van Horn, "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); to render legal opinion on the developer's agreement, 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, 4:0.

Entered 6:30 and exited at 6:40. No action taken.

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); to render legal opinion on the developer's agreement, with the Governing Body, Mayor Luke, City Attorney Wright, and City Clerk Brown present." Council Member Van Horn, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

Entered 6:41 and exited at 6:51. No action taken.

CITY CLERK: Update

General: City Hall staff have been busy with customers paying utility bills, many calls and inquiries, preparing work orders, vouchers for bill paying, payroll, and council meeting minutes. For September, we will be sending \$642.73 in delinquent accounts to the Kansas set-off program for collections.

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Door Maintenance: City Clerk Brown, “Another issue we've been having is with automatic door openers; they weren't working. We did contact – Mary contacted a couple of companies out of Topeka. One was the one that installed them. She got a response from another company and they will be here tomorrow to work on those.”

Reports: City Clerk Brown, “You do have the sales tax and utility revenue reports in front of you.”

Conference: City Clerk Brown, “I did hand out your registrations for conference next week. So, you have those.”

Door Maintenance: Zoning Clerk Hugunin, “I will say since you are talking about doors, the parts for that door have been ordered. The nice thing is they're on a boat, I believe coming over. So, once they get into port they will be here.” Attorney Wright, “We might have those a couple years from now.”

REPORT BY CITY OFFICERS:

Developer's Agreement: Council Member Strawder, “I would like to have a discussion on the developer's agreement. I mean, I'll be honest with you, there are issues with the developer's agreement. There are known issues. We don't have a solution at this time. Several cities operate perfectly fine without a set developer's agreement in place. Just because there isn't a developer's agreement in place does not mean that other city requirements doesn't have to be followed or other state requirements or anything like that, doesn't have to be followed. My recommendation would be to try to revoke or repeal the current code that requires this developer's agreement. Again, that doesn't mean that we can't have an agreement on a case-by-case basis. I understand the difficulties with having agreements on case-by-case basis. If we were doing even two or three developments in a year, that would be a lot. We've had this developer's agreement in a place, I'm going to guess since 2011, 2010, the resolution here since 2011. It has never been signed. So how much time is going to be associated with it or how much money is going to be associated with it, or any of that type of thing? If we have to one time potentially create a one-off agreement in the interim of us getting other stuff in place.”

Council Member Berryman, “Philip, would that be outside your scope of duties?” Attorney Wright indicated yes. Council Member Berryman, “So, that would be billed separately?” Attorney Wright, “Yes.” Council Member Strawder, “But it's again and I'll go back to the point on --.” Council Member Berryman, “Don't go back to a point with that. Please don't go back.” Council Member Strawder, “People aren't beating down the door trying to do developments here.” Council Member Curtiss, “And I know we need to get on this and I've said all along, we need to get this done. Now we did discuss a few things that I think are workable.” Council Member Strawder, “Again, but to be able to get that in place that's lengthening the time out because it'll have to be, you know, communicated what it is and then we're trying to again, do a one-size-fits-all agreement for development and development isn't the same over and over and over and over again. We're talking, I mean, realistically to get it all worked out and everything we could be talking up to a year to get it done. Where if we go through and we repeal that one requirement, that one city code, that allows us to be working on that stuff. But it also allows that if a development comes in that we can also be working on that on a one-off scenario.”

Council Member Berryman, “Can you write us a draft of what you would think the ideal developer's agreement should be?” Council Member Strawder, “I mean you could go out there and go--.” Council Member Berryman, “I mean could you send a draft because apparently we're losing something.” Council Member Strawder, “Just for the simplicity of it I don't know if you guys are familiar with ChatGPT or you know the type of thing. Here's wrote in there write a developer's agreement for--.” Council Member Berryman, “Why didn't you write us a draft? That'll give us the starting point.” Council Member Strawder, “Write a developer's agreement for privately financed housing subdivision for City of Burlington, Kansas. You know, this is by no means a perfect copy or anything. But it very much goes into some of the basics that are included in most of the developers' agreements out there. Again, where you're indicating that the developer must follow all state statutes, must follow all city code, must follow, you know, the subdivision requirements, or that type of stuff. It doesn't go into fine detail of what all that is. It's just stating that they have to follow it. It also holds the city accountable that the city will in a timely manner review, this stuff and get back --.”

Council Member Curtiss, “What happens if the developer, he or she, doesn't do something correctly with the code and says I didn't know that code?” Council Member Berryman, “If it's in the agreement they can--.” Council Member Strawder, “That type of thing happens all the time. Let me tell you working with developers they are

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trying to actively avoid – they are in it for money. That's the reason why they try to cut corners. That's where it's on the city's burden to make sure that you have inspection out there to make sure that ordinances and all that stuff is being followed.” Council Member Berryman, “So follow them around, instead of giving them something that they can discuss and decide if there are any questions?” Council member Curtiss, “That they can read and say this is pertaining to the water or this is pertaining to the electric.” Council Member Berryman, “So we'll give them a code book and let them go out and read their own codes and hope they interpret them correctly.”

Council Member Strawder, “That's how development happens. Whenever, that's how you go to a city or something, if you're doing an engineer drawing, the engineers should be first contacting the city if it's not readily available on our website. The engineer contacts the city to find out what their ordinances and stuff are, what their requirements. Are any type of design requirements or anything like that. If the city doesn't have anything that's above and beyond KDHE's then they revert back to KDHE for your water, for your sewer, all of that stuff. It goes to KDHE unless you as a city happen to have your own department that we would use to make sure that city code is met. I'm going to guess Burlington probably doesn't have that process. So it goes to the KDHE to make sure that KDHE requirements and everything are met. Then by state statute, the construction of it has to be done under the observation of a sealed PE of an actual professional engineer. That's how you follow to make sure that the requirements are met and all of that.” Council Member Berryman, “I'm relatively new to Kansas. How is Burlington compare to the size of the cities that you deal with?” Council Member Strawder, “Right now, where I'm working at is Johnson County. That just happens to be --” Council Member Berryman, “So how does Coffey County compare to Johnson?” Council Member Strawder, “It doesn't. I can tell you though that I have just as much experience down in the Wichita area where we did developments in towns, like the size of Burlington and I can tell you that Wichita, how Wichita does a lot of the development and stuff is how a lot of smaller communities handle their development through the way of specials and some other type of agreements in place to help promote development because you don't have the population of people beating at the door trying to do development there. It sometimes--it takes incentives for communities to do that. I am not proposing that at all. Just to clarify. But where Johnson County is unique, Johnson County does not utilize specials at all. That's why you go to Johnson County and you're buying a lot to build on for \$140,000 to \$200,000. Because the developer has to recoup all of their costs upfront with the sale of that property. Where you have specials at, it's bonded through the cities, so technically the city is paying for it. That's why I indicate that's a publicly finance option in there. The city pays for it and then the money is recouped. Typically, over a 20-year time frame, by the way of special taxes on the property. So, your property, whatever you're selling, a lot at that time, you have some fees that are associated with the developer on making sure that his stuff's cost, which you're going to have lots around the \$15,000, \$20,000, to \$30,000 mark, not the six-figure lots because the attempt to get all the money back there is not at the front. Now then, how does that hold the developer accountable for making sure that they actually follow through with the development and all of that? That's where you have surety bonds, where like that 15%, they would put up in a surety bond, but that's not an issue because they don't have to pay for 100% of the development itself because they're utilizing specials or whatever. You also have after a certain period of those, and this differs from area to area, the specials become enacted. Sometimes there's like a set time limit between when a development happens until those specials actually start taking effect. I'm just going to throw out a number of five years say so that gives the developer five years to develop lots. Any lots that are not developed or not sold at that time that developer is responsible for paying back those specials.”

Council Member Curtiss, “That was going to be my question.” Council Member Strawder, “So that's the accountability on developers in this type of thing. Again, this is a normal process and if we are, you know, utilizing specials, there's going to be agreements there. If we are, you know, just by repealing the current agreement does not mean that we can't implement an agreement. It does not mean that we can't implement this exact same agreement if it's what if it's best. It just removes it as a requirement that this agreement has to be followed. If it's what if it's best it just removes it as a requirement that this agreement has to be followed.” Council Member Curtiss, “I still say the sections, you're maybe having a problem with are all the writing that refers to the codes and all of that, I still think that beneficial to somebody that is developing.” Council Member Berryman, “I agree.” Council Member Van Horn, “I think it's necessary to have some kind of established builders' agreement because of an experience that I had. I was walking trails and I came upon streets, poured concrete streets that were grown up with weeds in the middle and obvious cul-de-sac and all of that. Somebody had gone in there and gone to all that expense and then the builder didn't take care of business. And I think that the city needs some kind of

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assurance that they're not going to spend a bunch of money only to have it sit there. Oh, it doesn't have to be word for word what we have now. It doesn't seem like responsible use of public funds for us to just not have an agreement."

Council Member Strawder, "So a lot of times whenever you come up on that development like that what has happened is just like I indicated where because a lot of places do utilize specials what will happen is, again I'm just going to use five years as an example, after that five years, those yearly taxes start going on to those lots. And if a developer has not developed at that time or whatever it becomes a very, very costly to have a lot that has specials on it that has no building on it." Council Member Van Horn, "Assuming that they are using specials." Council Member Strawder, "Assuming that they are using specials. What happens then is you get into the same type of situation, where taxes aren't being paid so it goes to a tax sale, the city recoups it or the bank recoups it or whatever. If they weren't utilizing specials, oftentimes, you either have public infrastructure or private infrastructure and so most of the time you're going to think of public infrastructure the streets and that type of stuff like there are communities, not in small towns where it's actually private roads. By the time that that has been built and everything, assuming that the city approved it, that it got to their point where the city approved it, the ownership of those structures actually transfers from the developer to the city. So, then a lot of times it's on the city then to maintain just like they do every other street within their jurisdiction type of thing. So, there's pluses and minuses every which way you look at it, and that's also why no two developments are the same. That's where that again flexibility comes into if you're not dealing with a lot of development stuff, the flexibility of having an individual developer's agreement comes into play. If you are having multiple agreements, that's where it kind of tips the scales back to having some type of a developer's agreement, a standardized developer's agreement in place. But again, I go back to a lot of time those developers' agreements they're more generic based on this is the infrastructure that needs to be put in place. That they can follow the requirements that are out there. If they ask for a variance there is an outline for the avenue for the variance for whatever to be approved. It also outlines what the expectations are for the cities. So that you don't get a situation where a developer comes in puts together, puts forth money to try to get a development done and then it sits on the city's table for a year because they haven't enacted or they have an approved it or they go through and it requires the city to hook up the water or whatever. Whatever the requirement might be but the holdup is the city just hasn't sent anybody out there to do that. That's why there's expectations on both ends. Right now, there isn't and I go back to that section too, that the city will facilitate new development for the installation of public improvements. That is from my experience, completely backwards on this type of stuff. It should be that the developer will facilitate that stuff because the developer goes out and gets their own contractor. The city can put requirements on there that they have to use these selected contractors or whatever. That's perfectly fine. But the developer is the one that handles the timeline and all of that type of stuff. They know that they have to pull permits if there's any permits that are required, they have to work with the city. That's all-standardized stuff no matter where you go."

Council Member Curtiss, "Okay, well, you know where I'm coming from and, you know, that I want this to get done. But we still don't know where we're going with it." Council Member Van Horn, "Maybe the wise thing would be for him to simply make a motion to get rid of it and then we vote." Council Member Curtiss, "Well, I guess if you want to do it that way. Yeah, but we also did talk about having a work session and inviting people in that are interested in this developer's agreement because you have told us there's more than, like, two people that are interested in this. And I don't know how we make them aware of that, but we would welcome them coming because we want to hear what they have to say, the positive or the negative things with this developer's agreement. But once again, we're not coming to any kind of a decision tonight. So, I don't know. Like I said before, there are some things in here I would like to change and you know what they are. But I do think I really, really think that the regulations that they refer to the codes that they refer to, is to the advantage of the developer. That's where I'm coming from. So, I don't know. I know we already have--." Council Member Van Horn, "Talked into the ground."

Council Member Curtiss, "We have, and we have already got one work session." Mayor Luke, "That's not saying we can have a second." Council Member Curtiss, "But I'd like to see this done." Mayor Luke, "Can't disagree." Council Member Strawder, "So, can I ask the question to Lila's point, because one way that we can move forward on this again and not hold up any pending development that might be occurring is again repeal this requirement that they have to follow this developer's agreement. That doesn't mean that the city can't require an agreement to happen for any development if a development comes in before a new developer's agreement is put

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in place. But it also means that we're not holding a developer to this agreement until we get one in place. So, if it takes us a year to get all this worked out--."

Council Member Curtiss, "I would rather us look at this one and see how we would like to do the changes to it and then work on a new one. Maybe if we want to go the new route, that's what I would like to see instead of repealing this and then not have anything and have to come up with something." Attorney Wright, "Let me just intercede for just a second. This was done by resolution, so it would have to be repealed by resolution. So, a repeal for resolution 2011-01 couldn't happen tonight anyway, because there's not a written resolution prepared. To make this easier there could be a motion on the table to have me prepare a resolution repealing resolution 2011-01." Council Member Strawder, "That's word for word another resolution that was used to repeal previous city ordinances, just like this." Attorney Wright, "Well, first of all, that says ordinance on there." Council Member Strawder, "Just like what the other one did." Attorney Wright, "This is a resolution." Council Member Strawder, "So, in the back of the city code book where it says ordinance number of blah blah blah word for word on whenever the city code was revised on the change for the pit bulls or whatever that was done incorrectly then or any of the others?" Attorney Wright, "I guess I don't know what--." Council Member Strawder, "I guess I can strike through that --." (Inaudible)

Mayor Luke, "So my understanding is what the governing body is looking for is to establish a process which they can run two paths; one to work directly with developers today and one to work with developers down the road in a modified format. To do that based upon what documents the city has that would require an elimination or modification of the resolution that was done in 2011 to establish the workplace for developers. Alright?" Council Member Strawder, "I do have a question on the resolution because whenever it was re-codified in what year, 2017, did that recodification not supersede the resolutions." Mayor Luke, "I would have to go back and look." Attorney Wright, "Some of them, yes, and some of them no. There were ordinances that were retained and were included in 2017 to the city code." Council Member Strawder, "I can tell you that this is in the city code, this resolution right here is in the city code." Attorney Wright, "That's my understanding is that resolution 2011-01 is still active." Council Member Strawder, "It is 16-601 and 16-602 is where it's located at in the city code." Mayor Luke, "Alright, let's give a work direction in the form of allowing Philip to put together the proper document." Council Member Strawder, "Okay." Mayor Luke, "Whatever it ends up being. I don't know right now what it's going to be. To look at establishing the changes we're looking for in the development of development properties."

Attorney Wright, "I don't know what that is because there's not unity on the city council. So, what I would again, what I would propose is --what it sounds to me like some members of City Council want to amend what we have and try to make that work and we have somebody that just wants to repeal that and then start working on, you know, ad hoc developer's agreement and then maybe at the same time come up with a developer's agreement. I guess I don't really know." Council Member Strawder, "I guess if that's how you want to summarize what I've indicated then okay." Attorney Wright, "Well if that's not the case and you can correct me. But I see that there's, you know, two different tracks here. But if the city council wants to make a motion to instruct me to prepare a resolution for next city council meeting to repeal resolution 2011-01, I'm happy to do that." Council Member Strawder, "Okay, yes."

Council Member Strawder, "I move that the city attorney draft a resolution to repeal the previous resolution, 2011-01 and/or city code 16-601 and 16-602, and have such draft resolution ready for the next city council meeting." Council Member Mays, "I second the motion."

Council Member Van Horn, "I'm not really sure what we're voting on here." Council Member Curtiss, "To get rid of this." Council Member Curtiss, "Is it to get rid of it or to just bring it up to get rid of it?" Attorney Wright, "Just get ready to have me prepare the documents to repeal and get rid of it." Council Member Van Horn, "Then we would have the freedom to vote on it next time after it's written up. Okay." Mayor Luke, "Any other discussion?" Council Member Berryman, "Say that one more time, please." Attorney Wright, "The motion on the table is to have me prepare a resolution and/or ordinance to repeal the requirement of the developer's agreement." Council Member Berryman, "Which we will vote on at the next meeting." Attorney Wright, "Which that ordinance resolution, whatever it is, I'm not really sure, would be ready for you to vote on for the next city council." Council Member Berryman, "Thank you." Attorney Wright, "You're welcome."

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Hearing no further discussion, Mayor Luke called for a vote. Council Members Strawder, Mays, Van Horn, and Berryman voted 'Yea', and Council Member Curtiss voted 'Nay'. Mayor Luke declared the motion passed, 4:1.

Mayor Luke, "Anything else to bring before the governing body?" Council Member Curtiss, "So we're not going to come up with any kind of a--." Council Member Berryman, "We're going to decide next week whether we repeal it." Council Member Curtiss, "Then we are once again, delaying it again." Council Member Berryman, "Yeah, but next week is about do we throw this away or not. That's what you're going to prepare, correct?" Council Member Curtiss, "But then we have to start with nothing." Council Member Berryman, "Correct only if it passes." Council Member Curtiss, "I know." Council Member Strawder, "I would say that's incorrect though. We aren't starting with nothing because we do have a developer's agreement. We are not reinventing the wheel here. All we are doing is repealing the requirement that they have to follow this. It could be very similar to a developer's agreement right now. In fact, I would recommend that is where we start is by modifying the current developer's agreement instead of throwing it completely out." Council Member Curtiss, "That's what I thought we were going to do in a work session." (Inaudible) Mayor Luke, "Basically it eliminates the word mandatory then we can do modifications to it." Council Member Curtiss, "Okay. Alright, I'm with you."

MAYOR'S COMMENTS:

Mayor Luke declared the meeting adjourned.

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