

BOOK 26
November 12, 2024

BURLINGTON CITY COUNCIL SPECIAL SESSION 11-12-2024

City of Burlington Governing Body met in Special Session at City Hall's address, 1013 N. 4th Street, Burlington, Kansas, at 4:00 p.m. Tuesday, November 12, 2024. 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 (President of Council)	<input checked="" type="checkbox"/> Maxi Berryman	<input checked="" type="checkbox"/> Cara Mays
<input checked="" type="checkbox"/> Lila Van Horn	<input type="checkbox"/> Nathan Strawder	<input checked="" type="checkbox"/> Martin Ernst

Superintendents Present:

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

Also Present:

<input checked="" type="checkbox"/> Anne Brown (City Clerk)	<input type="checkbox"/> Mary Mader (Administrative Assistant)
<input type="checkbox"/> Philip Wright (City Attorney) (By phone)	<input checked="" type="checkbox"/> Jimmy Hugunin (Zoning/Grants Clerk)
<input type="checkbox"/> Kerri Weltha (Deputy City Clerk)	<input checked="" type="checkbox"/> Lisa Birney (Utility Billing/Municipal Court Clerk)

Media Present:

VISITORS: Mike Skillman, Walker Trimble, Mike Abendroth, Paul Abendroth, Ronda Gilbert, Craig Marshall, Janet Payne.

Developer's Agreement

Mayor Luke, "The purpose of this meeting is to go through issues associated and identify them for the developer's agreement. If what you want to talk about is not a part of the developer's agreement, it is not part of today's agenda. We cannot go outside of the requirements established by the State with respects to how we conduct a special meeting. So, you have, hopefully, all of you have a developer's agreement that's six pages. When you wish to speak, please identify yourself so Lisa can have that in our minutes. Then identify the page, the paragraph, and the line you wish to discuss and any issues you have with that, and a recommendation on how you think it might be resolved. So that's kind of the footprint of how we have to function and operate. I would appreciate if you would not speak over each other, when one person has the floor, let them complete their presentation and then we will move forward to the next individual. We have allotted two hours. We also, I'm quite sure we will need to do another session, we can pass a motion to do that. If we do it will probably also be scheduled on a Tuesday at the same time, 4:00 p.m. to 6:00 p.m., unless there are issues associated with that. So, at this time who would like to be first?"

Mike Skillman, "Well, I'll get started." Council Member Curtiss, "Go for it, Mike." Mayor Luke, "Identify yourself." Mike Skillman, "Mike Skillman, Victory Excavating." Mayor Luke, "Thank you." Mike Skillman, "We're all here trying to make this better and that's all we really want. To make something that's user-friendly for not only the city but for developers to make good on their end of the deal to bring houses into the community, which is in need, very much in need. So, my first deal pretty much just kicking off right at the start, everyone's biggest hang-up has always been that 15%. Okay, let's just kick that dog right now." Mayor Luke, "That's page 1, paragraph 3 under A, 2 & 3."

Mike Skillman, "Basically, any developer that's local or anybody around here is not going to divvy up 15% and sit on it for 18 months or longer. You know, when you're talking any type of major development, you're not talking a couple hundred thousand. You're talking a couple million or more if you're not talking 20 or 30 million. When you start to put that at 15%, nobody has that cash." Council Member Van Horn, "Can I interrupt for a second?" Mike Skillman, "Yeah, go ahead." Council Member Van Horn, "We did talk about changing that to 15% of what it was going to cost the city to get utilities to the side of the property. We have already discussed that as a possibility. Instead of the whole project, which is really difficult for

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anybody to know what it is. That would be simply our expense to get utilities from the city boundary to where it has to be for your development.” Mike Skillman, “Okay, but if you read this...” Council Member Van Horn, “It’s not changed but we did discuss that.” Mike Skillman, “Okay, okay, okay.” Council Member Van Horn, “Maybe an alternative to protect the city a little bit, and still give you guys, and make it much less complicated.” Mike Skillman, “That would be a big help. I have another suggestion too; what we use in like every other public deal and you use it here today. Ask for a performance bond. A performance bond, a contractor or developer provides you a performance bond. Okay, you can ask for a performance bond to cover whatever percent of the project that you want, you know, to make sure. For instance, if the developer is footing the bill himself, he’s the one that’s out the money. So, if it’s me, then I’m going to be sure I have an inspector there, to make sure it’s right.

“So, one thing you would do is hire a third-party inspector. That would protect me and the city. And I know a lot of this came from when we had that catastrophe out there at the last development when the streets collapsed. I know that the city ended up eating a lot of money fixing that. I remember when that was put in and a lot what happened there was there was no oversight. So, by hiring a third-party inspector, like Kaw Valley, PCI, or whoever it is, there’s plenty of them around. Not only will some of them actually draw—like for instance, you take Kaw Valley, you can even hire them as your engineer to draw up the plans so that they literally have that all in-house. But they also have that third party inspector that checks compaction, make sure the trenches are backfilled properly, make sure everything on that job site, whether it’s compaction of the roads, the AV3s put in properly, the asphalt meets spec, concrete meets spec. By doing that, now you put it on them to cover everybody if that makes sense. Because we’re not sitting here going, well did Mike Skillman do it right? Well, Stan Luke said he did but Marty said he didn’t. It takes all that out of the equation. They’re the ones that are paid for, either sometimes the city pays for it and sometimes the developer pays for it but no matter what, they’re still third party. They’re the ones that are going to have to back it up. Because if it fails it comes back on them. Okay, so by doing that you eliminate some of your heartache that you felt in the past when stuff maybe wasn’t done right. That’s way before you guys were ever even on the council.”

Council Member Curtiss, “Is the amount and the inspector charges relevant with how much the building development is going to be?” Mike Skillman, “Generally, it can fluctuate depending on how deep you want to go into it. Like, if it was me, okay, the airport project’s going on up there that we’re doing. I making sure I have a third-party inspector. They inspect the compaction of the dirt. I’m a dirt contractor. I know it got compacted but I want them...” Council Member Van Horn, “It’s insurance for you.” Mike Skillman, “Yes, exactly, they put it on paper because they came out there and tested it and said ‘Yeah, it was 98%. You’re good.’ We had 6, 8, 10 tasks, whatever it was. It’s all documented. So, I know, even though I know that we did it right, it’s my insurance if something happens. No, I had it tested. Same thing is when we dug footing, they come out and checked the footings, make sure they were free of any debris and the rebar was right, and all this. They checked the pads before they poured the concrete, then they take some concrete cylinders, they make sure the concrete brakes at proper test strength. Again, it’s just an insurance policy for all of us by doing a third-party inspection. And that takes a lot of the load off of everybody because they’re the ones that if it doesn’t pass, then they come back and say this didn’t pass. Well then as a contractor, I’m going, I have to rectify this somehow.

“And if you’re any kind of contractor, you try and make sure that never happens because it cost you way more money to do something twice instead of doing it right the first time. But sometimes things happen, I’m not saying... Nobody is perfect. So, by doing that, you kind of eliminate that possibility for error. You put it on somebody else to make sure it’s taken care of. Then if you go with your bonding, like I said, get a performance bond, basically it’s an insurance policy for the city that says this job will be completed properly and if the city has a problem, they can file on that bond to rectify it. So, if I was to get a performance bond, had you guys named on there, for instance, if I didn’t finish it, you would go back on the performance bond and that company would have to pay to finish the project. That’s basically putting insurance on me, that I’m going to do it right and finish it.” Council Member Curtiss, “But the developer gets the performance bond?” Mike Skillman, “Yes. And the thing that changes is that gives you the opportunity as a developer if

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you got a good reputation, you can get a performance bond at 1% to 3%. You're not talking 15%." Council Member Curtiss, "Okay." Mike Skillman, "You see what I'm trying to put that out there? Where it protects you but it also frees up that capital that nobody has. So, that's my recommendation on the 15 on the front side." Council Member Van Horn, "I think that sounds very reasonable. Sounds like a good deal." Mike Skillman, "It's just protection all the way around. It's just good business, is what it is. If you deal with any kind of state or federal government, you deal with that on every project." Council Member Ernst, "So, how much would you get the performance bond for? I guess, is it for the entire project? How does that work?"

Mike Skillman, "You could. That would be something that would be determined, in a way. But, yeah, you would have that for the whole project. It could be broke out. Okay, you could say you have a performance bond on the sewer part. Say it's a million dollars, you're going to get a performance bond on the sewer part. Then it comes time for the road, maybe you could get that—it could be broke up into sections or it could be one bond for the whole project, depending on how it comes out. But you'll have, one thing you'll have to literally right off the start, is you have to say basically I'm going to take this piece of land and we're going to try to build some houses here. And you come in like the city, we would sign an agreement, we're going to work together to try to put some houses here. Okay, the initial agreement really is just rather than try to put a ton of regulations on, just say we are going to work together, but we have stipulations. You're going to have to do a certain amount of things and vice versa, the city will have to do some things too. That's basically what your developer's agreement is, other than the one you have gets very detailed. You know, as far as like sidewalks and different things. That really comes into once you have the engineer develop your site plan and when you approve that. That's basically when you approving what sidewalks you're going to get, how wide the roads are going to be. Does that make sense? The developer's agreement says we're going to do it per plan per the city's codes. But don't worry about trying to slam every code into this, just say we're going to meet every code per city guidelines. Once you go into an engineer, the engineer is going to come into the city, what's your codes and guidelines? He's going to start developing that site in accordance with your codes and guidelines. And then once you have that plat, and once you have your final design, not final design, but you'll have a preliminary design, then the city can go over that and say okay, it's got my sidewalks, it's got my stuff, it's got this, it's got that. That's when you can approve, basically, you're approving that, yes, we will go with this construction because you have something to look at. You see what it is. Does that make sense?"

"You know, there is a process that you work down through there. By having the developer's agreement, yeah, we agree that we will work this way, we're going buy a performance bond. We're going to do all this and that. And it's all by city code. It just simplifies it, once you bring in the engineer's plans, everything's verified. Are they meeting the codes, if they're not then it gets changed." Council Member Curtiss, "So you don't need the reference to the regulations or codes in the developer's agreement?" Mike Skillman, "Well, you can have, you do but it can be very simple as to, I'm just trying to simplify it where there is less..." Council Member Curtiss, "On page 4 of the agreement, number 5, it refers to the city code and also under E down there, the city code. But I think the rest of it just applies to the regulations." Mike Skillman, "And even right here on A, the very first one. Fiscal securities, it says upon approval of plans and specifications, well that's basically what it amounts to. Upon approval on plans and specifications, you would be able to move forward. Without it, it goes nowhere. So it--I'm just trying to make it simple where you're not trying to read down through everything to get approved, you know because that is what your engineers and everybody else is supposed to do for you. If that makes sense." Council Member Curtiss, "Okay"

Council Member Mays, "So what I'm seeing, like the developer's agreement should include A, financial commitment, and B, you're going to follow the codes and regulations? That's really all the developers and then you have the second step. Is what you're saying?" Mike Skillman, "Yeah, that's pretty much what it is. Because it...and I've got some ones here that I've pulled up, they're not that much different. They're really not. Other than we're just not trying to go through there and ID like we're going to have sidewalks five foot. That should come in with the engineering end of things. If that makes sense." Council Member Curtiss, "Yeah" Mike Skillman, "Make this as simple as possible to cover everybody's assets, how's that?" Council Member Curtiss, "That was good." Mike Skillman, "Is that good for 5th grade or what? Anyways

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that's basically what I'm trying to explain. But, if you go with bonding and some of that stuff, you're covering that stuff without having to get everything done in one agreement upfront, when we don't even have a plan to even discuss with that." Council Member Curtiss, "Okay" Mike Skillman, "Does that help make sense of what I'm trying to explain to make it workable? You know, because we do need an agreement 100 %, an agreement should be between the developer and the city, saying we agree to work together for the mutual interest of the city and everybody involved to make this happen. Yes, we have to follow city guidelines because that's why they're put in there. Otherwise, you'd have run amuck, you know. We're going to put 2 inches of asphalt down and say that's good. No, we can't, you know what I mean. So, there are guidelines we need to follow and that's where the engineer comes in and says the city guidelines are 4 inches of asphalt, okay so that's what we're going to put in. It's probably more than that but I'm just throwing that out there. Does that make sense of what I'm trying to explain?"

Council Member Van Horn, "So, you are saying we need to do like an initial agreement to get started before we add all the rest of it on?" Mike Skillman, "Yeah, cause when you get the initial agreement, you are just agreeing that we're going to work forward and we're going to work under the city's guidelines. You guys still hold the power for everything, you can decide not to release permits to build on. And that developer is hosed. You see what I'm saying? You guys hold the power. Because if you decide they haven't met the regulations, well then you say you're not getting a building permit. Well, they're not going to go spend millions of dollars and Stan come up here and say I can't do it because you didn't do this. They're wanting to work together. They want to have that deal at the end because the only way they're going to make it is if they get to build houses. They're not going to dump millions of dollars into land hoping that they get a permit. That's why I'm saying you guys have, you guys hold the control of the whole thing, just, the developer's agreement says we are going to work together to make this happen. If that, I know I'm rambling on." Council Member Curtiss, "No, you're explaining." Mike Skillman, "I'm hoping I just bringing a little insight to what I'm seeing for when I'm working up in Kansas City or Emporia. You know, I had the mayor in Emporia two or three years ago say he would give me a chunk of land if I would develop it. They were wanting housing that bad, and they'd even put in a—I can't think of the technical term, but basically where it's like tax credit type. They would—you know the taxes off the property would pay back the infrastructure. But I was...I'd be more willing to do it here closer to home, then going over to Emporia and doing it over there. It's not that I didn't think about it, not that I wouldn't be willing to do it. But that's basically what it amounts to, everybody is looking for housing. This is not a new thing. And if you go back and look at the studies back from even prior to 2005, you know we had a huge housing surge from the early 2000s up to about six or seven, when things start falling apart. When Fannie Mae and Freddie Mac and all that stuff went down, okay?"

"You think about it, that's been 20 years. It's been 20 years since we had major push on housing, and if that...what's that study—we had a study done, and what did I tell you the figures? We were short 180." Ronda Gilbert, "Something like that." Mike Skillman, "Just going off that the 30 or 40 years past study or the housing study, I wish I would have brought that paper but I forgot about it. When you do the calculations over the last 20 years, of what's being built, we're still over 180 houses short in the county. On a 67-year average, because of the last 20 years because there hasn't been—I mean, Mike Abendroth's the only one building houses. Thank God, he's building some houses. Okay?" Council Member Curtiss, "Yes." Mike Skillman, "I mean, but seriously, who else is building?" Council Member Curtiss, "Yeah, no. No." Mike Skillman, "We got the new guy that's doing a couple now, but you know back in the—when I built my house 25 to 30 years ago you had John Dick, you had even Jim Decker and them was still doing work." Council Member Curtiss, "Right." Mike Skillman, "You know, you had several people building houses, but now you're basically down to one house builder. And even as good as Mike is, he ain't going to be able to put in 180 houses in a couple years to catch up." Mike Abendroth, "I'm getting tired."

Mike Skillman, "But you see where I'm going." Council Member Curtiss, "Right." Mike Skillman, "And I'm talking countywide, not talking just in the city. But the City of Burlington's the biggest one. So, if there's 180 houses countywide there should be at least 100—40 of them should be right around Burlington in this school district. The rest of them would be plotted out in the rest of the county if you went how that

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study went. I had it all calculated; I thought I brought it, I could have given you a little better numbers than the ones I'm just spitting off the top of my head. But, going back to what I'm trying to do, is that we're already behind. We're talking about a CHIP plant coming in and all this other stuff. We could catch up if we were building, you know, 40 houses a year, we could catch up in 7 or 8 years. Because the demand is going to get even that much more. You see where I'm going? So, anything we can do to streamline and make this as simple as possible and get the ball rolling will help. Like I said at the last meeting, most of the developers out of Kansas City are not coming to Burlington." Council Member Curtiss, "Right." Mike Skillman, "They're just not going to. Why would they come here when they got all that up there?" Council Member Curtiss, "They're building all the time." Mike Skillman, "And in certain parts up there around Spring Hill and Gardner, even though if you look at the housing markets nationwide right now—well you can even notice it here. You notice there's more houses for sale now than there was two years ago." Council Member Curtiss, "Yep." Mike Skillman, "The interest rates and everything has caused the housing to slow down. But look at what just happened November 5th, okay? What you're seeing is, you can see a change in regime that could cause people to back to building again. You drop interest rates, look out here we go again." Council Member Curtiss, "Right." Mike Skillman, "So, it's all part of a great big picture. And I'm not just talking about the City of Burlington or the State of Kansas. I'm talking United States, I'm talking even worldwide here."

Mayor Luke, "So if I got this right, basically, we utilize what we have and simplify it." Mike Skillman, "Yeah." Mayor Luke, "We take the headings that we got, let's say we'll pick on streets. And say that okay, streets will be done by city code in reference to—just reference code such and such article 10. And that's all we do for streets. Same thing—we go to water and sewer; we have to go to KDHE because they have the final approval. We have a small hammer and they've got the mallet when it comes to the sanitation and the water systems. The electric follows under the National Electric Code and any article that we have basically identifies the separation of costs and how it's done. So, if we do that, then we can establish—we have a section I believe on assessments, and those things are for covering the city's cost after the fact with the owners. So, if we eliminate everything that is identified within the subdivision regulations or the streets or the water or the electric or whatever, and just reference those that this is where this information is and not go into the handicapped accessible sidewalks and all this, just here's the sidewalks in article such and such. And then, identify how we're going to work together and so to speak call it good."

Mike Skillman, "Yeah, because—and I got some of the same things it's just—I'll leave them here so you guys can look at what it is and run copies. There's a publicly funded and a privately, and if you read through it, it ain't a lot different than what you have, it just simplifies things. And that just helps get the ball rolling, because, at the end of the day, nothing's happening unless plans are approved. So, as a developer, we go out there and spend a bunch of money on an engineer, developing all these things to meet all your regulations anyway, we need that approved so we're going to have to meet certain regulations you have in your stuff to get them approved." Mayor Luke, "Yeah, the superintendents go through it all and say, this meets our code and this doesn't. Or KDHE will go through it and say this meets state requirements or it doesn't and at that point in time it can move forward, as long as it meets those requirements." Mike Skillman, "Exactly, it's a process." Zoning Clerk Hugunin, "As long as the preliminary sketch, preliminary plat, there's where you make your changes as far as sidewalks, streets, stuff like that. The preliminary plat is going to have everything on it where the sewer is, easements, utilities whether they run underground--." Mike Skillman, "Fire hydrants." Zoning Clerk Hugunin, "All of that will be on there, and then that's the planning board will give their recommendation to either approve it or disapprove it. If they approve it, it comes to you guys." Council Member Curtiss, "Okay."

Mike Skillman, "And if your boards doing their job, you should be able to say, hey they said it met, we're good. If you guys are good, we move forward to the next step, you know. So, you're not trying to accomplish everything in the first step, let's get to this one, let's go to this one, and let's go to this one." Mayor Luke, "It's a series of progressive steps." Mike Skillman, "Yes." Mayor Luke, "Instead of one big step." Mike Skillman, "It's that one big ole step that nobody can make right now." Council Member Curtiss, "Right." Mike Skillman, "That's what it comes down to. Because anybody that really wants to have it

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happen, they don't want to work. The city benefits from housing. I mean, where does the city make a lot of its revenue; selling water, electricity? You know and stuff like that, that's where your revenue comes in...property taxes. You take, again, I'm not very well prepared. If you took, you know, 50 new houses in town and even if that was an average of \$1,000 a year, that's \$50,000 a year, and most likely there will be more than that. That with the income that comes to the city, not counting your water or your electric you're selling them. Sewer, because you have a sewer fee too. So, at the end of the day, the entity that benefits most is truly the city. Because somebody else most likely is going to pay for a lot of the infrastructure. Whether it's through grants or tax base, or whatever it ends up being. But at the end of the day in 50 to 100 years the city is still getting paid, still getting paid, still getting paid. Because the houses are---."

Council Member Van Horn, "I think you don't need to sell us on the fact that we need housing. And I think that we all agree, that we just want to protect the builder and protect the city. So, however, the most expedient way to do that is, we're all in." Mike Skillman, "Well that's all we ask for, truly. To make a good conscious effort to make things happen. You know, that's all really, we're after. You know, everybody agrees we're all going to move forward and try to make something happen." Council Member Curtiss, "That's what we're here for. Yep, that's right." Mayor Luke, "Would you expect the developer to install the city's infrastructure or would that be somebody separate?" Mike Skillman, "You know, when you start doing all that, that really comes down to—every site will be a little different, you know what I'm getting at. Like if you read in your agreement it says, if we're going to mandate 12-inch water mains—I'm trying to remember how it read. Anything over that the city would pick up the difference if they had to enlarge a main to get it to the deal. That's pretty common, you know what I mean? But again, though, it's a working situation, is there a piece of land over there that maybe all the utilities are fairly close, it might not be a big deal. If you were going to run outside of town a mile or two, yeah, it turns into a bigger deal." Council Member Curtiss, "Yeah, sure."

Mike Skillman, "So it's kind of got to be a case-by-case basis because not everything's going to fit—or say every development has something you can work through per situation. If that makes sense, you see what I'm saying? You need to have guidelines, which you do, but there's going to be situations where there's going to be a chunk of land the city sewer line already runs right through it. Well, that's a benefit to the landowner and it benefits the city because somebody's already paid to have that put in. Well now, you take that into the deal, now we just got to get water and a couple other things and we have housing going up. So that would be different than somebody that's maybe building where there's nothing. You see what I'm saying? It's got to almost be a case-by-case basis pertaining to what piece of property and what's already available. Does that make sense?" Mayor Luke, "Yeah, for example, if everything is at the boundaries of the property; the infrastructure being installed within those boundaries, is that better to have the developer overseeing what the inspector (inaudible) the infrastructure as well as construction, so that coordinates? Or would it be better to have a separate contractor doing the infrastructure?"

Mike Skillman, "Say that one more time." Mayor Luke, "Okay, a lot of times when you're building something it's easier to have all the subcontractors under one envelope." Mike Skillman, "Yes." Mayor Luke, "If the separate contractor was to do the infrastructure, the streets, the waterlines, the sewer lines, and that, and it wasn't under the main developer. Is that a detriment to the project?" Mike Skillman, "If it was me running the project, I would say yes, because I like to have control. Because if they're not pulling their end of the deal up, and I want houses to be in. I want houses in six months and they're sitting there dinking around, yeah, I want to be on their ass. Does it have to be that way? No, it doesn't. It doesn't have to be, but this is just from experience on my part and it's just the way I am, I tend to like to be in control of my situation no different than like I have at the airport, you know? If somebody is not upholding their deal, then guess who's getting a phone call? I'm not asking the owner to call them, because it's my problem. I'm the one calling them saying why are you not here? Now you're putting Marty behind, you're putting Stan behind because you are not here doing your part on our schedule as we agreed. See what I'm saying? You can go in and have other people do it; you put them on a schedule, but who is the one who's going to push them to hold that schedule? Ultimately, it should be the person that's trying to make the final product happen, because he's the one that's setting here wanting to get houses up. It doesn't have to be that way.

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I'm just saying that's just my preference because I tend—that's just the way I like to do things. I'll just leave it at that.

Council Member Van Horn, "So if I understand--" Mayor Luke, "I can understand that." City Clerk Brown, "I would agree." Council Member Van Horn, "So If I understand what you're saying, is that we could have a stage two of our builder's agreement, like some blanks where we put in the options and still have a basic framework but leave a place where they could say either this person is responsible or this party is responsible for this part. Is that what you're trying to say?" Mike Skillman, "To a degree, especially if you start splitting things up, you have to, you almost have to have an agreement with them, an agreement with them, and an agreement with them if they're all doing different things. But if you got one guy that's going to cover the whole thing then you're just dealing with me and you. You know, but again with your agreement you kind of have it open there where like we said this has sewer so we don't have to worry about that. So, we're going to worry about this, this, and this, and that'll be in that agreement to make it happen. Per city guidelines, per city spec and everything, it just, it'll just be certain things that won't need to be done on certain properties."

Council Member Van Horn, "Thank you." Mayor Luke, "Any other questions for Mike?" Council Member Van Horn, "I think that's been very helpful." Council Member Curtiss, "Yes, it has been." Mayor Luke, "Okay." Mike Abendroth, "I guess one of my questions--" Mayor Luke, "Yep, go ahead, Mike." Mike Abendroth, "This agreement that you currently have stipulates developer will pay 100% of all costs incurred on this project. If you go back to the second page there, it looks like under C, no public funds will be used for business or private use, which means nobody can spend any tax money out here. Now, if I have to develop my own piece of ground with my money on private property, why do I have to give the city a bond? What do you need protection from, as far as the city, that requires a bond, if I'm funding my project on private property?" Council Member Van Horn, "Well, what we were talking about was the cost of getting the utilities to the edge of your property." Mike Abendroth, "Okay, which is on city easement." City Clerk Brown, "The bond also covers if something would come back after the fact, like if there's issues with the house, that it wasn't done—and I'm not saying—but if the house wasn't done properly, something wasn't met; that bond covers some of those issues. Like Mike was saying earlier, that we could file back against, so if there was something that needed to be taken care of, then that bond is for that."

Mike Abendroth, "The bond covers the initiation of the subdivision, not the individual houses. So that's irrelevant, there's no precedence to that at all." City Clerk Brown, "Well I thought I read that somewhere in here." Mike Abendroth, "Someone shouldn't have to buy a performance bond before they get a permit. That doesn't happen. That 15% is made to cover the cost." City Clerk Brown, "We were talking about different bonds, sorry." Mike Abendroth, "So, what does the city need a 15% bond for if I'm financing my own project on private property? If that project doesn't--" Council Member Van Horn, "We're not even talking about doing that 15 % bond right now." Mike Abendroth, "Well that's what your current agreement says." Council Member Van Horn, "That's what we were talking about changing." Mike Abendroth, "Okay, and I just want to know what 15% covers for you guys. What do you need protection from? So, if I go out there and start doing my project and I decide I don't want to finish it; the City of Burlington has zero dollars in it, according to this, what are you out?" Council Member Van Horn, "Well, if the city took utilities out to a property, and then you didn't finish, then the city would be out money or not?" Mike Abendroth, "Okay, so then you're back to the case-by-case scenario whether the utilities exist there in the proximity of the project or not already. So, other than that, what does the city need protected from? If I have a million dollars out here and I decide I don't want to do my project anymore, what are you out?"

Council Member Van Horn, "I think you're arguing about something that we've already pretty much agreed to disperse with." Craig Marshall, "Are you thinking in terms of wanting to get rid of that 15%?" Council Member Van Horn, "That's what we were talking about." Craig Marshall, "Okay." Mike Abendroth, "But according to this, the developer pays for everything, they give the city a bond, and after that project is completed, the city gets the rewards on it for years, and years, and years. Whether it be property taxes, water revenue, sewer, anything, kids in school. The developer pays for it all and the city has nothing to do but benefit from someone else's investment." Craig Marshall, "I think they're thinking about

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getting rid of that piece of the agreement though, correct?” Council Member Van Horn, “Yes.” Craig Marshall, “So that would take care of Mike’s question.” Council Member Van Horn, “Exactly, that’s what I was trying to say, but--.” Craig Marshall, “Okay.” Mike Abendroth, “But according to this what does the city do to help a subdivision?” Mayor Luke, “Jimmy, what all do we have in the subdivision regulations on--.” Mike Abendroth, “Because according to this the developer pays for everything.”

Council Member Ernst, “Well under the water, it said that we would do--.” Zoning Clerk Hugunin, “Well the city’s going to maintain the infrastructure once it’s in. We’re going to maintain the roads, we’re going to maintain sewer, electric, water; that’s going to be city maintained. Signs.” Mayor Luke, “What we could do, based upon the expenditures, we could do assessments as well. So that—.” Mike Skillman, “There’s several avenues that you could take, that would be something you could start working out after you agree to--. You know what I mean? You agree we’re going to make this happen. Just like Mike was saying, what part are you going to pay? Well, it’s like I told you about the mayor over in Emporia wanting to—and I wish I could remember the terminology. Basically, it’s where the city almost pays for it through a—I know I’m not saying this quite right, but through a bond, but then that would be paid back through the tax revenue of that development for...I don’t remember, 20 years or something like that.” Mayor Luke, “Similar to what we do with assessments.” Mike Skillman, “Similar with assessments, it’s just called something different, I can’t think of it. But what you would be looking at, is you agree we’re going to be working on this and now we set down and say are we going to do assessments, is the city going to get involved and help to fund this publicly? You know, that’s an agreement that would have to come—at the front part too, but it would have to be...we’re agreeing to work, what can you bring to the table, what can I bring to the table. We set down and figure out whether we do assessments or whatnot. In this, it doesn’t really say that. It says we’re going to do this and this, that’s why I say if you have just—more of a generic, just say we’re going to work together...well nobody’s going to go anywhere until they figure out who’s financing it.” Council Member Curtiss, “Right.”

Mike Skillman, “Nobody’s going to drop money until they know where the money is coming from. You know, I’m working with a good friend of mine who—there’s a ton of grant money coming loose, it’s going to come loose maybe after the first of the year. That will be an option. We’ll look at all kinds of those types of things. It’s not that anybody wants to go out there and dump all their own money into it. Like Mike’s saying, if he wants to dump all his money into it, then yeah, he wants to control it all. I totally get it. But most people don’t have that kind of money to dump into it. So that’s where it would be an agreement, are we going to do assessments or are we going to work together and help? And that’s where the city would come in and say if the city files for this grant, they got way better chance of getting it than an individual. So, we would work together. Like we do with ...the guys out of Nebraska that we –with the housing over there.” (Inaudible)

Mike Skillman, “Yeah, it was basically an agreement that we worked out. They get all the paperwork—they’re able to pull in these...” Ronda Gilbert, “KHRCs.” Mike Skillman, “Yeah, HRC. They have that ability. The city has some of that ability, too, because you’re a public entity. That’s where you can help people like Mike or myself, or anybody. We get like Eric involved, and he says, ‘Yeah, I’m going to help you get this money’, but the city has to buy into it too because the city is the one who will help pull the money in the community. And it will help build that infrastructure. That’s kind of what he’s getting at, is somebody trying to literally foot the whole bill because there’s very few developers who foot the whole bill. I can tell you that. Unless they’re building 2-million-dollar houses and they don’t want nobody—but there’s always some type of a bonding or something with a housing grant type money that usually funnels into communities to help streets and sewers and all that stuff. But that’s where the city has to be involved because they have a better shot of pulling it in.”

Mayor Luke, “And there’s—we’ve done that before so that’s not an issue...” Mike Skillman, “Well, you guys talked about last meeting you’ve got that bridge.” Mayor Luke, “Yep, 6th and--.” Mike Skillman, “It’s no different, just on a bigger scale.” Mike Abendroth, “See, one of the good things about a city is, if this is to happen—and just like your place out there, Stan, where you’re at, and Martin. You’ve got assessments against your property for the cost of that infrastructure that occurred years ago. I can’t do that

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because I'm a private developer, so if I put my money into there, I have to have all my initial costs repaid to me upon selling that lot instead of a 20-year spread. What do you think's going to happen if I go out there and sell a piece of ground for \$80,000 for half an acre? How many people do you think's going to buy that?"

Mayor Luke, "I think that—I can't say what that exact sentence means, but I do know that if assessments are in place, quote-unquote technically, that's not using public funds because the individual associated with that piece of property is paying for it, so it would not be classified as public funds or other taxpayer's money. The actual homeowner or plot owner or whatever would be the one that actually pays the fee, even though the city may have funds or provided the funds upfront." Mike Skillman, "Yeah, that's what it would be. The city would have been the one that provides the funds upfront, but the assessment, basically, is the owners paying it back over time. That's how that works." Mayor Luke, "Yep, because when I moved in there, they already had it established. I would just as soon pay for the street that we're being assessed for instead of paying 20 years at an interest rate that the city got at that particular time. And now I'm paying that interest rate as well."

Mike Skillman, "No, and I—there's a lot of options, and that's what I'm saying. We need to explore all these options because it's not just one-size-fits-all, there's other options out there of how to fund these projects, and I just haven't even gotten into that yet. Because I'm really not prepared to get totally deep into it because I haven't even studied up on it for a while." Mayor Luke, "We got a company that we utilize out of Lawrence to evaluate residential as well as some commercial, but it's mostly residential."

Mike Skillman, "But I agree with Mike, and it's no different than what I've been saying. It has to be a commitment between the developer and the city to make it happen." Council Member Curtiss, "Definitely." Mike Skillman, "That's the way it is, you know. And that's what we've been talking about the whole time, working on what we can do to make it—for real work together to put this in, and that might mean that we need the city to go after grant money or go do something like this. And that's just part of the agreement and every one of them will be different." Mayor Luke, "Okay."

Mike Abendroth, "Well not just that, I came to this committee May 1st, presented a plat for west of town. All I asked for was annexation, which you told me you would have an answer for me by the next meeting. And told Anne to type me up a letter of intent for annexation for out there, Stan. It never happened." Mayor Luke, "It never happened." Mike Abendroth, "It never happened. Who dropped the ball on that one? And I sat here and specifically told this..." Zoning Clerk Hugunin, "We can't talk about that, Mike, sorry." Mike Abendroth, "I sat here and specifically--" Council Member Mays, "Is annexation something that you could put in the developer's agreement?" Mike Skillman, "Yeah, that would definitely be something, because that don't help the city if you don't get it annexed in." Council Member Mays, "Right. Okay." Mike Skillman, "That would be a big flag that the city would want." Council Member Mays, "We have that broken down in streets in like 14 different places in here so I just wanted to say, is that like something we need in there."

Mayor Luke, "Janet wanted to say something." Janet Payne, "Well, just being a—and I'm not in construction, I want to make a disclaimer about that." Mike Abendroth, "I wouldn't advise it." Janet Payne, "Nothing about construction. But in real estate and on the insurance side, a lot of things in these, this is applicable to some things that I do have experience with and do. And also, I lived out there in the same area for a lot of years, that Stan is in out at Country Club Heights. And I can just speak from experience from being a resident out there and also on the insurance as a citizen--. Is that every—and when we talk about every development has its own uniqueness and over the years, I would think we could look back at a lot of the places that were developed and learn from those. And I think that area when it was developed, there was not enough restrictions in place and that's why we're having problems today with so much flooding. If when that was developed years ago, if we would have required a developer to put all of the streets in together instead of doing one street, sell houses, do one street, sell houses, then try to tie it all in together, and now we have flooding issues. If they would have did it all together they could have resolved that. So, I think we went from that, in my opinion, to where it's so restrictive, that like Mike said, in the last several years, and it's been...I mean, Mike is the only one, I think since Steven left, what year was that? We have

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had-- Mike is the only builder consistently that's stayed with us. I feel that maybe there is some things now that, from those past experiences that maybe wasn't done correctly, maybe it was overcorrected. And so, I'm excited to find that you guys are willing to look at this and invite contractors in to see what it is we need to do to get the development back, to get this back on the right track to protect the city and to let the contractors build like we so need.

"But I did have a question too. I highlighted it—I didn't understand what that meant...the no public funds for business or private. That's interesting, I didn't know that assessments were not considered public funds. That was something that--" Mayor Luke, "The key thing is, you take the public funds and do something. Those are being paid back by the people utilizing what was developed and not Joe Blow down here on another street in another part of town." Janet Payne, "Well, and I can see economically why a developer who is doing it all on their own dime—how...we don't know the rate – as a realtor, I can't tell Mike if you build 20 homes how fast I can sell them... if you build 50—we don't know. And statistically, back in 1995, when Pioneer Meadows was developed, that guy from Lawrence came in here, and he did everything, you know, by the book and did everything great on that. But I can tell you he lost a lot of money on that project, because he came in doing it right, but for our area, obviously he did not study it appropriately for his investment, because it took us probably about 15 years to fill Pioneer Meadows. And they ended up auctioning them off—I mean the lots that sold for \$12,000 to \$15,000 for a half lot or for a lot, which is about a half-acre, ended up being auctioned off for \$5,000 to \$6,000 several years later. So that's not good for the people that went in there initially to the people that bought it at the end. It's the uniformity, but that's the thing with using all of his own money.

"I can understand some of the things, I feel like, if you are going to develop an area, streets are important. I don't know how you go about getting the funding to make sure the streets are all put in for your project, even though you're not going to build all of those houses yet. Because financially, you can't absorb all that until the houses are sold to assess those owners." Mike Abendroth, "But you can have your engineer engineer your road elevations and then when that's done, that's where your inspector comes in and makes sure it's done to the approved plat by the city to make sure everything is under the flood plain map on that piece of ground. That's not hard to do." Janet Payne, "I think the reason that project is because it did take so many years—how many years between Heather, Jason, and Gary?" Zoning Clerk Hugunin, "And another thing on that too, most people don't realize, that wasn't a plat zoned by the city, that was done by the county. And then it was absorbed by the city." Janet Payne, "And the city ends up dealing with the issues." Zoning Clerk Hugunin, "Even if--" Janet Payne, "I remember talking to Doug Mast." Zoning Clerk Hugunin, "Even back in those days when they started doing that and that's another reason for the zoning regs and the flood plain. That probably wouldn't have ever happened out there." Janet Payne, "No, it shouldn't have. It needs to be something to protect the citizens going forward for years—and the developer and all that has been done years ago but there's still...I mean even you. People are living out there and still enjoying the amenities of living out there at Country Club Heights but there are some things that could have been done differently on the front side."

Zoning Clerk Hugunin, "And that's the reason Mike knows –well Mike and Mike know, that's part of the drainage study that has to be done on any subdivision, that's part of the flood plain, it's going to tell you where water is going, if water is going to back up. Of course, we've got the maps now that are really good to be able to look and say this is in the flood plain." Janet Payne, "So, one of the things that—the last thing I have that I marked on this that was interesting to me because I've sold a lot of property in developed areas, and until recently, I personally had never seen the developer's agreement. It says that—section 9 says the developers assumes responsibility to see that all original purchasers of lots in the addition/subdivision receive a copy of the developer's agreement at the time of purchase. I have never given anybody a copy of the--" Zoning Clerk Hugunin, "We haven't had anybody--" Mike Abendroth, "Utilize it." Janet Payne, "Okay, I see why, because I was like we have not been giving any of these." Zoning Clerk Hugunin, "And that's one that I don't know why it's even in there." Multiple people talking at once-- inaudible. Janet Payne, "Oh my gosh, I don't have any of these in my file."

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Zoning Clerk Hugunin, “I think that kind of comes from under the same verbiage as the covenant or HOA or something like that, making sure that the landowners get that one. Because it’s really --.” Janet Payne, “So then, it’s up to the developer to let the realtor know that we need to do this and so that’s the...something we need to look for.” Zoning Clerk Hugunin, “And that’s something that can be looked at because that’s kind of redundant to have them have a copy of the agreement that the developer and the city did.” Janet Payne, “Yeah, I know we have covenants we get that. And the thing that I’ve learned over the years because I was— I’ve only done real estate in Coffey County and Burlington, Kansas all my life and we only had a few places that had like the HOA covenants and that over the years from those areas being developed, I think not only for us, but for the people that bought the houses that we sold in early years of development when we said these covenants are enforced when a builder starts selling property. That is something that even we became more educated on now when we sell properties in an area where we do have restrictions, is that the city doesn’t enforce the covenants or HOAs in areas. So, it’s up to the developer actually would be the governing body of that until I believe it’s five houses that are done. That’s what I’ve researched anyway. And when the first five, then those five people are now the HOA and they have to form to enforce it. So that’s definitely something over the years that we have learned from selling property in Pioneer Meadows and then down South and even out—up North there I can’t think of what it is.” Mike Abendroth, “Country Estates.” Janet Payne, “Country Estates, there it goes. The covenants that were enforceable at the time and now are no longer, so.” Mike Abendroth, “They’ve all expired.” Janet Payne, “They’ve all expired because they never developed their HOA. So that’s something that we now tell people in new developments is that when the developer is selling these properties, even though we have these restrictions, if we don’t watch who the first five homeowners are and you don’t develop your own HOA then they’re no longer enforceable.”

Mayor Luke, “Okay. Mike anymore?” Council Member Van Horn, “Mike, Mike, Mike—which one?” Mayor Luke, “I was looking past the front Mike.” Mike Abendroth, “Like I said, we were down here May 1st.” Mayor Luke, “Yep, I know.” Mike Abendroth, “Bobby Skipper, Mr. Marshall, county sat here and told you guys that they was willing to fund the expenses to get my project started, I was promised a letter the following week and here I am six months later.” Mayor Luke, “Still waiting, yep. Okay. Ronda anything?”

Ronda Gilbert, “No, I think this has all been really good and covered everything. I mean, you know, something down the road, like thinking of maybe an incentive too, for maybe the developers. I mean I know we just talked about that at the Housing Authority, we have a developer’s incentive if you’re going to go build a spec house we will pay up to \$2,500 for your interest and stuff like that on building the house, if it’s for spec houses. Like you know, the taps and stuff like that, just be thinking of that, could you like help that? Or we buy the culvert and you put the culvert in? Something like that might even make the developer be like, hey you really do want me to be here. I have a lot of other cities that do that so just throwing that out to you guys to think about when you’re talking about what could we do. Because little things like that do add up and I know it’s case by case, but that might be something to just kind of think about. Thanks for letting us all come here.”

Mayor Luke, “If we got grants to help to support that, versus, once again, taxpayers’ money.” Ronda Gilbert, “Yeah, and I know.” Craig Marshall, “Has the city looked into Rural Housing Incentive Districts - RHIDs?” Mayor Luke, “Yes.” Craig Marshall, “Because that, to me, makes a lot of sense, guys.” Mayor Luke, “It is, and we just—I shouldn’t say we, but the state just redid, so that now there are some things that’s available to the City of Burlington in the past have not been available so we couldn’t make applications for it. And I don’t know if those have been fully vetted yet to know exactly what it is that what’s new that is available to us. I could call Brant to see what he has to say.”

Council Member Ernst, “Craig, can you talk more about that?” Craig Marshall, “Again, this is just—if you can get this approved it allows the city to use tax dollars to reimburse the developers the cost of installing the infrastructure. And there’s a whole set of guidelines—if you pull up RHID and google it. A city with a population of less than 60,000, which we are; county population of less than 80,000, which we are. There’s just a whole list of things that you can—there’s some incentives here. That, to me, makes sense to look into.” Mike Abendroth, “If I remember right, on an RHID grant, those are also applicable to your

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downtown building restorations, too. So, they can be utilized to fix your downtown.” Craig Marshall, “They are.” Mike Abendroth, “You can get CDBG grants, too, that helps with infrastructure.” Mayor Luke, “We didn’t used to be able to qualify for those, but now we do.” Mike Abendroth, “I mean there’s a whole plethora---.”

Craig Marshall, “RHID helps the developer a whole lot. I mean, they’re building houses within the community, you’re assisting with the financing with the infrastructure improvements, you’re assisting in saving old buildings. I mean, I think this is what really seriously needs to be looked at.” Mayor Luke, “Yeah.” Janet Payne, “And I can speak for the downtown, old buildings, there’s a dire need for that. To keep our downtown—the financial responsibility of a lot of those building owners; it’s getting to where a lot of those don’t even pass inspection anymore for insurance purposes.”

Craig Marshall, “I’ll even go a step further, thank you again, to the city council for allowing us to have the building downtown free of charge. Mike Skillman can talk to you about what we did in the basement, oh my gosh. The guys at Victory X, whatever we paid them, off the record, we could have paid them like five times the amount to get that basement shored up. The base, the foundation of that building—brick to last forever. Because those walls are like the Rock of Gibraltar down there, that building is in really good shape. But that basement was...” Mayor Luke, “Yes it was.” Craig Marshall, “Mike, I don’t know if you lost money or made money on that, but thank you. The guys that worked on that, they are saints, let me tell you what. They got to have wings and halos because that was a mess. Having said that, back to the—just anything we can do here. And I’m going to speak real quick because, from the school board’s perspective and the school district, we are trying to figure out what to do for the future. As you’ve seen newspaper articles, surveys, things like that—I can tell you, over 130 comments that we received on 350-some surveys were filled out; a number of the comments talked about housing. You’re spinning your wheels if you’re looking at a potential new school if you don’t have housing here in this community...you’re spinning your wheels.

“I even talked to one of my mentors, Dr. Watson, who is the commissioner of education, when he was down here for the keynotes speech at the beginning of the school year. We were talking about growth and development, and he goes ‘You make sure you’ve got to have housing. If you don’t have housing, it’s not going to work.’ And like Mike and Ronda were kind of indication, we’re so far behind, guys. We’ve got to get going, we’ve got to get going. For us, more kids in the school district means more money for us, which means more money for the community, it means more tax dollars, it means more potential business, it means more—I could go on and on. I’m not telling you anything you guys don’t know, but we’ve got to get going. And I think the frustration—when I was down here kind of similar to what Mike indicated in May when I came to the meeting. I don’t come to a lot of meetings because I have enough meetings to go to and I trust you guys to be able to move this needle forward. My frustration is...May 1, I felt like when I came to this meeting, I felt like the needle was going to go and move forward, and it hasn’t. I’m very honest with you; I’ll straight shoot you, it just hasn’t. And we can’t throw up a new school in six months; Mike can throw up a house maybe in six months. We can’t do that. If things start happening here, it’s a two-and-a-half-year process for us to get a new building. And there’s people hesitant to support what we’re trying to look at. Whether it’s an add-on renovation or a new facility if they don’t start seeing dirt moving, earth moving. And so, I would say housing is a key.

“Why wouldn’t you want to live in Burlington? This is the Chamber of Commerce speech, why wouldn’t you want to live here? Great schools, rec center, great hospital. You’ve got a small-town living, you’ve got a waterpark, you’ve got obviously low taxes, guys. I’ve lived in numerous counties, taxes here are just incredible, it’s just low. I’m not telling you anything you guys don’t know; people want to live here if we had housing. But if you don’t have housing they’re going to go live—they’ll drive into our community and they’ll let their kids go to other schools. I’ll stop my soapbox. My Chamber of Commerce speech. We’ve got to get going. We’ve got something, we’ve just got to get—Mike wants to build houses. Mike and I are not related, I don’t have any investment, I don’t have any money in his project or anything. But Mike’s willing to build, we’ve got to do everything we can to get Mike building. Or any other builder that wants to build. We’ve got to do everything we can to make this happen.”

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Mike Abendroth, “I got a lady that called me today that’s putting a house—that wanted to move to Burlington and decided to go to Lebo, because there’s nothing here. So.” Janet Payne, “And that’s not anything—I think I’ve talked several times to the Coffey County Housing Authority and worked with them over the years. Housing has been an issue in Burlington and Coffey County for a lot of years. I can’t tell you how many Wolf Creek people we have lost; great family people, communities. When Mike has Christmas parties and his crew comes in or whatever, the majority of people that work at Wolf Creek it seems like they don’t live around here. It wasn’t because they didn’t choose to, there’s just nothing available. What happens is, when people interview for places like the high-level jobs, whether it’s at the hospital and it’s a new doctor or surgeon, or whether it’s the nuclear plant or even with the school district—when someone is relocating their family to a new community, the first thing they really don’t look at is buying a house because they may have a house to sell somewhere else, and don’t necessarily want to do a bridge loan and as a realtor I can’t say, oh this is the area that I think your family would enjoy or whatever. We don’t steer people as far as where to live, so what we do is we show them all the properties, and lots of times the houses that we have around here are not necessarily move-in ready, maybe there’s some stuff that needs to be done and then moving here taking on a new job, they don’t know contractors they don’t know anyone to remodel. So, then the next question I get all the time, for the last several years is do you have any rentals available? And we are starting to see a few more now, but it’s really hard to find a rental that’s larger than a two-bedroom and most of these people potentially have families with kids.

“So, we lose those people to rentals in Ottawa and Emporia, and they always tell me we’re going to keep your number, we love the community, we love the schools because we gave them tours of everything and they said when we sell our house or we decide what we want, we’ll let you know. Well by the time their kids have started school in another district, made friends, where do they end up buying/building? It’s in Ottawa and Emporia and other communities, and so there’s numerous people over the years that we have lost; that income, that revenue from those families because they don’t come back after they rent in those places.” Craig Marshall, “And if we don’t get going with something—like you see ground’s broken north of the airport on SSM. They’re coming, guys. There’s people going to be here for those jobs and we’re missing out. They’re trying to figure out where to live now. I’m sure real estate agents are getting questions from those people. We’re missing out on those people, because we don’t have anything available, and we’re missing out.”

Mike Abendroth, “You guys are going to have to get a partnership established and get this development agreement, where everybody wins. Right now, it’s one-sided. You got to form a partnership with the developers, City of Burlington; you’ve got to work together or you’re going to go nowhere.” Council Member Van Horn, “That’s what we’re trying to do right now, Mike.” Mike Abendroth, “I know, but it’s been around for 14 years.” Council Member Van Horn, “I’m so aware of that, I’ve probably heard it 150 times in the last six months.” Mike Abendroth, “That was 151. You’ve got to have some partnership, some cooperation with each other to make this to where it benefits everybody.”

Council Member Mays, “Okay, so looking at this, I have—B on page 2 it’s talking about all the petitions for the governing body that we need to do. Is that something that, you know, the performance bonds would take care of all of what we’re--?” Mike Skillman, “What page was that?” Council Member Mays, “On two. B, so petitions to the Governing Body may be submitted as a means of guaranteeing the Governing Body to install improvements. What are those petitions? Is that something that would be with the plat, is that something—I didn’t know what a petition in addition--.” Mike Skillman, “I’ll be honest with you when I read it I wasn’t for sure...” Council Member Mays, “Okay. Jimmy, is the petition something--?” Zoning Clerk Hugunin, “That’s nothing on my zoning side, no.” Council Member Mays, “Okay. Potentially something that nobody really--.” Mike Skillman, “There’s a note here, plus the petition.” Council Member Mays, “Yeah, that’s why I asked, to find out what’s the petition. I didn’t know if that is something you would know if their performance bond would cover or not.” Mayor Luke, “We’ll find out.” Council Member Mays, “Okay.”

Janet Payne, “So, can I speak on the bonds for a minute? Because I think there’s a little bit of confusion on the bonds. Because I wrote down that we needed to have bonding too. And that’s why I was confused

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by the no public funds and things like that. Because in my mind, I was thinking of developers, like the subdivisions that we have that there is more of a, I want to say partnership, between the city and the developer on an agreement of you're going to build housing and these are the specifications you have to follow and pertaining to streets, utilities, etcetera. Because that is something that—it's not a segregation, I mean they're intertwined. You have to provide utilities they have to build the infrastructure, but listening to Mike with his situation, it's, to me, completely different than what I think of as a developer's agreement in the fact of an area that we're going to develop like Country Club Heights or Pioneer Meadows or something like that. I think what he is doing, in my view unless I'm missing something, is his own land and own money going into building houses and evidently, you're not doing the streets yet, just hooking on to utilities. Like, if I was to say, build me a house right here, and you're just going off of a street that's already there. So, that to me is different than a developer's agreement, that would just be like a regular home builder, he would have to follow the same restrictions that I do as a person who buys a piece of land and hired him to build my house. I mean, I guess, I don't understand why he would have different rules building his own houses and selling them as what I would have hiring him to build me a house. So, I think that's the confusion to me, a little bit on this piece of paper that doesn't seem like it's applicable to both situations, is that something that is happening now? Is this developer's agreement being used for home builders?"

Mayor Luke, "If you had a separate lot and if the infrastructure is there, and there's been houses there before or whatever it is, there's no developer's agreement." Janet Payne, "Okay, that's what I was trying to figure out." Mayor Luke, "There is a permit drawn to build a house, and everything is between Mike and you on that as long as all the codes and everything is met." Janet Payne, "Okay, that makes sense." Mayor Luke, "There's no developer's agreement there. And I don't know how many empty lots are in town where a house could be built, I have no idea." Janet Payne, "Exactly." Mayor Luke, "But when you're going into virgin territory where there's never been anything, then the infrastructure has to be put in place." Janet Payne, "Okay, yeah and that's what I would see where we would need that infrastructure to be—utilities to be ran out to and we need work with you on streets. And I agree with the fact that in order for all of those things to be put in correctly the first time, *inaudible* from here on out that to follow some of those guidelines, but because of the cost if there's a way we can do some grants that—. If Mike was to have to do all that, I'm using him as an example because he's the only developer here, but I'm sure lots of developers would be interested in that, where he's being assessed those assessments until whoever buys the house, that's when it starts. And sometimes, correct me if I'm wrong, Mike, you've probably seen more than me, does some of those places have restrictions on a timeline, like we're going to do this as long as you have the property sold within two years or something? So that the city is not indefinitely put the streets in and then there's never an assessment at all and the houses are never developed and it's just abandoned. So, I understand when you talk about protection for both measures, he needs to have the protection that financially he can build these houses and recoup his money and do what he needs to do. He can't, like he said, sell a lot for 80,000 because he has to put all the infrastructure in upfront. But the city needs to have some kind of way to support that but there can be a timeline, that we're going to do all this and put all this expense in there but then you have like a two-year timeline that all those have to be sold off and done so that we can start recouping our money within this timeline."

Mayor Luke, "Normally, there's a timeline of when you have to start, okay? Whether it's one year or two years or three years, whatever it is. There has to be progress made at that point in time. But that also gives you all the time to get all your final engineering done and all the other stuff that's required. As far as finishing the project, that's a difficult thing." Janet Payne, "It is." Mayor Luke, "And let's say, just for example, if the CHIPS program never comes, okay? And we're anticipating building for that, and it doesn't happen. Or something else doesn't happen, then the end timeline is a difficult target to have." Janet Payne, "So not necessarily that they have to have the houses built by then, but if there is streets put in and we do that—because I will tell you as a realtor, it would have been a lot easier to sell the houses. We could have sold the houses a lot faster at Country Club Heights if they would have did it all instead of like...because I would have people who would see the whole plat and they would be like, I want over here, or I want to buy this lot over here. And I would be like you can't buy that lot over here because we have to sell this street first, and then this street, and then this street. Just even for the developer and for the city to be able to get

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people in it and get houses built sooner, whether because he does this, I don't know how many—if he develops an area, and it may be that depending on this demand that he does it all himself or he could subcontract it out to other contractors to help him build faster if we need to. But my thing was, not that he has to finish that in a particular time, but if there is streets for example done, or anything like that on the infrastructure side, that assessments won't kick in—they start with when the house is done and built, the new owner, they start immediately. But then, say there's no house two to three years later, and there's nothing being done, then maybe the assessments do have to start kicking in, and unfortunately, that would entice the builder probably too, if he's not going to build on the lot, sell it to people who want to build their own custom home or something.

“And that's what eventually, potentially, could happen but anyhow, that's some of the things I've seen—the specials, they have basically been put on hold for the contractor until all the lots are sold. But sometimes there is a timeline in there so it doesn't sit out there for ten years and we're not collecting any of our money back.” Mayor Luke, “And I agree if there's 25 home sites, somebody's going to want the one way back here. When you're planning on it being here. So, the infrastructure has to go in for the entire project at one time. Whether it's water lines, electric substation--.” Janet Payne, “And I am in total agreement on that, I just feel like for the contractor's perspective, there has to be a way--.” Mayor Luke, “And it might be a five year. Okay, for the first five years, the assessments won't be implemented except on property that's sold.” Janet Payne, “Exactly, that would be great.”

Mayor Luke, “At the end of five years, then the developer or whoever—.” Janet Payne, “That's going to motivate them to sell that lot.” Mayor Luke, “They're going to have to start paying the specials on the undeveloped lots to help pay back the infrastructure.” Janet Payne, “Yeah, I don't know if contractors would agree, to me that sounds fair.” Mike Abendroth, “That's how it works.” Zoning Clerk Hugunin, “And the agreement would cover contractors and subcontractors because he's still the developer, or anybody in here is still the developer but whoever they hire, they're covered under that too.” Janet Payne, “And if I was his realtor, I would say, yeah, five years if you don't have a risk, we can do something with it, because even to me, whether the CHIP plant comes or not depending on how many houses he's talking about what that area is, we can sell those. I mean, we're out of spots for people to build in general. There's a need, regardless of the CHIP plant, but when we talk about these other expansions that are out there that are possibilities that are going to draw other developers to our area. Those are a lot bigger projects and I'm sure they're going to wait until they see if the CHIP plant does come before they invest their money like what our locals are doing. We have enough already demand for that.”

Mayor Luke, “Okay.” Craig Marshall, “Just a couple quick comments, if you look at section one on page one, there's some good things listed there. Lights, telephone service, landscaping in public areas, so on and so forth. You may want to look at putting fiber in there as an item, and that also could be something that if you look at page 5 internet fiber on section 7, those are just a couple of things that I happened to notice some small details. *inaudible* I have that noted, but that has already been discussed in excess. You know, something to think about, on the off-site improvements on page two, off-site improvements. If you're looking at the betterment of the city, if you're doing something for the betterment of the city, I think we need to be thinking in terms of that cost share piece. That helps the developer, it shouldn't be all the developer, we should be working together. Mike doesn't want it to be, or anybody doesn't want it to be a one-sided thing. But if you're looking at the betterment of the city, there needs to be a working agreement there, a joint effort if you will, in my opinion. These were just things that I noted, and again, that's something else, you look at going underground completely for your utilities, only nowadays. If it's overhead, there's not a cost so to speak. But if it's underground, it's a cost. Does it make sense though, again, to have your utilities underground? In my opinion, it does. But again, that's something for you guys to think about.

“I saw on streets, on D, on number 7 on page 4, any cost incurred by the City associated with design and specification review, so on so forth, shall be paid prior to commencing construction. I think that's something to look at.” Council Member Van Horn, “I'm sorry where were you this time?” Mayor Luke, “Page 4--.” Council Member Curtiss, “Page 4, number 7.” Craig Marshall, “I don't know if it's fair, you

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know, again on number 7 that may be something to look at.” Mayor Luke, “I would say in probably 95% of the times, any review will be done by our existing staff, and there would be no costs associated with any of that.” Craig Marshall, “If you look at 5 on F-2, down at the bottom of F-2 there, it looks almost like is this in perpetuity in terms of the maintenance piece? To me, I mean, a developer ought to be, I’m going to throw out a number, like 18 months, should they be looked at? If up to 18 months that the property and in terms of that stormwater piece, if it’s in good shape after 18 months, then should the city then take that on after 18 months? Is it the property owner, they’re going to be assessed a fee?” Zoning Clerk Hugunin, “Well that’s going to be determined on where that would be at. Would that be on private; would it be part of the water?” Craig Marshall, “I think it’s again, something to look at.”

Zoning Clerk Hugunin, “It’d be like Pizza Hut up here. They have one in their parking lot, there’s some in different places. It depends on where that would be in the design standards.” Council Member Mays, “And I have that to look at because I don’t think that’s a development agreement.” *inaudible* Zoning Clerk Hugunin, “I was going to say probably 99% of the time, that’s going to be somewhere where it’s going to be an easement.” Janet Payne, “I want to go back to where I was earlier, I kind of got off track, but on the bonding make sure, if you’re putting a bonding requirement in any agreement the contractor or whoever that has to apply for the bond, has to prove to an underwriter what the financial obligation is from that contractor to that person requiring the bonding. And so, if someone can’t go get a performance bond if there is no financial obligation to someone, like the city. So, in the scenario where we’re talking about homebuilders with Mike financially doing everything on his own, we can’t put as a requirement that he has to go get a bond for the city because he would never be able to go get one. Every underwriter would turn him down and say how are we going to---. Now he can be like bonded, like the whole license and bonding permit that people do like when you say, contractors have to be bonded. And you have to have a contractor’s bond saying you can do work in our city, that’s different. But as far as in an agreement saying you want a performance bond, and if he – we have to know what he is, if something happens to him and he fails to perform because it’s a performance bond, what is our financial obligation to the person who wants it. And if you put a dollar amount out there, we have to know what that’s for because bonding is different than insurance. Bonding is saying that that bonding company is going to go find someone—when you turn in a bond, what we’re doing is, we’re taking the money and we’re going to hire somebody else to do his job that he was supposed to do. So now, Mike’s not doing the job for you, somebody else is doing it. So, when you turn a claim in on a bond, the bond company has to find someone else to finish that job that he promised he would do that you paid him for.

“And so, then in turn, the bond company, it’s not like insurance where he just turns it in as a loss, the bond company is financially going to go after Mike, because they had to pay someone else to do a job that he didn’t complete. And so, they’re going to go after him for that money. And so, that’s why you do not want to put there’s a bonding requirement if he is not—there is nothing we need to finish and do if he doesn’t comply. And so, like, if he’s just building his own homes and we’re not really out any financial money, then he wouldn’t be able to. But on the developer’s agreement, where we’re looking at putting in the infrastructure, and he doesn’t finish, we’re going to want to hire someone to finish that development. We can’t have a bunch of streets and infrastructure there with nobody building so that is what would happen, is then you would turn in a claim on that bond and we would have to find someone to finish the development that he agreed to do.”

Mayor Luke, “For us, that would be only the infrastructure piece.” Janet Payne, “If you financially—you have to be out some kind of financial...” Mike Abendroth, “Risk.” Janet Payne, “Yeah, risk. Because that’s what we’re bonding—like so for example when the city had the water plant built, and I think we had to use and act on those people’s bonds. We had to have the person bonded that built it and then they failed to perform and so we had to enact on that person’s bond to get someone to come finish our water plant. It’s the exact same type of deal.” Mayor Luke, “Okay. Alright.” Mike Skillman, “And that’s exactly what I was talking about.” Mayor Luke, “And it’s not a matter of if, let’s say, for example, they put in an underground waterline and a fiber company comes in or somebody damages it, that would be on them.”

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Janet Payne, “So that’s a different type of insurance, that’s liability insurance.” Mayor Luke, “Okay.” Janet Payne, “So if somebody is digging and hits another line then—that’s why we’re talking about, you can still protect yourself by showing a certificate of insurance. You could require—if you’re going to build in our city, then you have to provide a certificate of insurance showing that you are insured. Because if you damage any of our stuff or lines...if you start digging and hit one of our lines, then we want to know that you have insurance to cover it. If we have to come on your property and fix it.” Mayor Luke, “Does that same thing cover new construction if you’re in the process of putting it in and don’t finish putting it in?” Janet Payne, “No, the non-finishing is the performance but actually damaging something is more of a liability.”

Mike Skillman, “You’re going to want both.” Mayor Luke, “Yeah.” Janet Payne, “Yeah, you’re going to want both.” Mike Abendroth, “You’re going to need liability for whoever’s installing it.” Zoning Clerk Hugunin, “The performance bond and completion bond are pretty much the same thing, aren’t they?” Janet Payne, “Yeah, they’re pretty much because you’re going to perform it and you’re going to complete it. And also, you want to make sure that on insurance you can have general liability, which is while they’re on the job, but if you want like a products and completed operations, it is a separate line item on the liability which people have, but you just also want to make sure that’s there.” Mayor Luke, “Alright.”

Mike Skillman, “And that’s very typical. Very typical.” Janet Payne, “Yeah.” Mayor Luke, “Yeah.” Janet Payne, “And that’s something that I wish I could put out to all citizens, saying don’t hire anyone to do anything unless you make sure they have insurance because I get so many calls on claims and they have nobody to go back on because the neighbor did it or something.” Mayor Luke, “You’ve got to protect all parties.” Janet Payne, “High school shop class, they’ve done a lot.”

Mayor Luke, “Anybody else at this time? Then what I’d like to do is schedule a second meeting, but I would like to also give, especially our attorney, to draft what we’ve talked about tonight and have the minutes to work with. And draft a revised, and hopefully have that out to you prior to the next meeting that we have. I would like to give that person three weeks, which that includes Thanksgiving in that three-week timeframe, to accomplish that task. And have a meeting on the 3rd of December which is a Tuesday as well, the first Tuesday. And our next council meeting, which will be on the 20th. Okay, what I’d like to then is we can schedule the meeting tonight for December 3rd from 4:00 to 6:00, to review a draft of the revised developer’s agreement.” Council Member Ernst, “To review—.” Council Member Curtiss, “To review a draft.” Mayor Luke, “A draft, yes. A developer’s agreement.”

Council Member Curtiss, “So, I move to have a special meeting on December 3rd at 4 to 6 pm to review--.” Mayor Luke, “Hold on just a minute. Before we vote--.” City Clerk Brown, “Yeah, we need to have you sign before, and we’ll change the dates. And then we’ll make the motion. We need to have signatures first, and we’ll change the dates.” Council Member Curtiss, “Okay.” Mayor Luke, “We’ve got to do it right.” Council Member Curtiss, “Okay.” Council Member Ernst, “Way to jump ahead, overachiever.” Council Member Curtiss, “I wanted to get things done. That’s why. I do not procrastinate.” Mayor Luke, “We may have some blanks in that to fill in, but we’ll get the concept.”

Janet Payne, “I had a question, does an attorney actually draft this agreement or do somebody just—I noticed the last one, I don’t know who--.” Mayor Luke, “What will happen we’ll work the draft to give us something to work on, instead of referring back to this---.” Janet Payne, “So, once it’s finalized...” Mayor Luke, “And then the zoning board will work on it and bring it back to the governing body for approval.” Zoning Clerk Hugunin, “No, I don’t think the zoning board will be involved. Because you’re just revising the document, so we won’t be involved.” Mayor Luke, “You won’t be at all?” Janet Payne, “I just recommend—any legal document, if you’re wanting it to be binding, I would run it past your attorney to see if there’s anything they would recommend. Just from my experience in contracts.” Zoning Clerk Hugunin, “Yeah, he’ll be the one that drafts it.” Janet Payne, “Okay, just making sure.” Mayor Luke, “Okay.” Council Member Curtiss, “Can I do it now?” Mayor Luke, “Now you can do it.” Council Member Curtiss, “Thank you.”

Council Member Curtiss, “I move to have a Special Meeting on December 3rd at 4:00 p.m. to 6:00 p.m. to review a draft of the Developer’s Agreement at City Hall, 1013 N. 4th Street, Burlington, Kansas.”

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Council Member Ernst, “I second the motion.” Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.

Council Member Curtiss, “Thank you all for your contribution, they’ve been very helpful. Appreciate it, I really do.” Craig Marshall, “Thank you, guys.” Mayor Luke, “We’ll try to get the draft out to you guys ahead of schedule so you can look at it prior to the meeting.” Mike Skillman, “Thank you, guys.”

Mayor Luke declared the meeting adjourned.

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