

**BOOK 26**  
**May 1, 2024**

**BURLINGTON CITY COUNCIL REGULAR SESSION 5-1-2024**

City of Burlington Governing Body met in Regular Session at City Hall's address, 1013 N. 4<sup>th</sup> Street, Burlington, Kansas, at 6:00 p.m. Wednesday, May 1, 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

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 (Administrative Assistant)

Philip Wright (City Attorney)

Jimmy Hugunin (Zoning/Grants Clerk)

Kerri Weltha (Deputy City Clerk)

**Media Present:** Mark Petterson (Coffey County Republican)

**VISITORS:** Walker Trimble, Jordan Abendroth, Michael Abendroth, Bobby Skipper, Craig Marshall, Becky Petterson

**AGENDA:**

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

**MINUTES 4/17/2024:** Mayor Luke, "You have before you the draft minutes of our regular session of April 17, 2024. Are there any additions or corrections?"

*Council Member Ernst, "I move to approve the draft minutes of April 17, 2024, as presented." Council Member Van Horn, "Second." Motion unanimously carried, 5:0.*

**APPOINTMENT: Mike Abendroth – Request for Annexation**

Mike Abendroth, "Thanks for taking the time to see me tonight. This basically is a rough draft of a preliminary plat that I have north of the golf course on 38 acres, that I have mapped out. As you guys can see, there are 91 building sites located in this draft that I got, this preliminary area. Attached to it, Richard Croll was kind enough today to print me off the tax sheet there on the front, talking about the revenue that can be generated on this and everything else. So, if you go through there, there's a page with some colored boxes on it. So, this has, like I said, a total of 91 building sites out there; it's 38 acres, roughly. I would like to make this subdivision happen for the City of Burlington. We are out of building sites in Burlington. There are no more. What ones there are, are next to some dilapidated structures, which no one wants to live next to, and the city really needs to grow on this.

"So, the colored paper that you guys have in front of you, we'll start with that. We're going to do this in phases. So, if you look at the paper there, the red one is the proposed one that will start first. It has a potential of 12 building sites in it. So once those become filled up, we'll move on to the next one. You probably go to the pink one. Maybe the blue or yellow one will just see which way we go. But I want to get these phased in, get them filled up before we dump too much money into this, and keep the growth going out there. This is a really good spot. None of this ground is in the floodplain, which is pretty uncommon for out there for the use, --you guys who know who live out there. The pink sheet, the sheet with all the pink on it, the pink is the city's territory for providing electrical and water. Is that right, Alan?"

Superintendent Schneider, "I'm not sure about the water. You'd have to refer that to Danny. The electrical, if that's the same map that you and I looked at, then I agree." Mike Abendroth, "I visited with Alan a little bit yesterday, so he's kind of up to speed on it too as far as that goes. But that's kind of my intent with this little project. And, like I said, I think the city really needs this. The potential is here for this even now as we speak.

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There's an overwhelming demand for housing sites. You know, there's a lot of talk about the CHIPS plants coming in. I don't know, but regardless of that, the demand is still there for housing right now."

Council Member Ernst, "So where does the electrical and the water currently stop?" Mike Abendroth, "You'll have to—Alan, do you want to answer that?" Superintendent Schneider, "Yeah, so we go all the way up to the next mile west, currently." Council Member Ernst, "To Kafir?" Superintendent Schneider, "To Kafir. We serve that cell tower and the Rural Water District on the south side of the road there, that blue hut. It is three phase out to the edge of the property that Mike's talking about, and then goes down the single phase." Mike Abendroth, "Thank you. Danny, could you help with the water line?" Superintendent Hawkins, "It's a six-inch water line, and that lays on the north side and comes into the first road on Country Club Heights."

Mike Abendroth, "So with that being said, you can see the first phase of that is completely accessible to city utilities. Because, if I remember right, the sewer and waterline comes down to Heather Street, and then it turns back to the south right there and goes that way. So, it basically stops right there. But if the first phase was to happen, everything there is accessible for city utilities. It's a quick, easy hook-on." Council Member Strawder, "You'd be connecting sewer upstream of that pump station?" Mike Abendroth, "Correct, and if I remember right, that all flows to the pump station. I think that sewer line in there was 16 or 17 foot deep. Is that right, Danny?" Superintendent Hawkins, "I don't know. I don't know off the top of my head. I know it's deep." Mayor Luke, "It's not shallow, let's put it that way." Mike Abendroth, "Well, that's good. We can do gravity basements instead of sump pumps like across the street. But that's my thoughts. Thought I'd bring it tonight. See if you guys have any questions. Mr. Marshall from the school district has showed up. He's very interested in this for housing for the school. Bobby Skipper is here. If they'd like to say a few words, got questions for them. Now's the time."

Council Member Strawder, "One question for clarity: Are you still looking at annexation? Are you looking at annexing this all in at one time?" Mike Abendroth, "No, I'd just like to annex it in as the phases progress." Council Member Strawder, "The same with all the utility construction, in phases?" Mike Abendroth, "Correct." Council Member Strawder, "Platting in phases or platting all at once?" Mike Abendroth, "I'll probably plat the whole thing at once, then we'll just phase it in because I actually do have the legal descriptions for each of the little phase sections. So, we can actually have a legal to phase it in a piece of the time."

Council Member Strawder, "Okay, as far as conceptual ideas, that's where this stands at still, conceptual or has there been as far as lot layout, street layout --" Mike Abendroth, "I have lot layout and everything. I have everything for that." Council Member Strawder, "Was that done in conjunction with, since it isn't in the city, was it done in conjunction with subdivision requirements or anything like that?" Mike Abendroth, "No this was not. I know Jimmy helped with it a little bit. But if I remember, right that one was not in the city's extraterritorial jurisdiction, was it?" Zoning Clerk Hugunin, "The lots you're talking about now. Yeah, no, it's not even in the extraterritorial." Mike Abendroth, "So B&G Consultants did this, and they went off of Lyon County Emporia's regulations for setbacks and street sizes." Council Member Strawder, "Well, I mean, for purposes of discussion, this is essentially if it's brought into the city, then it would have to follow the city's requirements on that stuff." Mike Abendroth, "Correct." Council Member Strawder, "For that purpose, I would more indicate that this is more conceptual type of thing." Mike Abendroth, "Correct. And in that scenario, we can submit the drawings from the engineers and go to the planning committee for the City of Burlington. The planning committee can approve or disapprove it, or modify, as you know, and then send it to the council for ultimate approval."

Council Member Ernst, "How soon? What is your timeline on this?" Mike Abendroth, "Tomorrow if I could." Council Member Strawder, "Lot one, what is--?" Mike Abendroth, "It's just a big lot, and we really haven't subdivided it yet because I don't know what I want to do with that yet." Council Member Strawder, "So you're not thinking clubhouse or anything like that--" Mike Abendroth, "No, no, no, we just haven't done a lot split on it yet. It may be just one big house." Mayor Luke, "Alan, on the electric, is any of that in the 4 Rivers territory?" Superintendent Schneider, "So, from what I believe and what I have gathered from KEC, the very north row of housing is 4 Rivers Rural Electric territories." Mike Abendroth, "So right there behind my name, that little green section is in 4 Rivers territory. It's about 75 - 80 feet wide, is all it is. And I've spoken a little bit with 4 Rivers about it a while back, and they're willing to give it up since service is going to come from somewhere else." Mayor Luke, "We have to go through the process with the KCC, and if 4 Rivers says they don't want it and they sign off on it, that's okay. But if they decide that they want a piece of it, then we have to go through hearings. I just wanted to make sure we knew exactly what we were talking about." Mike Abendroth, "But in this particular application,

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if we start with phase one--." Mayor Luke, "That one won't impact." Mike Abendroth, "No, no impact to forward progress on this at all. So, and in the meantime, we can get with them and finalize the last 75 feet we need to. We got plenty of time for that right now."

Council Member Ernst, "So the only thing that's holding this up is you getting this land annexed into the city. Is that correct?" Mike Abendroth, "What I would like to have from the city is basically a desire to annex in all of this property when it's ready for it. So that would allow me to hook the city sewer, everything else, and then when it's done, we'll just annex the whole thing in. That's what I'm trying to do." Mayor Luke, "So we'd annex it all in once all the 'colors' are completed or--?" Mike Abendroth, "Well, we are going to do it in phases. Like the first section, we will annex that in when it's filled up." Zoning Clerk Hugunin, "I think there may be a glitch there. I think we'd have to annex them all if we were going to do it because I don't think I could -- we could accept.... If you platted it and we were in phases, but you had to plot, and we approved the plot. We can't approve that plat; that's not in our jurisdiction. So that'd be a hang-up there." Council Member Strawder, "Well, I think you're looking at plotting in phases." Mike Abendroth, "Yes. Correct." Zoning Clerk Hugunin, "I'm just making sure we were clear on that. I know Mike is clear."

Mike Abendroth, "Yeah, we would just have to have different plats for each section. It's real simple concept; it's easy. The city is in need of this. I know I talked to Craig; he's in desperate need of housing, and the school is. I mean, it's out there; the demand is here." Craig Marshall, "I don't mind speaking just a few minutes. First of all, city council, thank you. I appreciate everything you guys do for our city, public service, and I understand what it's all about. So, thank you again. Like Mike said, we are very interested. I think everybody understands we are in desperate need of housing. It needs to be the top priority; if not, the top of priority at the very top or priorities as far as when we need to have it happen here. Even if I you know --. We anticipate that we will have some growth, but even if we don't have growth, our housing here is just very, very limited to none. You know, families and staff that are looking to move into our community, they don't have a place. There's no place that they can find and it's so important for us. We get funding based on the number of students we have. We want, you know, we want families to live here and just to see the great things we have going on in Burlington. We don't want people, you know, to commute into our community just for jobs, and they live elsewhere. We'd like for them to live here, and even if they don't find jobs, here they could commute out, but they come back here and they live here. We want them to, you know, pay taxes and live here and reside here. We want things to happen here. It makes sense for us. Housing, again, for me, it's one of the top priorities, if not the top priority. I've talked to Mayor Luke about this. I also talk to Martin Ernst about this, how important this is, in my opinion. I don't know if you have any other questions."

Mayor Luke, "So, as of tonight, what are you looking for?" Mike Abendroth, "Basically, what I'm looking for tonight is the intent of the city to annex us in when it comes time to do it. That's going to delegate which way I go with this property because this property will happen. Whether it's at a county level or a city, and there's no reason the city shouldn't have every part of this as far as tax base. So, it's been talked about forming a sewer district specifically for this area, if the city is not willing to put this in the city. So, that would completely isolate the city from any tax base on this, and it will strictly all be county. But this is going to happen."

Mayor Luke, "Danny, does Water District 2 serve this area?" Superintendent Hawkins, "No, we do." Mike Abendroth, "City does." Mayor Luke, "I didn't know because they're out around that area." Mike Abendroth, "Bobby, would you like to interject anything?" Bobby Skipper, "I'll say this, so I guess where Mayor Luke is going with this, what's being asked, there is a discussion of the county coming in to help with some infrastructure and levy assessments back to the property to fund an overbuild of infrastructure because of the inefficiency of cost of infrastructure nowadays. It's really tough for a private contractor who just wants to build houses, and that's all we really care about, right? We want the taxes on the houses. Streets don't pay taxes; houses do, and people living in houses. So, we want more houses built than if the contractor has to sink two million dollars into curb and gutter and painting; that's two million dollars less of houses that contractor can build all at one time. So, what we're looking for, the county is having discussion and is contingent upon what the city does. If the city decides that they can serve the project, we'll just follow your lead, and whenever you take the path of giving some kind of verbal commitment for annexation, then we can start talking at the commission level about possibly funding some infrastructure upfront and working with the city to provide assessments back to the property."

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Mayor Luke, "So, the specials then would be, make sure I have it clear, if the county decides that, and we said go we'll be the annexing, then the infrastructure, the funds that they supply, there would be a special put on each of the houses, and then we collect it, and then turn it over to the county?" Bobby Skipper, "It's either/or; I think it would be up to your attorney to clarify this, but I think either county can collect it directly, that assessment, or the city can, either way." Mike Abendroth, "So, basically, the county comes in and pays the infrastructure, the total loss then, you take the amount divided by the total loss, and there will be the assessment, just like they did across the street where you live, and it'll be run on a 20-year payout, but it's a jump start. It's a good way to get this going. It's feasible."

Mayor Luke, "Jimmy, is there anything we need?" Zoning Clerk Hugunin, "Well, I'll bring up the dreaded developer's agreement. Mike and I've talked about it. On my side, that's my only hold-up is getting that, and beyond that, it's up to you guys for what you want to do. And I don't know. We've got some new council members. I don't know if you all know we have a developer's agreement or not, but I mean, it's out there. I'm just bringing that up." Mike Abendroth, "So, just a quick question. How many times has that ever been utilized since its inception?" Mayor Luke, "It hasn't been utilized. I'm fully aware of that. I think I'm the only person here that was involved with it when it was initially put in place." Mike Abendroth, "How long has it been enforced?" Mayor Luke, "Since 2011." Mike Abendroth, "So, 13 years and nothing's ever been done with it." Zoning Clerk Hugunin, "But I will say, it's no different than our zoning regs. It's a condensed version of the zoning regs and city code." Mayor Luke, "All I can say is right now what I'd like to do is, and I don't want to put you off by any means, but I think the governing body has to be able to have a little bit of a discussion on this. We should be able to discuss it and get a confirmation of going forward with the potential annexation and stuff like this by our next meeting."

Mike Abendroth, "Yeah, like I said, that's what I'm looking forward to see what the intent of the city is. If you guys got an interest in this, or if this is all going to be county." Mayor Luke, "I don't think there's a negative with respect to the annexation. I think the biggest concern is to make sure that all the rest of the citizens of the community are beneficial, it's worthwhile for them, it's not a negative, or impact them in a negative way, and that it's in the best interest of everybody involved. That may take a little discussion to make sure everybody's on board with that concept. Alright?" Mike Abendroth, "Yeah." Zoning Clerk Hugunin, "And annexation is going to be the easiest part of the whole project." Mike Abendroth, "You're right. I stopped by and gave Maxi her copy of this. So, she's familiar with this. I visited with her yesterday." Mayor Luke, "I'll talk with Dennis at 4 Rivers just to make sure because there has to be a legal document with them." Mike Abendroth, "But according to the blue sheet there, the first phase is in your guys' right to service."

Mayor Luke, "Right, with them, it's not going to impact your start. All we have to do is— we have to meet the legal qualifications of the KCC and then sign a document between both parties that it's okay for us to do. We don't need another problem." Mike Abendroth, "I understand. Any questions?" Council Member Ernst, "Just one more. What's it going to do as far as the structure? I mean, what's currently out there is going to have to be redone to service what you're asking for. Like you know, as far as the water lines, are they going to have to be bigger? Is electrical going to have to be more? Is the sewer going to have to be—in that area?" Mike Abendroth, "The city's water lines and sewer lines? Danny said there was...what a six-inch line going through there for water?" Superintendent Hawkins, "All of that will have to be engineered. None of us in here will have that answer. That's got to come from the engineer." Council Member Ernst, "Okay."

Council Member Strawder, "That's going to be, I mean, a lot of that stuff is going to be after the fact. My question would be, is again related to the developer's agreement or whatever procedure wise is, I mean, are you planning to execute the developer's agreement? Are you planning to request that we make variances from what is put in place and that type of stuff? And I think a clear understanding of that would help us make our determination. As indicated, that hasn't been executed, but is there a hold-up? Is that the hold-up from you being able to proceed with it being in the city versus county or that type of stuff?" Mike Abendroth, "Well, obviously, that is one issue that, in my opinion, needs to be readjusted. Because why would I give hundreds of thousands of dollars in bonds to the City of Burlington to develop my property, you know? You got the county who just stood up and said they are willing to take a chance and help. Why do I want to give the city hundreds of thousands of dollars of bonds? I mean, this needs to go to an engineer, get drawn out, come to your planning committee, the planning committee approves it, denies it, modifies it, they send it to you, I go to work, you guys show up out there, you take the prints with you that you've all approved, and say, yes, it's being built as we approved. That's all that needs to happen."

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Council Member Strawder, "I'm in full support of development and that type of thing. It's just having that clear understanding of following the processes or understanding what variances or what's being questioned that's not in line with those requirements that we might have in place and even then because that's also a way for us to improve our requirements down the road." Mike Abendroth, "Sure, I mean, it's future developments that could affect it." Council Member Strawder, "A lot of the requirements are all conceptual if they haven't been followed before even though they've been in place for a while, you know, type of thing. So, a clear understanding of what the intent is there, making sure it's not just again, like what we mentioned on another possible build, was just throwing all of our requirements aside and trying to do our own thing over here. I think it might be an unfortunate, you know, thing right now. But I think it's something that we can work together--." Mike Abendroth, "And I agree. I'd be more than willing to get with the annexation committee and planning committee to do this. If that's what it takes." Mayor Luke, "Okay, we will have some discussion about it, and hopefully, we will have an answer for you at the next council meeting." Mike Abendroth, "Sounds great, guys. Appreciate your time tonight. If you have any questions, feel free to call me." Council Member Curtiss, "Thank you." Mike Abendroth, "You're welcome."

**PUBLIC COMMENTS:**

Bobby Skipper, "I have one thing. I didn't ask to get on the agenda; I'm so sorry. But I see an opportunity, and I'll take it. We spoke one time about a turkey shoot, but something happened, and I wasn't able to follow up on that. I pretty much had to nix the idea. But we since had – the Rotary Club has had a few turkey shoots and we kind of got, you know, kind of an understanding of how it works. We'd like to have one in the City of Burlington next. The turkey shoot is a fundraiser for projects in the community performed by the Rotary Club. It's a great idea, it's a lot of fun. I think if you talk to anybody who was able to be at the turkey shoots, I think everybody who came to those would agree that they're just a lot of fun. But being inside the city and discharging firearms is, you know, it has to be something that is heavily considered by the council. I don't know your ordinances or how they would conflict or enable something like that to happen. I'd like to ask for that, and if there's a way to make that happen, I'd like to have it at Kelley Park during the barbecue competition, the day before or the day after, something like that. It's a good community event. A lot of people come out as family fun, good, clean family entertainment, and that's rare nowadays. You guys know that. But if you can accommodate this and make it happen, I'll go overboard with whatever security request or however we need to do to make the council feel good about it."

Council Member Ernst, "Didn't we talk about allowing shooting somewhere down at Kelley Park for like hunter's education or something like that?" Council Member Van Horn, "Hunter's safety, yeah." Council Member Ernst, "That was acceptable, correct? I mean, we were good with that?" Chief Jones, "It also turned out to be a moot point because the school was able to bring it back up there at the middle school there. There's a couple of places along the river, as long as we've got permission from landowners across the river. From the logistics side of it, we can do that. We'd have to make sure that from the legal side, we're covered." Mayor Luke, "So let us investigate that." Bobby Skipper, "Thank you." Council Member Mays, "When's the barbecue competition weekend again? What's the dates on that?" Mark Petterson, "Right before Labor Day weekend, August 31st and September 1st, I believe."

**PUBLIC COMMENTS:**

Walker Trimble, "I was just coming back this meeting to see if we had any idea on the ditch?" Mayor Luke, "We don't have a final answer on that yet. It's not that it hasn't been discussed and looked into. Hopefully, before the next meeting, we'll have an answer. I know we are looking at a multitude of things, and it's difficult to get everything in line." Walker Trimble, "Sure, okay, and that's perfect. But what I will say is that I've got the excerpt from the regular city council meeting from October 6, 2004, and on here it said, 'the city agrees to provide force main sewer for Gary Street, in exchange for 20-foot easement on the north South alley west side of Lots 1 - 8 Block 1, Country Club Heights addition.' So, if that changes the mind on it being utility easement or a regular easement, I think that probably settles that." Mayor Luke, "We've got that also. Okay, that's part of what we're..." Walker Trimble, "Perfect. Yeah, I think the intent is fairly clear of what that easement was. But if someone wants to claim ambiguous, we can go to the person that signed it. I've already talked to him, and he knows what the intent of that was, and I'm sure he'd be glad to come speak if needed." Mayor Luke, "Okay." Walker Trimble, "Perfect, thank you." Mayor Luke, "Thank you."

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### ELECTRIC DEPARTMENT: GENERATION PROJECT

Superintendent Schneider, "I'll start off with the generation project ahead of everything else this evening. We are complete." Council Member Van Horn, "Woohoo." Superintendent Schneider, "I am so happy. So, the initial commissioning test we ran on April 19th. We did run that unit for five hours. So, the generator is rated at 5000 KW. We don't know where the limit is; we just know that's name plate rating, which it's really not a good idea to go past that anyway for generator windings. We don't want any breakdowns there. We did actually run over to cover our auxiliary load; motors, pumps, and what have you. It was very successful. We did actually give it an unofficial run that following Monday while Wheeler's crew was still in town. I wanted to just make sure everything was good. It runs very well, does exactly what it's supposed to do.

"So, I'm very happy to say that that is complete. Wheeler does have most of his equipment out of there. They're still working on shuffling it back towards home. I spoke with KPP Energy last week about the capacity payments that we will get off of that generator, and we should start getting that next month. So that's all lined out as well. The only thing we're waiting on is not a Wheeler issue, it's our communications between us and KPP Energy. The revenue meter, the communications port in it was different than what we use. We use all ethernet to plug into our system. Utility Help Net was already down Friday after our KMU conference. He was there. He's got that part on order; he will be back for that. So, in the meantime, the revenue meter is still logging everything that we do produce, plus we're keeping handwritten notes to make sure. That makes the billing process a lot easier between KPP Energy and Evergy. So, that's the only little thing left. As soon as the part comes in, Chris Nagel will be back to take care of that as well.

"So, actually, last Thursday, KPP Energy put that into queue with Southwest Power Pool. Southwest Power Pool did accept our capacity as ready to go. They put it into queue. So, it worked out well because another city in the pool had a generator go down on them; they are doing maintenance. We were able to make up that capacity, and there weren't any deficiencies on our reserve margin that we have to have. So, everything's rolling right along with that. That's done. Everything's in place there, and so that's all I've got on the project."

### ELECTRIC DEPARTMENT: POSSIBLE UPCOMING PROJECTS

Superintendent Schneider, "I also had an inquiry from builders, and on what we just discussed this evening, along with what's out by the Meadows Addition that's for sale, the county is selling that, is that correct?" Mayor Luke, "Yeah." Superintendent Schneider, "So I've already had inquiries about what it would take to get power out to those three lots that they're selling."

### 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.

**KMU Annual Conference:** Superintendent Schneider, "I attended the KMU Annual Conference with the mayor last Thursday and Friday morning. It was a great conference, and I was able to get a lot of details worked out while I was out there."

**New Service:** Superintendent Schneider, "We installed a new electric service. We should be able to complete that once the mud clears."

**Outage:** Superintendent Schneider, "Then we did work one outage call last Saturday. We had a squirrel up in the power lines. It operated circuit number two, which feeds basically here, Hoover's Thriftway, and all that. It was ahead of any of our transformer switches, so it hit pretty hard. I know coming out of a different substation where I live, it still made my lights flicker. So, it hit pretty hard. Everything came back as it should. We removed the squirrel and went home. It didn't take us 15 minutes."

### 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.

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**Reports:** Superintendent Schneider, “We are completing required reports. We got some sent off today to KDHE.”

**Cleaning & Painting:** Superintendent Schneider, “You're going to hear this a lot for the next several months, cleaning the power plant, preparing for painting. We need a lot of cleaning over there, and the guys have really, really got after it. The old part of the plant where there's no construction, they about got it back to normal. And then we are just going to have to start up with—where the new generator is and then the piping that was installed outside the plant. So, we're going to be doing a lot of painting. It's going to be a long time before we get back to normal. But everything's running and ready when needed.”

**QUESTIONS/COMMENTS**

**Generation Project:** Council Member Ernst, “They say how much the payments might be from production side as far as that goes?” Superintendent Schneider, “So, the capacity payments on the new generator will be \$37,500 annually. They do that per KW year. So they pay member cities \$7.50 per KW year; 5,000 kw X \$7.50 = \$37,500.” Mayor Luke, “That almost doubles what we receive already on the other unit.” Superintendent Schneider, “Yeah, it's a little bit shy, but it's up there.”

**WATER AND WASTEWATER: Distribution Update**

**General:** Personnel have been doing the normal duties: line locates, work orders, reading meters, meter rereads, cleaning sewer lift stations, maintenance on trucks and equipment, attending safety meetings, customer call-outs, and concerns.

**Fire Hydrant Replacement:** Superintendent Hawkins, “We completed a new fire hydrant at 9<sup>th</sup> and Alleghany. During the arctic blast, we had the hydrant that was actually at 9<sup>th</sup> and Cumberland. It was abandoned. So, we went ahead, and instead of leaving the hydrant there, we just moved it out to 9<sup>th</sup> and Alleghany. We got that completed.”

**Water Leak:** Superintendent Hawkins, “We did fix a water leak at 6<sup>th</sup> and Potomac. We got that done.”

**Fire Hydrant Replacement:** Superintendent Hawkins, “We did get our parts in for the fire hydrant replacement at 7<sup>th</sup> and Neosho. We'll be working on that here real soon. I'm just going to have to organize some time with Craig Marshall with the elementary school because I have a meter that's between the two valves. So, we're going to have to have all those parts and pieces and everything ready to go in the hole. So once we shut it down, it's just going to isolate the north side of the elementary school. So we'll just work with them as best we can to try to get that done and have the water off a short period of time.”

**WATER AND WASTEWATER: Production Update**

**General:** Normal duties.

**Pump Maintenance:** Superintendent Hawkins, “With all the rains that we've been having the Gorman Rupp pump that we have at our pump station number one, it went down on us. So, we immediately called C&B Equipment. They came and pulled it and hauled it back to their office up in Kansas City. So they're going to get it rebuilt as soon as possible because that pump station takes roughly about 80% of the town. So we want to get that up and running.”

**Plant Maintenance:** Superintendent Hawkins, “We've just got done completing the front of the water plant. We've been doing maintenance. We worked on it the night before, and tonight the guys finished, and I want to thank them because they did a great job of getting in there and cleaning it out. So, it's just normal maintenance that we do in the spring before we fire up for summertime: changing oils, cleaning out mud, and just general maintenance.”

**Gray Water Tower Inspection:** Superintendent Hawkins, “We did get the gray water tower inspected last Friday. We should have the results on that, should be the end of this week.”

**6<sup>th</sup> Street Waterline Maintenance:** Superintendent Hawkins, “And last thing I have is the 6<sup>th</sup> Street project. We had a change order that ended up being roughly another 850 linear feet, which is a good deal because that will eliminate the last of the cast iron that's on that line going down 6<sup>th</sup> Street. So, the other side of it is when Killough

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Construction bid it; it actually came in under the ARPA fund. So, we're still within our limits. Also, I've been working with Cody from 6<sup>th</sup> and Potomac to 6<sup>th</sup> and Alleghany; they've already got that line pressurized. They've already flushed it. They did bacteria samples on it today, and they're going to do another one tomorrow. So, we should be able to do sections at a time, and then we will go in and attach the new services to the houses so we can do it in segments instead of doing the project all at one time."

Mayor Luke, "Okay, with the change order, we have a motion that we need to do."

***Council Member Curtiss, "I make a motion to accept Change Order #1 for the 6<sup>th</sup> Street Waterline Project for an increase of \$72,250.00." Council Member Van Horn, "I second the motion."***

Mayor Luke, "Any additional discussion on that?" Council Member Strawder, "Yeah, just kind of scope-wise and everything; I mean, this is a rather large change order for no more than what the original price of the project was. Is this something that -- I guess I'm not really clear on what triggered it. What triggered it or what the scope of why we're changing... was this originally within the scope of the of the initial project?" Superintendent Hawkins, "No, the initial part of the contract in the process was the line was going to be abandoned at Cumberland. Since we had our water leak on the 12-inch line, that was the only feed line that was feeding anything that was going down south. So, we felt like...we had the engineers look at it and say, what are we going to do here? Because we want to continue like lines to Southern Coffey County. That was a large portion of why we did what we did. Plus, it also removes the cast iron, which in return removes lead because there is lead inside the cast. So it's just a benefit."

Council Member Strawder, "Yeah, I'm not trying to question the need for it or whatever. It's more or less on what's the scope of what the 6<sup>th</sup> Street project was, which, you know, I wasn't around whenever a lot of that was being discussed anyways. But this is the type of thing of does this exceed a little bit, the scope of it, and lack of a better way, a way of avoiding having to go through a bidding process again on something this large? Meaning that if the work right now is being done at the intersection of 6<sup>th</sup> Street, is there a way to limit the work being done right now on the water line to utilize, like, for example, if they've got concrete for replacing those portions of water line, tying back into the existing water line, then going through with another capital improvement project to repair/replace, the rest of it is... I mean, those are the types of questions I have because, again, I know the price of installation, the price of a lot of that stuff is expensive, but 60,000 – 70,000 --."

Superintendent Hawkins, "Killough is completely well underneath the project specs anyway. The other two bids came in extremely high on the waterline. So, their subcontractor that they're using, Cody, they are being helped by him, so as far as that, we would have taken the ARPA fund, and we were even discussing what other lines we would have went out and started removing because we've been very proactive with removing cast iron from the city. Right now, I think we've replaced over 54-58 blocks of cast iron. That is just a benefit to the citizens. So, we would have either went there or we would have continued down that path. And this way, you would have everything from Potomac Street going south, everything there would be no more cast iron in there. So that's why one of the engineers, Jonathan, we asked what should we do? Can we go ahead and replace it? So that's why the bidding process started with that." Council Member Ernst, "And you said that the change order that would still be covered under the ARPA funds?" Superintendent Hawkins, "Yes, we're roughly just a hair under, a little under \$6,000 that will still be available. Then, in other words, they didn't exceed, and we didn't have to, you know, use the infrastructure money or anything. It still is within its cap."

Council Member Strawder, "But also limits in the possible future change orders, doesn't it?" Mayor Luke, "Well, the ARPA funds expire." Council Member Strawder, "When does that expire?" Mayor Luke, "Next year." City Clerk Brown, "We have to have it spent by the end of 2026. So, we need to designate what we're spending it for by the end of this year, and we have to have it done by the end of 2026." Council Member Strawder, "Again, I'm not questioning the work that needs to be done or anything like that. My question is more oriented towards is if this should be part of the 6<sup>th</sup> Street project versus a separate project. That's what I'm not understanding: the benefit of doing it all right now versus doing what is needed right now for construction reasons, like replacing a smaller segment that's immediately impacted by the 6<sup>th</sup> Street area and then coming back and going through the process of --."

Superintendent Hawkins, "You can do that. You just have to pay for another assembly. In other words, once they leave and they come back, you're going to exceed your ARPA funds and you're going to end up using



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infrastructure money or funding there. Where they're already on-site, they're not reassembling, and you're not paying for them to come back." Mayor Luke, "Any other questions?" Council Member Strawder, "Do we have anything procedural-wise that if their change order is over X amount, that has to go back to bid or anything like that? As I said, relationship-wise with the overall cost of the initial project was versus the first change order, that's a huge relationship for how much \$60,000 or \$70,000 change order. So now I'm just making sure that we are covering our basis because I know how change orders can work at times. They can be very beneficial, but at the same time, they can be a contractor coming in, and like the old joke goes where the picture of the boat with the name on it, change order, you know? That's what I want to be cautious of; that we're not falling into some of the games that contractors can play. Hit the bid down low and then do change orders to recoup their money that way."

Mayor Luke, "I know to start one that, we had it bid by the three contractors. That it was not part of the project. Two of the project bidders exceeded the amount of money that was going to be available through the ARPA funds. So, if they would have had the job, it never would have happened. And with the contractor that got the bid, the funds were left over below what the ARPA and it has to be spent on certain things, and water/wastewater was the key thing that it could be spent on. It was like what part of our water/wastewater system is the best advantage to use it on. And at the time, we felt that extension eliminating the cast iron and the lead joints and reconnecting your customers to the newer line would be the best expenditure and keeping it in the same project. Now, it could have been identified as a separate project, but it was in the thought process was that it was best to go ahead and make a change order for people onsite right now. We have the material, it's easy to do. They have everything here. They will be done with it by the time some other people could possibly to get it into their bid process and be here onsite. Yeah, there's some other cast iron around, but it's small sections here, here, here, and here. And this kind of fits with what people that were available. I don't know a limit that says the change order if it's over X amount of dollars--."

Council Member Strawder, "That would be an internal process policy type of thing." Mayor Luke, "Yeah." Council Member Strawder, "My main concern is that utilizing a large chunk of funds from that fund. And I worry a little bit like this might be a reactionary move instead of, you know, ensuring that that money is being best put to use. As indicated, there are possible other areas where these funds could be utilized. Is that more critical, or are those areas more critical, less critical? How do those get--? I mean, that's what my concern is. It seems like it's went from the scope of being the intersection to now the scope is several; I mean, it's doing a complete waterline replacement for several blocks. That's a huge change of scope. That's not a, 'we dug up, thought we were touching PVC pipe, turned out to be cast iron' in several places and going from cast iron to PVC."

City Clerk Brown, "It already was from Potomac to Housatonic. That extension, so to me, it's more beneficial to do it now while you're in there because, like Danny said, it's going to cost more to stop that project, have another engineer come in, engineer it differently again, and start over and go through the whole process. Would we have it done by the end of 2024 to say this is what we're going to use our money for?" Superintendent Hawkins, "The next process is that KDHE has to get their stuff approved." Zoning Clerk Hugunin, "Then another thing to consider too is ARPA on the reporting side; getting your project selected and stuff is not a quick process." Council Member Strawder, "As I said, I'm very cautious because I've seen projects where, again, the change order can work amazing towards you or not, and that's honestly what my hesitation is with this. And again, it might be the best-case scenario now, but at the same time, this seems like a, what I mean by thinking you were getting PVC and it being cast iron. What I meant by that was sometimes, whenever stuff is underground, you never know what you're going to get into during excavation. And in my mind, a lot of the change orders should be utilized towards site conditions onsite not being what the original intent was, not completely revising the scope of the project. In that way, change orders are then utilized to kind of bypass systems or processes as far as bidding, or as far as engineering, or as far as assessing what areas would best benefit from it and that type of stuff. That's what my concern is. I'm done talking about it. I just wanted to make sure that I had a clear understanding of what was being proposed or why this was being proposed as a change order."

Mayor Luke, "Having been involved with it all the way through, my opinion is that it's probably the best way to utilize the ARPA funds and meet the criteria that the federal government put down with timeline as well as types of projects. It is not intended to bypass anything or a whole system. They set these parameters, and we're trying to fill and meet those parameters." Council Member Strawder, "Those projects have to be completed by the end of 2024?" Mayor Luke, "The project has to be identified and approved by the end of 2024. It has to be in and

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physically operational before the end of 2026.” Council Member Mays, “And this will leave us six thousand left roughly?” Council Member Van Horn, “So what I'm thinking is if they thought about it far enough ahead and realized that they were going to need to replace that cast, then that could have been in the original bid, but we couldn't have done it with the others because they already charged more than these did even with this big change order.” City Clerk Brown, “Yes.” Mayor Luke, “Right. Any other discussion?”

*Hearing no further discussion, Mayor Luke called for a vote. Council Members Curtiss, Ernst, and Van Horn voted 'Yea', and Council Members Strawder and Mays voted 'Nay'. Mayor Luke declared the motion passed, 3:2.*

### **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.

**Sign Maintenance:** Superintendent Davidson, “I've been working on street signs.”

**Culvert Maintenance:** Superintendent Davidson, “We have been cleaning in culvert ends.”

**Wind Storm Cleanup:** Superintendent Davidson, “We did some clean up after some of the winds we had.”

**Water Leak:** Superintendent Davidson, “We helped dig for a water leak at 6<sup>th</sup> and Potomac for the water department.”

**Culvert Maintenance:** Superintendent Davidson, “We installed two new drive culverts, replaced an alley culvert, and reset a drive culvert.”

**Weed Spraying:** Superintendent Davidson, “We started spraying for bindweed.”

**Vehicle Maintenance:** Superintendent Davidson, “Last meeting, I informed council we had a dump truck we took to Emporia with a leaking main seal. We went and picked it up and brought it back to the shop, we went to back up with it and there was no reverse. The mechanic shop that had done the repair sent a mechanic down to look at it. It ended up going back to Emporia on the back of a wrecker for them to repair it. We haven't got it back yet. I was informed that there will be no charge to us for the wrecker service or the repair on the fixing the reverse. There's also a power take-off pump that apparently is not working which was working fine when it left, so that will be at no charge to the city either. So, we're just waiting to get it back.”

**Drive Culvert Maintenance:** Superintendent Davidson, “We also have been fixing a few drive culverts.”

**Water Over the Road:** Superintendent Davidson, “We had a call out Sunday morning for water over the road down at the Old Mill Road and Kennebec, it was a flood culvert. We were informed by a city officer that we had water over the roads, and that was taken care of.”

### **POLICE DEPARTMENT: Update**

**General:** Chief Jones, “Normal duties.”

**Storm Issues:** Chief Jones, “Pretty much normal calls for us other than seven inches of rain. That wasn't quite expected. A lot of wind, a lot of branches down.”

**Activities/ Cases:** Chief Jones, “Assisted with calls with Sheriff's Office, welfare checks, pretty much normal calls for us.”

**Drug Take Back Program:** Chief Jones, “For several years, we have been an active participant with the Drug Enforcement Administration, DEA, on the drug take-back program. Drug take-back, if you're not familiar, we collect prescription drugs, non-prescription drugs, over-the-counter stuff, pet medications, basically anything except aerosol containers or needles. We collect those. We are in partnership with the Sheriff's Office; the Sheriff's Office also collects them over at their office year-round. We take them up and turn them over to DEA for incineration. I took a load up to them this morning, and over the last year, we had collected and turned in today, 376 pounds of unused or unneeded medication. Which keeps it out of our landfill, it keeps them from being flushed

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down the toilet, and keeps it out of groundwater. So, we are strong believers in this program. We like doing this; it works out well for us.”

**Upcoming Dates:** Chief Jones, “Some dates coming up, we've got City Court on May the 9<sup>th</sup>, High School graduation on May 11<sup>th</sup>, and school is out on May the 14<sup>th</sup>, I believe at 12:30 p.m. that day.”

**Nuisance: Properties/Vehicles Update:** Chief Jones, “On some of the nuisance property stuff, we had some ownership changes on a couple of them that we have been actively working on. So, since we've had an ownership change, the clock starts all over again. But we've also been in contact with the new owners and may have plans and good track records on getting stuff accomplished. So, we're going to wait and see how that goes. We've got one out-of-town owner who came in to see me yesterday about getting her property demolished. Then I've got another out-of-town owner who, on my second attempt to get a certified letter to what the appraiser's office had on taxes. We had an address in Colorado, but it turned out that the address in Colorado was not the name that was on the title on the deed; it's the son. We are going to go to Tennessee on where the property owner actually lives, on the second attempt. So that's pretty much that.”

**Personnel – New Hire:** Chief Jones, “Council gave us permission to advertise for the open position. Unusually, we wound up with four applicants. Three of them were already certified officers. After doing the backgrounds and talking to people, we would like to offer the police officer position to local individual, current Deputy Sheriff with Coffey County Sheriff's Office, lives out at New Strawn, a gentleman by the name of Donald Anderson. Everybody knows him as Donnie Anderson. I would make a recommendation that council offer the position to him with a starting wage of \$25.00 an hour. He has right at 30 years' experience and already certified, like I said.”

**Council Member Ernst, “I move to extend an offer of employment to Donald Anderson for the position of Police Officer at the starting hourly wage of \$25.00, effective May 20, 2024.” Council Member Curtiss, “I second the motion.”**

Council Member Strawder, “So with his previous experience, would there be any additional training or anything needed with them?” Chief Jones, “No, there's no additional training needed.” Council Member Strawder, “Okay, that's what I was assuming.”

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

**PARKS DEPARTMENT: Update**

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

**Ice Machine Replacement:** Superintendent Boyce, “Our ice machine at the shop quit. So, I'm in the process of replacing that right now.”

**Mowing & Spraying Weeds:** Superintendent Boyce, “Mowing and spraying weeds in gravel areas and the sidewalks downtown. Like Chief said, with seven inches of rain, we're going to be busy for the next couple weeks keeping up with the mowing.”

**Beautification Project:** Superintendent Boyce, “May 8<sup>th</sup> at 5:00 PM at the Caboose, the planting of flowers will commence with the cooperation of the weather, hopefully.”

**FINANCE: Claims Ordinance & Payroll Ordinance**

a. Claims Ordinance	2024-09	\$	<u>428,322.62</u>
b. Payroll Ordinance	2024-09	\$	<u>108,856.06</u>
	TOTAL	\$	<u>537,176.68</u>

**CLAIMS 2024-09:** Council Member Curtiss moved to approve City of Burlington Claims Ordinance 2024-09 for the amount of \$428,322.62 for payment of city bills. Council Member Ernst gave the second. City Clerk Brown, “The larger expenses we have tonight are Core and Main \$24,531.43, Hoyts Truck Center \$4,677.34, Reeves-Wiedeman Company Incorporated \$2,800.00, Wheeler World \$300,000.00, and Victory Excavation \$6,636.00.” **Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. Mayor Luke declared, “Claims Ordinance 2024-09 passed, 5:0.”**

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**PAYROLL 2024-09:** *Council Member Curtiss moved to approve City of Burlington Payroll Ordinance 2024-09 in the amount of \$108,856.06, as presented. Council Member Ernst gave the second. Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. Mayor Luke declared, "Payroll Ordinance 2024-09 passed, 5:0."*

**PLANNING & ZONING: Update**

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

**Permits:** Zoning Clerk Hugunin, "I am still busy with building permits."

**Nuisance: Grass/Weeds Update:** Zoning Clerk Hugunin, "I've made contact with several property owners about the grass. I know we've been wet, but some of them were pretty tall before it was wet. A couple of them have been trying to take care of it, as a matter of fact, today."

**Arbor Day:** Zoning Clerk Hugunin, "Arbor Day, we rescheduled it due to the conflict of scheduling, and that'll be May 9th at 5:30 p.m. So far, there's no chance of rain. If it rains, we'll know that day, and we'll reschedule again. The nice thing is that there is not a set time that we have to do this."

**12<sup>th</sup> and Kennedy Property:** Zoning Clerk Hugunin, "Alan brought up the 12th and Kennedy property that the county is selling. I just want to get this out there because I've had a lot of calls on it. The property is zoned R3, and everyone is automatically assuming that they have to do multi-family housing on that. That is not true. Anything that'll work in R1 and R2 will work in R3. It's not the other way around, but you could drop a single-family home in there and be just fine."

**QUESTIONS/COMMENTS**

Council Member Strawder, "A couple questions on it out of curiosity on how exactly the process works for the yard with the grass and that type of stuff. As far as how it's been monitored or--" Zoning Clerk Hugunin, "I drive around every day." Council Member Strawder, "Is that the only means or is there other--?" Zoning Clerk Hugunin, "There are others. People call and come in. Yeah, I mean, that's pretty much the way it is. I drive around. Probably takes me an hour. I wouldn't say every day." Council Member Strawder, "As I said, I know that over the last couple years that I've been back, that's been something near to the top of a lot of people's complaints." Zoning Clerk Hugunin. "And that's the bad thing if they don't do it, and Chief would agree on the nuisance properties, it's a process. I mean, there's a timeline for notification to them and so many days before we can act. I mean, we've got one or two right now, or we are just down to one that the Parks Department mows regularly." Superintendent Boyce, "One that I know of for sure."

Council Member Strawder, "As far as, like, the city ordinance goes, I mean, I think that's where a lot of this is based on, is there improvements or anything that can be made in city ordinances--" Zoning Clerk Hugunin, "Well, I think most of what we do on the notification is following the state statutes. That's where we're bound to. And luckily, 90% of them take care of it before it's done. There's a few of them, and it's the absentee vacant places that are the worst." Council Member Strawder, "Okay, so you're following more.... Again, I'm looking at this on an ordinance basis. As you review the ordinances, you see some things, and you're like, how it's been completed or not? Is it an opportunity to improve our ordinances to be more in line with what's actually being--?" Zoning Clerk Hugunin, "And that's more of a legal question on changing the ordinance. I don't know. I mean, I know, Chief and I followed the ordinances and go with what we are directed to do?" Council Member Strawder, "Okay."

**RESOLUTION**

Mayor Luke, "We have a transportation alternative program application and maintenance commitment resolution we have to look at and address." City Clerk Brown, "We have received an invitation to submit a full application. We had applied before. It is just a concept paper, and then if they liked what you were presenting, then they would send you an invitation to fill out a full application and send it in. So, we did get an invitation to submit a full application. In their memo, they recommended that we provide an engineering evaluation to justify the widening. What we were doing was presenting the widening of the 6<sup>th</sup> Street bridge to be able to make the sidewalk wider as well as to give more safety precautions. So, they were asking us to justify widening the existing structure compared to a pre-fabrication of a pedestrian bridge. So, in getting engineering costs on that and talking with Mark and Danny, we have decided to change the concept to a pre-fabricated pedestrian bridge. The benefits

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of doing that are, for one thing, the cost is lower, and that improves our chances for being awarded the grant. We won't have to move the Atmos gas line. It will move the pedestrian bridge and will be completely separate from the bridge. It won't be attached to the vehicle bridge anymore, so it will be completely separate and will be away from it, and separate from the vehicles. We are also eligible for the 20% match from the highway safety improvement program. So that will pretty well cover all the costs of that. So, due to that, the cost has changed from what is on your resolution in your packets. The cost for that is now going to be \$523,404.80. And we need the resolution to be filled out to go along with the application. So, that's the need for the resolution."

Council Member Ernst, "This is still widening that bridge?" City Clerk Brown, "No. That is something that is still on the radar that we will look at, but this will be totally separate." Mayor Luke, "What we need to do will probably be jackhammer out the existing sidewalk once the pedestrian bridge is in place and then take that deck there and make it wider for the vehicles to go through by width of that sidewalk. Then we wouldn't have to change the support or anything." Council Member Ernst, "Okay, so by adding the pedestrian bridge, we can then widen the current bridge at a later date." Council Member Mays, "But this 523 is just for the pedestrian bridge?" City Clerk Brown, "Correct." Council Member Curtiss, "And where is that?" City Clerk Brown, "It will be east of the current bridge." Mayor Luke, "On the same side." Council Member Curtiss, "Same side. But that walkway is not very wide." Mayor Luke, "Well, it'll give us two full lanes where we don't have two full lanes right now in today's condition."

Council Member Strawder, "So this has been looked at engineer-wise and estimated?" City Clerk Brown, "Yes, we have been working with BG Consultants on that, and this is their projected amount that would cover that." Council Member Strawder, "And clarify that, that total amount is just for the pedestrian bridge?" City Clerk Brown, "Yes." Council Member Van Horn, "So, when you said it's cheaper, so it is less expensive to put the pedestrian bridge in and then widen the regular bridge than it is to, what? The alternative would be just replace the whole bridge?" City Clerk Brown, "No, what was recommended, what we were going to do before was widen the bridge itself. The structure of the bridge is good, there's no sense in taking that clear out and replacing it. So they were going to widen the bridge, put in a wider walkway, and then that, in turn, would widen the street that we need for the vehicles." Council Member Van Horn, "But it is still less expensive even with redoing the bridge to make it wider?" City Clerk Brown, "Yes." Council Member Van Horn, "All right. That was what I was trying to do." Council Member Curtiss, "I have forgotten what that cost was." City Clerk Brown, "It was 600 and something. I don't have that number right off the top of my head, but it was like 152,000 something less." Council Member Van Horn, "And you said that the pedestrian bridge would be on the east side of what's now there?" City Clerk Brown, "Yes." Council Member Strawder, "Details on the pedestrian bridge, is a five-foot walkway? Is this multi-use pedestrian bridge, meaning non-motorized vehicles?"

Superintendent Davidson, "It's going to be an 8-foot wide by 20-foot precast bridge. It will have railings on both sides. It will line up with the existing sidewalk that is there. I don't know what else I can give you. Do you have any more questions? I can try to answer them." Council Member Strawder, "So, this is all covered by other funding, not by the city?" City Clerk Brown, "Correct." Mayor Luke, "Federal. Any other questions?" Council Member Ernst, "When we have to go back in to widen and remove the current walkway that's there, we will have to cover that cost, though, correct?" City Clerk Brown, "Yes, we probably would." Mayor Luke, "We would probably do that with our own staff." City Clerk Brown, "Yeah, and our own funding."

Council Member Ernst, "So we're looking for a motion to approve the resolution, correct?" City Clerk Brown, "Correct." Mayor Luke, "Right, the resolution has to be submitted." City Clerk Brown, "With the application."

***Council Member Ernst, "I moved to approve resolution 2024-01, declaring the eligibility of the city of Kansas to submit an application to the Kansas Department of Transportation. For use of transportation, alternative programs funds, for the sixth street bridge improvement project." Council Member Van Horn, "I second the motion."***

Council Member Strawder, "No match or anything; this is all other funds?" Mayor Luke, "Okay." Council Member Strawder, "Okay."

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

**OTHER COMMITTEE OR COUNCIL BUSINESS**

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**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 April, we will be sending \$560.34 in delinquent accounts to the Kansas set-off program for collections.

**Reports:** City Clerk Brown, "Just completed the annual ARPA project reporting."

**Online Codes:** City Clerk Brown, "Mary and I have been looking at programs for online codes. We're just getting started into that."

**2025 Budget:** City Clerk Brown, "I will be working on the 2025 budget."

**LEGAL DEPARTMENT: Update**

**General:** Attorney Wright, "Normal duties. I don't have anything specific to talk about other than what we have in executive session."

**LEGAL DEPARTMENT: Mayor's 2024 Annual Appointments**

Mayor Luke, "Then we'll go into appointments for new council members. This will be your first time through. There will be specific committees, etc., that you would be on; however, any committee meeting that you wish to attend, even if you're not on the committee, you can attend the meeting." Attorney Wright, "Stan, if I might, that's with the caveat that there has to be less than a quorum present at any committee meeting unless the city approves that as a special meeting, and notice is given under the Kansas Open Meetings Act and do that."

Mayor Luke, "There are boards that we have no elected officials on. They are by ordinance; we are required to appoint them like the cemetery board will get some funding and maintenance through the cemetery. The tree board works with the state arborist and what trees that we bring into the area. So, we don't have any involvement other than with Kevin in Parks and Jimmy in notifications. Lila was on the tree board before she got elected on as council, and she can remain there, if she chooses. So, most of these, such as those who there normally is not an assignment to be involved with those, but that's your choice if you choose to."

"We do the superintendents individually and the committees as a whole. And if you have questions on committee assignments, feel free to ask questions. We have to follow all the open records, and opening meetings act things associated with the committees. Hopefully, we don't have a whole lot of issues or things to bring up. The committee meetings are normally called by the superintendents because it is something that needs to be discussed and brought forward to the governing body. The committees then have a chance to review prior to coming to the full council. So, at this time, we will start looking at individual superintendents."

**1. City Clerk: Mayor Luke, "We need a motion to ratify appointment of City Clerk, Anne C. Brown."**

*Council Member Curtiss, "I move that we ratify the Mayor's annual appointment for City Clerk to be Anne C. Brown from May 1, 2024, through the first meeting of the City Council in May 2025." Council Member Ernst, "I second it." Hearing no discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

**2. Chief of Police: Mayor Luke, "We need a motion to ratify appointment of Chief of Police, Douglas L. Jones."**

*Council Member Ernst, "I move that we ratify the Mayor's annual appointment of Chief of Police to be Douglas L. Jones, from May 1, 2024, through the first meeting of the City Council in May 2025." Council Member Van Horn, "I second it." Hearing no discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

**3. Electric Superintendent: Mayor Luke, "We need a motion to ratify appointment of Electric Superintendent, Alan Schneider."**

*Council Member Van Horn, "I make a motion that we ratify the Mayor's annual appointment of Electric Superintendent to be Alan Schneider from May 1, 2024, through the first meeting of the City Council in*

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*May 2025." Council Member Strawder, "I second it." Hearing no discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

**4. Parks Superintendent: Mayor Luke, "We need a motion to ratify the appointment of Parks Superintendent to be Kevin Boyce."**

*Council Member Ernst, "I make a motion to ratify the Mayor's annual appointment for Parks Superintendent to be Kevin Boyce from May 1, 2024, through the first meeting of the City Council in May 2025." Council Member Curtiss, "I second it." Hearing no discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

**5. Water & Wastewater Superintendent: Mayor Luke, "We need a motion to ratify the appointment of Water and Wastewater Superintendent to be Danny Hawkins."**

*Council Member Ernst, "I make a motion to ratify the Mayor's annual appointment for Water and Wastewater Superintendent to be Danny Hawkins from May 1, 2024, through the first meeting of the City Council in May 2025." Council Member Van Horn, "I second it." Hearing no discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

**6. Street Superintendent: Mayor Luke, "We need a motion to ratify the appointment of Street Superintendent to be Mark Davidson."**

*Council Member Curtiss, "I make a motion to ratify the Mayor's annual appointment for Street Superintendent to be Mark Davidson from May 1, 2024, through the first meeting of the City Council in May 2025." Council Member Van Horn, "I second it." Hearing no discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

**7. All Other Appointments of Boards, Officers, and Committees: Mayor Luke, "Now we need a motion to ratify all other appointments for Boards, Officers, and Committees."**

*Council Member Curtiss, "I will make a motion to ratify the Mayor's Annual Appointments of all other Boards, Officers, and Committees from May 1, 2024, through the first meeting of the City Council in May 2025." Council Member Ernst, "I second it."*

Council Member Strawder, "I have a question. There are some spots here without names by them. I didn't know if that's --?" Mayor Luke, "That's correct. Sometimes, you get all those positions on the board's filled, sometimes you don't, sometimes you get them in the middle of the year. They continually work to fill those spots." Council Member Strawder, "I'm looking at primarily like the plumbing examining board." Mayor Luke, "We have no licensed plumber on staff. So, we can't fill that based upon what the definition of what the plumbing person would do." Council Member Strawder, "For the committee?" Mayor Luke, "Yes, for the committee. In the definition of the job description for that particular spot, it requires them to be licensed. So, we don't have someone that is licensed to go inside the home and do the inspections." Council Member Strawder, "I guess I'm just not --. I get that as far as a city officer appointment of a plumbing inspector, but the plumbing examining board--. So, I see chairperson with nothing in parentheses behind it, member with council member behind it. I mean, so the chairperson has to be a city...?" Mayor Luke, "A licensed city employee." Council Member Strawder, "A licensed city employee. Okay, not just a licensed plumber. Okay. Are we working towards getting that? I noticed that it's been vacant for a while."

Mayor Luke, "A long time. There were some discussions with respect to it, and it was determined that until that happened, we were not to fill that committee. And to my knowledge, right now, we have not gone out and tried to find a licensed person to fill that position as a city employee. We have people certified to do all the stuff outside the house, but nothing inside." Council Member Strawder, "Okay? So even as a part-time employee, we just—we haven't--." Mayor Luke, "We are looking at the code enforcement officer. We're looking at including that in next year's budget. Anne is working on that. That would be part of the responsibilities." Council Member Strawder, "Code enforcement officer would have to be a licensed plumber, licensed electrician, and that's --alright, okay." Mayor Luke, "If we write the job description right, that is correct." Council Member Strawder, "So this is

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a city requirement that it has to be a licensed plumber, it's a city requirement, not a state? Mayor Luke, "No." Council Member Strawder, "Okay."

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

===== The following motion is to include all the Board Appointments =====

**8. 8. Ratify all Appointments inclusively:** Mayor Luke, "Now, we need a motion to ratify the Mayor's Annual Appointments."

*Council Member Ernst, "I make a motion to ratify the Mayor's Annual Appointments for 2024, from May 1, 2024, through the first Council meeting in May 2025, as presented." Council Member Van Horn, "I second the motion." Hearing no discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

**LEGAL DEPARTMENT: Executive Session**

*Council Member Ernst, "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 a property easement, with the Governing Body, Mayor Luke, City Attorney Wright, City Clerk Brown, Superintendent Davidson, and Zoning Clerk Hugunin present." Council Member Curtiss, "I second the motion." Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 5:0.*

Entered 7:28 p.m. Exited 7:38 p.m. No action taken.

**REPORT BY CITY OFFICERS:**

Council Member Strawder, "There were parts of this discussion that would fall into open meetings. I don't know the correct way to start that discussion." Mayor Luke, "You can start anywhere you want." Council Member Mays, "My only thing looking on the other side of it is, yes, we don't have the utility easement, and we don't necessarily have drainage authority to do anything, but we started the project. We are admitting that we didn't get it completed. That is my only concern. We started something, thought it was fixed, but you're saying it wasn't completed the way we initially intended to. And I'm afraid to come back and say, I know we don't want a precedence on what we can do going forward, but I hate having it on the city saying we started something and we didn't finish it. That's my concern on that topic."

Council Member Curtis, "Would completing it help at all?" Superintendent Davidson, "Not in my opinion." Council Member Curtiss, "Is that one property the only one that has the drainage problem?" Superintendent Davidson, "Pretty much so, yes." Council Member Curtiss, "Pretty much so, though?" Superintendent Davidson, "Well, it's because of the field water coming from the west going to the east of the creek. The field water takes precedence over the water coming down the ditch. The field water is a straight shot, ditch water is butting up against the water coming from the field. So, it's going to hold water until there's another solution. We're not able to stop the water coming from the field. It's an open ditch. It's more of a civil thing between the property owners and owners of the field if they can stop the water. No, in my opinion, what we do will not make any difference. We have tried to explain to Walker, and we went and took elevation shots in his yard and showed him that if he would drain, where the water is sitting if he would cut a ditch out to the street, and we gave permission to do a curb cut, if he would do some landscaping, then he would get rid of his water. He's trying to run water uphill. He is trying to run it back to the west when it wants to come east. I can't tell him any different. I tried to explain to him, and he is insistent that it needs to go to this ditch."

Council Member Curtiss, "Okay, I agree with what Cara said. So, if you went to complete that, you need to get permission from those two other houses?" Superintendent Davidson, "We will be on private property, and that's my whole thing, that's private property. If you give me permission to go do it, we will have it done when it dries out. But when I found out it was on private property, that's when we stopped." City Clerk Brown, "And you're setting precedence that you're on private property. You're doing this for him, so you are opening up a whole new--" Council Member Strawder, "No, I think we're blowing this out of proportion on both sides. I think there's-- drainage issues aren't an unheard-of problem. Typically, a lot of cities and stuff, I don't know if we have, one I didn't see it, but a lot of cities will have some type of a street storm or stormwater committee or whatever, they



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evaluate possible trouble areas. If there's an area that's bad and is affecting multiple properties--. Again, I don't know if this falls into this classification, if it's just water, or if it's multiple problems. The way he was indicating is that it might affect neighbors also, and that's where a drainage study might be required, or typically, a drainage study might be done. That doesn't mean it always has to be a several-thousand-dollar drainage study. It could be an easy solution. We have already set the precedence. We have, as a city have, been out there now that it's been identified that, hey, we need to maybe get some things in line before we can finish this. So, I'm just trying to think of a way to move forward in this instance. If the ditch needs to go across other properties, then I think that those other property owners, they need to get together to petition to do drainage and provide a drainage easement across there. If it's really affecting this one parcel and it's because water is naturally flowing from other properties surrounding, then the city has already set the precedence of going out focusing on that one lot. That means, hopefully, the landowner would be willing to provide an easement then for a drainage easement, then allow the city to come in and cut that ditch through there. That way, it's, I mean, yes, it's private property, but that operates no different than any other easement. The water lines, sewer line, or whatever--."

Council Member Van Horn, "At the same time, it seems like the solution that Mark gave him, he hasn't been willing to try. I mean, if he did the ditch like Mark suggested and then it didn't work, then I could understand him coming to the city and say, 'Hey, you really need to do this.'" Council Member Strawder, "But at the same time, the city has already gone out and worked on it. What his complaint now is is not that the city's not doing it; it's that the city didn't complete it. And I think that's the difference there is that we've already set the precedence; we've already started to address the problem. Now, it's an issue of...I'm not a fan of the idea of us saying, oh, we don't have an easement, so we can't do anything. I think that also would set a very bad tone to stop. I think for this situation, there should be a pathway forward to have a resolution. I mean, that's basically that's going to involve an easement of some kind, but rather that easement should go across other people's properties to go out there or whether that easement should be just along the common property line between the two properties out to the street or whatever. That's all situational on you know where the flow is. That's where even minimal engineering analysis can tell you on where the flow is going and what's the best direction is and all of that. I think it would be a very negative approach or a negative opinion to a lot of people if the city started working on something and backed away because an easement wasn't put in place."

Attorney Wright, "I think we need to clarify why Mark didn't 'complete' the job. Why did you not run it all the way through when you were there?" Superintendent Davidson, "We had taken it to about three-quarters of the property to the north, and we wanted to see how it was going to drain. He talked when he was here at the meeting that he wanted this culvert put in. I chose not to, and that was a big issue with him. We took the motor grader and cut a little water crossing across this easement to try to get the water to drain. We are past his property—no three-quarters on his property, trying to get the water to run south, and it is still not happening. So anything we do further north is not going to be--." Attorney Wright, "So really you're saying you didn't complete it because what you did do wasn't helping anyway?" Superintendent Davidson, "It helped to some extent, yes. But we wanted to see how much more we needed to do further north where the water was going to be. By the time we got up to his property, the ditch was going to be so shallow. We're covering well over probably 300 -400 feet, and we're limited on depth here. So, by the time you get up here, your ditch is fairly shallow. So, by the time we got up to 12<sup>th</sup> Road, it would basically be a scratch in the ground."

Attorney Wright, "We are partially trying to get water to run uphill?" Superintendent Davidson, "Yeah, to some extent, yeah, we are." Attorney Wright, "So you really didn't not finish the project; it sounds like what you were doing wasn't doing what you anticipated anyway." Superintendent Davidson, "We didn't see any reason to go any further because we wanted to see what was going to happen. At that point, that was in 2022, we had a dry year, we got busy doing other things, and I didn't get back to it." Council Member Strawder, "At the same time, has an engineer been consulted if there are drainage issues?" Superintendent Davidson, "I see no reason to bring in an engineer." Council Member Strawder, "So, all the water that is on here, this is not a community water problem; this is solely his lot, meaning water is not flowing in from elsewhere?"

Superintendent Davidson, "It's the west block of Country Club Heights is the problem." Council Member Strawder, "The west block?" Superintendent Davidson, "The west block, yes." Council Member Strawder, "So it is a community issue because the issue is across several lots. This is a classic situation where you would do a drainage study, and the city would work towards a resolution. And that would include an engineer and easements

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and stuff.” Mayor Luke, “When that subdivision was put in, it was county.” Council Member Strawder, “Okay.” Mayor Luke, “And the county did drainage there, and I don’t know what that study showed.” Council Member Curtiss, “Can we find out?” Council Member Mays, “That would, with those houses and infrastructure, that wouldn’t work anymore. I know they had a drainage study, but that wouldn’t work.” Mayor Luke, “It has no warrant, but I know the people that lived there before, and I know how they built up the property--.”

Attorney Wright, “So, I’ve got another question for Mark, so with regard to the water backup, is that putting property or other things in jeopardy.” Superintendent Davidson, “No.” Attorney Wright, “Okay, can you describe to the council then the extent of the flooding or whatever the water backup that you see as far as what it’s actually doing and what harm is it doing?” Superintendent Davidson, “It’s standing in his yard, you know, half of his yard is covered in water. When the field water is flowing through the berm, then the rest of the water will drain out. It’s the water coming off the field that is the problem. I can’t do anything about that. That’s out in the county, and we can’t go in and plug the berm.”

Council Member Strawder, “I have my hesitation to say that it’s not. I don’t remember exactly how it was worded, but that it’s not negatively impacting property or whatever if you’re leaving standing water. That leads towards breeding grounds towards mosquitoes and other bugs that leads to diseases. It’s a health issue.” Superintendent Davidson, “It was suggested to him if he would do that, that would have eliminated 80% of his water problems. Everybody’s going to have water in their yards.” Council Member Strawder, “To some extent, and I’m not arguing that. What I’m trying to say is, and I mean, you kind of indicated that too, whenever the people that built up their yards, this is essentially, I mean, gravity takes place, and it goes on to the low spot. Now, you have an area where the water collected on that one parcel is coming from multiple parcels; that’s why I’m calling it a community issue, not a single lot issue type of thing. Whether it be that those landowners that were technically allowed to raise their land to divert all water off the property versus (inaudible), that’s regardless because right now we’ve got an issue where water is coming in across several lots and causing an issue. To me, I don’t understand how that’s not a city issue and how that’s a private landowner issue. Again, that’s looking at the bigger picture of the drainage issue in that area. That would improve the community as a whole in that area. Aside from the fact that we’ve already set a precedence of going out and working on it being in discussion with the individual. What is the path moving forward? Because as I see it, just throwing our hands up and saying we can’t do anything is not--.”

Superintendent Davidson, “I’m not saying I can’t do anything. I’m saying I just need your opinion. Do I need to be on private property with Philips ruling, he says, with a utility easement? All I need to know is, do I need to go on private property and finish this ditch or do I not need to go on this property? That is all I need to know.” Council Member Strawder, “You need to get a drainage easement which would allow you to then access and finish the project. If that is what’s holding this up.” Superintendent Davidson, “Yes, that’s all I need to know. Yes or no.” Council Member Strawder, “Then we need a drainage easement which would provide you the right and access to that property.” Council Member Mays, “And I think we should go ahead and look into that drainage easement because if this doesn’t work, then we are potentially going to look at something further down because we are going to need something anyways.”

Mayor Luke, “If we go in and do something and finish and give Mark authority to go in and finish the ditch, and it doesn’t work. Now what?” Council Member Strawder, “That’s where the engineering aspect comes into play. It would be very useful to have an engineer available for these types of situations. This is a simple drainage solution, a simple stormwater solution. The difficulty comes in whenever you are not familiar with utilizing those, knowing slopes, knowing that type of stuff to determine the size of the ditch, what type of ditch it needs to be, does it need to be just ditch, or it doesn’t need to be an area inlet? Those are all engineering-type questions. As I said, there’s no concern, or I don’t see any issue with going in and trying to cut a ditch if that’s what both parties agree is the best approach without getting an engineer involved. But at the same time, if we’re saying that’s not going to work, then it might be worthwhile getting an engineer involved to fix a drainage issue. And I mean, I think that’s the exact reason why cities should have a city engineer that can be utilized in these instances. There are reasons for engineers. This is a prime example. Drainage is a very common issue.”

Attorney Wright, “So, are you suggesting that the city should hire an engineer to do a drainage study every time somebody comes into the city and complains about a drainage issue in the city?” Council Member Strawder, “If we are going to go down that route, I’m going to answer that this way, that the city should put something in

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place to allow for the citizens to state that they have drainage issues. It should go to a stormwater committee, and then that committee can make that determination that an engineer needs to be on board, or if the engineer has, or if the city has an engineer on staff, a drainage area, it can be noted as an area of interest. It can then go to that engineer to determine what level of study needs to happen. Again, I'm not talking about somebody who has a low spot in your yard, which is just water from their yard collecting type of thing. This is water from across a large area that's coming into here.

“I know a lot of people don't like the idea of engineers, and I'm not saying that's what has to happen here. What I'm saying is don't be afraid that that might be what needs to happen if this is not a simple solution for a ditch. Having the question at hand for this property is, what does it take to move forward? Right now, there is no easement; there is no avenue for the city to complete this because they don't have access to private property. If it's the type of thing that the city does not want to maintain that drainage easement, then the landowner can provide a temporary construction easement for the purpose of putting in a ditch, and then it gets reverted back to the landowner from the landowner to maintain or whatever.”

Superintendent Davidson, “At this point, when we get a drainage study done, and it says we need to do X, X, and X, and we end up spending \$50,000 to \$75,000 to drain somebody's yard, is that good stewardship here?” Council Member Strawder, “The engineer is going to determine what the best route forward is. As far as stewardship of the money, I have serious questions with those types of things because we are bypassing people that utilize this and evaluate this type of stuff. Yes, I'm talking about engineers on going through. We throw around money like it's nothing sometimes. But now we are looking at an area where there has been a long-standing issue, and I say a long-standing issue because this has gone on with this property owner for a couple years. We are extending this discussion larger than just this property. So, if you want to expand this discussion larger than this property, then yes, I do think that there is benefit, and having some sort of avenue for the residents to be able to identify that there are drainage issues. It then can go through a process to be evaluated, whether that process be immediately going to an engineer or whether that process be going to a committee of some type to evaluate if it needs to go on to an engineer. There is an entire process there. It's not an uncommon process. We would not be unique in having that process.”

“But as far as the matter here, I think what would be a very simple solution is working with the property owner and possibly other property owners in that area wherever is determined. If you feel comfortable making that determination, that here is where the easement or here is not necessarily easement, but here's where the ditch needs to go to resolve this issue, and the property owners and everything like that are on board with that. Again, both parties are in agreement, then that's an avenue forward. If you're not comfortable with that or whatever, then it might take getting an engineer involved.” Superintendent Davidson, “As I've stated, that's not what my problem is. I just need to let you know that I will be on private property. That was the intent of this whole meeting. I will be on private property. I wanted you to be aware of that, and that's what I've done. So just tell me what I need to do.”

Council Member Strawder, “What needs to happen is an easement needs to be granted to provide your access to that so that you're not on private property. That's what needs to happen. What do you need from us as the city council to be able to move forward with that approach?” Superintendent Davidson, “All I need is a yes or no. You tell me, yes, to go on private property, or no, don't go on private property.” Council Member Strawder, “You're indicating one thing, but what I am indicating is another avenue.” Superintendent Davidson, “Do you want me to talk to the other property owners and get information? Is that what you're asking?” Council Member Strawder, “There is more to the process than that. If we were to put in a water line, if we were to put in a sewer line, and an electric line or whatever, you don't just go through somebody's property without getting an easement. Drainage is no different than what I'm talking about here. What I'm talking about is talking to the landowners and getting a drainage easement. Now that if they come back and they push that they're not going to dedicate a drainage easement, that's a different conversation. At that time, by having that drainage easement that allows you the access to utilize whatever you need to happen. At that time, it's not accessing private property outside of an easement. I don't understand--.”

Council Member Mays, “Is that something Philip would write up? Would you do a drainage easement?” Attorney Wright, “I don't know whose responsibility it would be to approach adjacent landowners for them to grant a drainage easement. I can certainly draft up an easement. I don't know about the description. I guess we

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could use the same description as the utility easement. I really just think that the discussion really went in a different direction. I think that this issue is a private landowner issue. What responsibility does a landowner have? I saw the pictures; I get more water in my backyard than he does. When it rains, it drains out. I don't think it stands; it does drain eventually, right?" Superintendent Davidson, "Yes."

Attorney Wright, "So it's not that it's ponding up and just sitting there. It's just that it takes a little while for it to drain out versus, I guess, some of the surrounding property. That's also my understanding, but some of the water is coming off of the county land, or at least that's kind of part of the problem." Superintendent Davidson, "It's not necessarily; it's clear down at the south end of the property." Attorney Wright, "Right, and it's not necessarily all water from just adjacent properties that are causing the problem. This was a field, and that corner of the property used to be a field and a low spot in a field. And that's, that's the problem, isn't it?" Superintendent Davidson, "Yes."

Attorney Wright, "It's not created by the people to the north or the people, you know, draining on to that. So, you know, at some point, you know, the city council can do whatever they want. I think the city council needs to decide if they want to try to remedy the situation and determine whether this is a private or public issue that should be remedied. I think that the city council needs to carefully consider what I call a slippery slope in the law. What are the unintended consequences of the city stepping into this situation versus.... Again, I think the city has tried to make some reasonable efforts to try to help the situation. I think those efforts, you know, either didn't work or minimally worked or --and that's the result that the landowner wanted. The city offered a solution to this particular landowner that would probably fix the situation, but he would have to do it himself. And draining the water in a different direction than what the landowner wants.... So, you know, I mean, they're of a lot of things that unpack here. I think those are the things that the city council needs to consider. This isn't city water, really. This isn't something the city has done to cause the situation. This is something that is really something that the developer should have addressed and did not because the developer probably didn't know about it. Really, from my understanding, it's that very bottom corner. It's just, it's literally because it's part of that low spot in that field, and that's what the problem is. It's not causing damage to property. It's sort of a short-term issue. When we get a lot of rain, the reason why it hasn't come up again, I guess, in a couple of years is because we have had dry years. When we have wet years, it's more of an issue."

Council Member Mays, "So I guess, Mark, if you're saying yes or no, I would say do not do anything because I don't think we should be on private property, and this is something we're going to look into on a different scale. But if you need a yes or no from tonight, I don't think they should." Attorney Wright, "I think that's a fair enough statement." Council Member Mays, "I mean, we're not saying we're not going to do anything about it. We are just saying right now.... I'm saying I don't think we should be on private property, but I want to look into it more. We are going to do something." Attorney Wright, "I think if the city council wants to have some kind of drainage study done, they need to go get a bid out and see how much that's going to cost because I don't think we have it in the budget right now. At least for this year to do some engineering studies. Any engineering study is not a few hundred bucks; I mean, we are talking thousands of dollars."

Council Member Strawder, "I am very aware of the price of an engineering study. What my question is, in our city ordinances, there are references to the city engineer. Who is the city engineer?" Mayor Luke, "Whoever we hire." Council Member Strawder, "Whoever we hire. So, we do not have a city engineer on retainer?" Mayor Luke, "Correct. What the issue is, is what type of engineer we would need." Council Member Strawder, "A city engineer is a very broad, very broad, spot. Just like a city attorney or whatever, a city engineer is a very broad area of expertise where they can evaluate something and look at it and make a recommendation on if something else needs to happen or whatever. But again, does the city have the right, or do I think it's a good idea for city employees at the direction of city council to go on to private property to address something? No. That's why you need the easement. That is the pathway forward on this."

"Again, we have already.... I understand the legal aspect and all of that stuff if we don't do stuff the legal, correct way. But I would already ask how are we—or is it possible that we've already opened ourselves up to legal action by the work that has been done or by the fact that this has been ongoing and there has been at least the impression alluded to that the city is willing to work with this instance. That's also a question. I mean, if we just come back and say no, and he comes back and was able to pull up all this other stuff that shows, on the other hand, does that not open us up to possible legal ramifications?"

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Attorney Wright, "No, it doesn't. I don't think there's any formal action taken by the city council with regards to this." Council Member Strawder, "But there has been action taken by city officials." Attorney Wright, "I don't think there have been any problems made by city officials." Council Member Strawder, "But there has been action taken." Attorney Wright, "There was some work done, yes." Council Member Van Horn, "No good deed goes unpunished." Attorney Wright, "That's exactly right. So, think about that when we talk about unintended consequences, ramifications, and the slippery slope." Council Member Strawder, "I'm just trying to look for a pathway forward. I think a pathway forward is a relatively straightforward resolution. If a ditch, you know, if it is determined by the city that the city has personnel that thinks they can determine it without the use of an engineer, more power to them. Whatever. I know that's how a lot of stuff gets done in this general region, not this community, but this general region type of thing. If the city's recommendation, based on prior experiences, is that a ditch needs to go elsewhere, then that can be the resolution provided. And this is the avenue that needs to be taken to get that done. There needs to be an easement across one property. If the approach is by the city to resolve the drainage issue is that it needs to go across the back of three property owners or whatever, then there is work that needs to be done. I mean, this is an everyday occurrence for communities all across the U.S. This is not something that is unique to Burlington. That's why I don't understand why this is such a tough realization or whatever. Easements are normal. That's the resolution here. Do an easement to be able to allow access to have the city complete the work that they have already begun."

Mayor Luke, "I guess--. We gave a resolution. We identified. We shot the ground. We told him and showed him where it drained to. We gave him the option of the curb cut that would take care of it, and he refuses to do it." Council Member Strawder, "At his dime, he refuses to do it." Mayor Luke, "It's on his private property. It's not back in that area. It's an east-west one across his property." Council Member Strawder, "I understand that, but that's where an easement comes into play is that allows the city to be able to utilize that--." Mayor Luke, "No, we aren't going into private property and putting in a drainage ditch or slew or whatever you want to call it so that he doesn't have a low area in his yard to hold water."

Council Member Strawder, "I think that's an oversimplification of what's going on here." Mayor Luke, "I don't because I bet he's talked to me 20 times on this." Attorney Wright, "I think that's spot on, actually. I think that's exactly what's happening. Like I said, this is something that a private landowner can take care of, and this is a private landowner issue. This is not a city issue." Mayor Luke, "I get water running down the drainage ditch behind my house and gets into my yard, once it clears, and that comes from four houses north of me--." Council Member Mays, "But from those pictures, I mean, he's pumping water out, it's not just standing there." Mayor Luke, "That's because he wants it instantly gone. That house has been there for multiple years, and until two years ago, it was not an issue for anybody."

Council Member Strawder, "If we can't proceed like other cities proceed, then I don't see a resolution." Mayor Luke, "All I'm saying is, we gave him an option that would work, and he refused to do it." Council Member Strawder, "If that is the stance that is going to be taken, I will say I disagree with that stance but so be it. I am one person with limited knowledge on development." Mayor Luke, "Philip, get a document together, then we can approach the subject with the other people there. But if they don't do anything --if they won't do it, I still don't have a solution for him." Council Member Strawder, "I agree, but that's a different conversation at that time of not having buy-in by neighboring property owners. If an easement is required across private property owners, there's avenues and stuff--." Mayor Luke, "What we will do then is we'll have Philip draft the ordinance." Attorney Wright, "I think we should have someone knock on some doors and tell me that --do that first before I draft documents." Mayor Luke, "Okay, and see if they will allow an easement to go across to put in a drainage ditch across their property, then Philip will draft one. If they say no, then we aren't going to do it."

Council Member Strawder, "Again, the route of proceeding it across other people's property is the best route for drainage of this area." Superintendent Davidson, "It's the only place it can go." Council Member Strawder, "Is across other people's property?" Superintendent Davidson, "Yes, it has to go down this easement." Attorney Wright, "Let's be clear about this: the best route is the one that Mark identified that goes across the landowner's property. That's the best route." Mayor Luke, "Right, and into the street." Attorney Wright, "This route we're talking about that involves other people may or may not work. In fact, Mark is under the opinion that it's going to marginally do anything." Council Member Strawder, "So then why would we take that approach if that's not the avenue that is going to work? Again, this has been made overly complicated from what it needs to be. This is a

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simple drainage issue.” Superintendent Davidson, “It was simple; all I needed was for you as a council to tell me. Yes, it's fine to be on private property or, no, it's not.”

Council Member Strawder, “And the answer to that is it's fine after you get an easement to go onto that property.” Superintendent Davidson, “Okay, we spent an awful lot of time getting here.” Council Member Strawder, “That's been stated several times. An easement is needed to allow the city to go on to that property.” Attorney Wright, “The reason why Mark did what he did was because he was trying to help the property owner, and that was trying to appease the property owner by doing what the property owner wanted. Is that fair enough to say?” Superintendent Davidson, “Exactly.” Attorney Wright, “Against your better judgment?” Superintendent Davidson, “Yes.” Attorney Wright, “Because Mark offered another alternative that the property owner could have taken that would probably have solved the problem.”

Council Member Strawder, “But what happened is what happened, so let's move forward. And this is how we move forward.” Attorney Wright, “To move forward with this solution that Mark thinks is not going to work.” Council Member Strawder, “I'm not saying that. If the drainage-.... Okay, the resolution moving forward is to determine which way the drainage needs to go. Does it need to go down? I don't care if there is an easement alley in the back or an easement/alley/ whatever it's called; there is an easement across the back of these other properties. That is not the only spot where easements can go is along the back of the property lines.”

Council Member Ernst, “Can you point it out, Jimmy?” Superintendent Davidson, “And this case, yes, it is.” Council Member Strawder, “Why?” Superintendent Davidson, “For us to do a ditch, that is the only place it can go on this easement. It has to go on the west side, this easement, along the berm of the existing tree line because we have utilities on the other side.” Council Member Strawder, “Because of drainage purposes, that's the only place that it'll be able to drain.” Superintendent Davidson, “Yes.” Council Member Strawder, “I guess I need help because weren't you saying it would be going uphill there?” Superintendent Davidson, “He is trying to take his yard uphill. He's trying to run his yard to the west; it needs to flow to the east. What we're going to do is put a ditch – we started a ditch on the west side of the easement along the berm trying to appease Walker.”

Council Member Strawder, “Okay.” Superintendent Davidson, “Okay, but his water needs to go across his own personal property, out to the street. And as I said, we gave him permission for a curb cut.” Council Member Strawder, “Does the county have LiDAR or anything like that?” Council Member Mays, “We do.” Council Member Strawder, “I mean, easy contours will be able to tell you which way that the water is going to be flowing. The fact that there is a utility easement along the back of the property lines does not indicate that is the only location that easements can go to. An easement can go to wherever it is determined that easement needs to go to and the property owner is able to or is willing to give up the rights for an easement there. So, what I'm confused by is the fact that it was indicated that to take the water along the back of the other property lines would be working against gravity and working against the natural flow.”

Superintendent Davidson, “For his yard, it is low, and he is trying to run up to the west. He's trying to run it back uphill. I'm not saying the ditch we're going to cut is going uphill. The ditch we will cut to 12<sup>th</sup> RD to the city property, to the south, it will all flow south. His ponding is in his yard, and he's trying to run his water out of his yard back to the west to go into this ditch. For this water from his yard, it needs to go to the east over the curb or through the curb and drain out to the concrete street.” Council Member Strawder, “That is the natural flow and slope of the ground is to go back to the east?”

Superintendent Davidson, “Yes, and he wants to run it to the west.” Council Member Strawder, “Why can't he dedicate a drainage easement then along the common property line or where else that goes from east to west to allow the city to finish--.” Council Member Ernst, “Because everybody out there would want one.” Council Member Strawder, “That's where then it becomes a bigger issue.” Council Member Ernst, “I have the same issue. I have water out there.” Council Member Mays, “That's what Nathan is saying. Country Club Heights is an issue. We know that. Why is that not looked into.” Council Member Ernst, “I'm thinking why would the city at the city's expense--.” Council Member Strawder, “Of drainage issues?” Council Member Ernst, “No, of fixing property owner's issues.” Council Member Strawder, “Because it's a common issue, spread across several properties. It sounds like we've got two individuals here who also live out in the same community that are also indicating that there are drainage issues there. We have a person coming in that's had constant, not constant, but several communications with city staff, coming to a city council meeting to indicate that there's drainage issues. Is it

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possible that there is a drainage issue in this general region or community or however you want to state it.” Council Member Mays, “Subdivision.” Council Member Strawder, “Subdivision.” Mayor Luke, “That’s the whole town.” City Clerk Brown, “And then that is back on the taxpayers to be able to budget for that.”

Council Member Strawder, “I guess I’m done with the conversation. This isn’t that difficult of a conversation.” Zoning Clerk Hugunin, “I think Mark only wanted a yes or no.” Council Member Mays “Until there is a solution, do not go on private property.” Superintendent Davidson, “Okay.” Council Member Strawder, “But I don’t understand how a drainage easement isn’t a solution.” Zoning Clerk Hugunin, “That’s not what anyone is saying; they aren’t disagreeing with that. Mark just wanted to know if you want him on the property now.” Council Member Strawder, “Not without a drainage easement.” Mayor Luke, “There you go.”

**MAYOR’S COMMENTS:**

**FUTURE AGENDA ITEMS:**

<b>GENERAL:</b> City Debt - How to fund projects Expense Tracking on Projects Budget 2024	GAAP - Infrastructure Capitalization City/County Grant Funds – Discussion on Matched Funding Council Discussions on Evaluations, Succession Planning, etc.
<b>ELECTRIC DEPARTMENT:</b> Power Plant - Additional Generation <b>PARKS DEPARTMENT:</b> Events in Parks (Updates)	<i>RICE NESHAP Compliance</i>
<b>LEGAL DEPARTMENT:</b> Municipal Court Updates <b>PLANNING AND ZONING</b> Work with Advantage Computers and City Departments to improve Cyber Security Nuisance Grass: Work with PD FIRM Floodplain Map Changes – Updates	Misc. Legal - Documents, Cases, Contracts, etc. Quarterly Construction Valuation Report Prepare Easements for any City-owned property without one Permits - Building/Zoning/etc. Burlington Corporate Boundary Updates on Map (Work with State)
<b>POLICE DEPARTMENT</b> Nuisances (Work with Zoning Clerk) Voice Stress Analyzer Project	Department Activities and Cases
<b>STREET DEPARTMENT:</b> Concrete St. Repairs/Free State Ct. Replacement/Repair Pavement Management System/Asset Management System	Street improvement Plan, Paving Gravel Streets, Crack Filling, Street Improvements 2024 Asphalt Project
<b>WATER &amp; WASTEWATER DEPARTMENT:</b> Sewer Lagoon Maintenance/	Sensus Water Meter Replacement Sewer Liftstations –Flushing Rags, etc. Sewer Lagoons - Analysis (KRWA/funds for dredging)

Mayor Luke declared the meeting adjourned.

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