

**BOOK 26**  
**July 17, 2024**

**BURLINGTON CITY COUNCIL REGULAR SESSION 7-17-2024**

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, July 17, 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 6:03 p.m.  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:** Robert Skipper, Jeff Shamburg, Lehnerr, Paul Abendroth, Jay Hale

**AGENDA:**

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

**MINUTES 7/3/2024:** Mayor Luke, "You have before you the draft minutes of our regular session of July 3, 2024. Are there any additions or corrections?"

*Council Member Ernst, "I move to approve the draft minutes of July 3, 2024, as presented." Council Member Mays, "Second." Motion unanimously carried, 5:0.*

**APPOINTMENT: Bobby Skipper – Turkey Shoot**

Bobby Skipper, "Mayor, Council, thank you for letting me come before you this evening. About two months ago, I asked the council about the possibility about having a turkey shoot at Kelley Park. Then, I think you guys told me you wanted to discuss it a little bit before you gave me an answer. I am here on behalf of the Rotary Club again and requesting the use of Kelley Park for a turkey shoot on Saturday, August 31<sup>st</sup>."

Mayor Luke, "Is that tied in with anything?" Bobby Skipper, "Part of the barbeque competition." Mayor Luke, "Chief, was there anything else on that that we needed to..." Chief Jones, "Bobby said that he was going to take care of the land owner across the river, which would be the only other concern we have." Mayor Luke, "Insurance?" City Clerk Brown, "Did you check into special event insurance for that?" Bobby Skipper, "I was waiting on Holly Myers with Farmer's, the farm agency, to get it down. She said she would have it down. I could make sure she adds the City of Burlington has additional surety." City Clerk Brown, "Yes, thank you."

*Council Member Curtiss, "I move to allow the Rotary Club to have a turkey shoot at Kelley Park on August 31st." Council Member Ernst, "I second the motion."*

Mayor Luke, "Is there a time on that?" Bobby Skipper, "10:00 in the morning. I'll update you again when we confirm that." Mayor Luke, "Okay, any other discussion?"

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

Bobby Skipper, "As always, thank you so much."

**APPOINTMENT: David Lehnerr – Skate Park Event**

David Lehnerr, "Thank you, guys, for having me on such short notice. Me and my skate group, skate team, and local skate shop in Emporia. We have been trying to reach out to smaller communities that have skate parks

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to come to do a little skate demo with our skaters that skate for us, me included. Afterward, for an hour or so, we give a skate school for free for all of the kids that wanted to learn. We teach them the basics, their balance points, where their footings would go; just get them to where they are at least riding comfortably if they wanted to get into it. It would probably be something we could come down and do again if the kids were into it and if you guys were okay with that. We would also supply water, free water for all of the kids and everyone that shows up. We have a deal with Casey's in Emporia that they sponsor any event that we do. I wanted to come before you guys and ask for permission instead of just showing up down here and doing an event in your town without your guy's knowledge. I kind of put some feelers out there on Facebook and got good words back. A lot of people said their kids would enjoy something like that."

Mayor Luke, "Any questions?" Council Member Curtiss, "Kevin, anything?" Superintendent Boyce, "Is there anything extra that you would need from us?" David Lehnherr, "No, other than what time your park facility actually closes and not allowed to be used. We were thinking about 5:00 p.m. to 8:00 p.m., so it would have cooled off some. We would probably show up about 4:00 p.m. just to do some warming up. Set up some tents because of the skate shop. He has a bunch of beginner boards he was going to bring out that he sells cheaper in case there are kids at the events that ended up needing boards. I think he will give away some, a certain amount. We just try to do as much for the youth as we can; give them something positive."

***Council Member Van Horn, "I move to approve David Lehnherr's request to use the Skate Park on Saturday, July 27, 2024, from 5:00 p.m. to 8:00 p.m. for the skate demo event." Council Member Ernst, "I second the motion."***

Superintendent Boyce, "I will probably add a couple extra trash cans." David Lehnherr, "That would be awesome." Superintendent Boyce, "But the picnic tables will be tied up because of the fair." David Lehnherr, "That's fine. We will bring out some extra chairs if we need them." Mayor Luke, "Any other discussion?" Council Member Van Horn, "I just want to say that I think it's great that they are willing to come here and do something for our kids to get them out of the house and active." David Lehnherr, "Yeah, we throw about five events a year at the skate park in Emporia, and now they are building us a second park. When we were kids, we raised money for the first one, and now they are talking about destroying it, and I'm like, no, no, we're not doing that. So, I'm arguing with BNSF over it because it's their land, and if they will just remove two words from the contract, ball and field, it would just say for recreation, then we can keep our park there. Because the city went against contract and city officials changed and stuff wasn't told, they put it there and it wasn't supposed to. I'm just like, well, I'm going to save it. I'll save it somehow."

**Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 6:0.**

David Lehnherr, "Thank you guys very much. I am going to get out of your guys' hair. I have a skate meeting to get to."

**PUBLIC COMMENTS: None.**

**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.

**Tree Trimming:** Superintendent Schneider, "The linemen are spending most of their time tree trimming in the utility right of ways."

**Callout:** Superintendent Schneider, "We worked one callout Sunday the 14<sup>th</sup>. Turns out it was customer equipment, and everything was fine. Pretty much just checking on them and moving on. We didn't have to do anything there."

**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.

**Reports:** Superintendent Schneider, "We are still completing plant reports."

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**Painting:** Superintendent Schneider, “We are still painting.”

**KPP Energy Generation Task Force:** Superintendent Schneider, “Denny attended the KPP Energy Generation Task Force meeting on the 9<sup>th</sup> of July.”

**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.

**Repair:** Superintendent Hawkins, “We did do a small repair at 14<sup>th</sup> and Housatonic.”

**Water Flushing:** Superintendent Hawkins, “We have also been flushing fire hydrants. If any of you have been by the park by the blue water tower, you see water coming out. We are doing that on purpose. It is that time of the year when we are trying to push the hotter water out of the top so that the chlorine residuals can go up. It’s just a technique that we use that the state wants us to keep doing. It’s just to keep our chlorine up and keep the water fresh.”

**Fire Hydrant Replacement:** Superintendent Hawkins, “We are also working on 7<sup>th</sup> and Neosho. We are going to start on that first thing in the morning and on Friday. I visited with Craig Marshall with the school district, so we are going to have the north side of the elementary off for a little bit. We are going to replace that fire hydrant and get that service in on that corner.”

**Equipment Maintenance:** Superintendent Hawkins, “I have been working with C&B Equipment. They will be here this Friday to work on the river intake. There is something plugged up in there, and they are going to help us get it unplugged and remove that obstruction in the line. Also, while they are here, they are going to go over and install the new sewer pump at pump station #2.”

**WATER AND WASTEWATER: Production Update**

**General:** Normal duties. The plant is running well.

**Water Usage:** Superintendent Hawkins, “The water usage is up 100,000 gallons, but that is normal for this time of year, the summertime usage. There are a lot of people watering lawns, gardens, and stuff. So, that is pretty normal.”

**6<sup>th</sup> Street Waterline Project:** Superintendent Hawkins, “The 6<sup>th</sup> Street project is completed. It is all done. I am really pleased with all of that. With that, we do have a waterline change order that is in that. That is roughly \$1,700 that we went over. The ARPA fund still has \$4,600, so we still have money left. That project is complete. We went in and cleaned out all the dirt piles so that way everyone can mow, but we are not done. We are going to go back with black dirt and till and seed, and all that to dress it up nice. Other than that, that part is completed.”

Mayor Luke, “At this time, we need a motion to accept the change order.”

***Council Member Ernst, “I make a motion to accept Change Order #2 for the 6<sup>th</sup> Street Waterline Project for an increase of \$1,726.00.” Council Member Van Horn, “I second the motion.”***

Council Member Strawder, “So, this work is already done?” Superintendent Hawkins, “Everything is completed.” Council Member Berryman, “I still drive like the bump is there.” Council Member Van Horn, “I love that it’s not.” Superintendent Davidson, “You turn the corner and still stop because of habit; I do the same thing.”

**Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 6:0.**

Mayor Luke, “Okay, and we still ended up underneath the total budget of the ARPA funds?” Superintendent Hawkins, “Yes.”

**WATER AND WASTEWATER: Pretreatment Plant – Clarifier Settling Basin**

Superintendent Hawkins, “The only thing we have left is Jeff Shamburg here to discuss his part.” Jeff Shamburg, “So, we have been doing work on your guys’ project over the last month. Most of our efforts have been on the issue of water rights. We have been working through back and forth with the state on discussions. So, if you guys remember about, I think it was March of last year or maybe two years ago now, the city applied for

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water rights. You guys applied for a certain amount, particularly for industrial use, anticipating that the CHIP plant project was going to consume more than what you guys have available for water rights for municipal use. That was good that you guys did that then. The way that the state's water laws work is it's an appropriation that's made, but more or less, it's the first one in line that gets the first crack at it. You have to go through a justification process and then a permitting process, then there is perfection, and there are all kinds of things that happen. The very first of that is the first application in a particular basin gets evaluated first, and then subsequent applications get a priority number that falls behind that.

“So, you guys right now and when you applied were 2<sup>nd</sup> in priority in the Neosho River basin. There is one other project, a big project down in the Parsons area, that have a priority number ahead of you, but you guys are number two. The state is reasonable with how they work through that process in that once you're in line, as long as nobody behind you is being held up by your project, you more or less have an infinite amount of time to resolve any questions they have or challenges you might run into or even things that haven't firmed up yet in terms of how much you really need. It's a nice way of working through that. Over the last couple of years here, you guys have been in that limbo state where we don't really know what exactly our quantity is; we know it's probably less than what you applied for. Because nobody behind you is pushing for our decision to get made, you've been able to just kind of sit and churn. That's fine.

“Likewise, the project at Parsons has been able to do the same. We now, though, are ready to give answers. I think we have enough information to firm up the amount that we want to ask for and change the type of water right that it is. We can push it all to municipal rights, and then that would then force the Parsons project to have to figure their things out as well. So anyway, this is a status update, more or less. That is where we are at. I think this week yet, we are going to submit a letter to the state basically cleaning those items up. You have some water rights that are due to be perfected or lost by the end of this year. We are going to ask for that to be extended. They will generally grant that extension if you give a good reason. Our good reason is we have a project that came in on the last year of perfection that dramatically changed our water usage. I think we will get that extension. We will go through with that same letter and clean up these other items to basically make your application complete and start pushing it forward through the water rights process.

“On top of that one other scope item that we have under our existing agreement with you guys—we really have two loose ends, finalizing the preliminary engineering report, which has been sitting at about 95% complete for a couple of months now. Again, we are just waiting on a couple of key pieces of information to settle down on that other project. We can clean that preliminary engineering report up at the end. Unless something really changes, it's not going to change the overall conclusions. So far, nothing has happened in the last couple of months that has changed the cost estimates from what I last presented to you guys. Everything has been pretty stable. Even though there is quite a bit changing behind the scenes, it's not enough to dislodge us from where we are at.

“So, that's where we are at on that. What I have tonight is I brought a new agreement. This is for the next stage of engineering services. Always feels kind of awkward to come hat in hand to these kind of things. This is something I talked about last time I was here. The next step in this is really to move into full design of the project. So, this is a lot bigger dollar amount that we have been talking about. It's the same dollar amount you guys had in the cost estimates for these next phases. This phase here would include completing preliminary design efforts that weren't in the original scope, just a couple of little items here and there; coordinating with Geotech, completing site surveys, those sort of investigations that happen in the interim. Then, moving into the final design. This is where we will produce detailed drawings and specifications. We will put together bidding documents for contractors and those sorts of things.

“The process normally for a project this size is probably a six to eight-month effort on my end. Then, we kick it to KDHE for their review. It should be like a month or two in their hands. Lately, it has been trending a little longer. We have seen upwards of six months to work through their process. I think this process could move a little faster. It's a relatively simple project. We are probably in this final design stage. If we stay with a traditional design-bid-build process, we are probably in this final design phase for the next six months on the long end. I do think that we will have opportunities to expedite this, barring externalities. Some third party comes in and causes us to set the project down while we make decisions. If we were to just work through it, I think we could work through it pretty quickly. We would be looking at a construction timeline that would put us under construction sometime in late spring or early summer next year.

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“The agreement that you have in front of you is for a traditional design-bid-build process. I think that there is probably a likelihood that we get through these initial stages and probably get to about 30% design, and this is not because of the CHIP plant or anything else. This is just how we kind of work through our front-end loaded design process. We get to about 30% design and we set the pencil down for just a second because at 30% we can make a shift into a design-build process or something else really easily. We just take a second and look at all the pros and cons, look at our timelines, where risk is allocated, and make a decision on where we go from here. Although this contract takes us through the completion of design, there is a probability on this project that is not zero that we set the pencil down at 30% and go a different direction. If we do that at that point, it would be through a contract amendment, and we would clean that up then.”

Council Member Strawder, “I did have a question on that.” Jeff Shamburg, “Absolutely.” Council Member Strawder, “I understand the traditional design-bid-build. I know a lot of places are going more to a design-build or some other type of project. Is there a recommendation at all towards moving? Because design-bid-builds are great, but they are not always the most efficient. I know you’re talking a timeline of…” Jeff Shamburg, “There is an opportunity to save time in a design-build format. I’ve done both. I have probably done more design-build than traditional design-bid-build personally. There is an opportunity to save time. In the end, at least at the stage that we are at, basically 0% complete, right now, it’s best to just think about it as a change in risk and who is carrying the risk through construction. In a design-build format or a construction manager at risk format, you are allocating that risk up front to the contractor, the design-build team. Whereas in the traditional design-bid-build format, the city is carrying construction risk all the way through. That’s maybe not the most eloquent way to describe it, but I always try to caution everybody not to think about –don’t get carried away with timeline savings or cost savings this early in the project. Now, that is not to say the design-build process. This style process has a greater opportunity to shave time out of it than a traditional process does. We will have this conversation all over again at 30%.”

Council Member Strawder, “I was going to say, is this the type of thing with a lot more – I mean, are you seeing these types of projects normally being done by design-bid-build or more into one or the other management style?” Jeff Shamburg, “So, outside of water projects in Kansas, yes. We are seeing more design-build. I think the industry is starting to get it figured out in a way that it does deliver all of the things that it’s supposed to. Water projects in Kansas are really difficult because of KDHE. This isn’t anything good or bad on them; it’s just the way it is. They just don’t make a very good partner in a design-build process. That’s probably offensive to them for me to say that. They probably would like to think that they could be better partners; they are a good partner. It’s just tough for them to do their job in that rapidly evolving landscape. Things change, and we can’t firm up a final design, and then they look at it, and we go build it. We are working through that dynamically. It’s a lot harder for them to process.”

Council Member Strawder, “Yeah. Where I work at, we deal with that all the time. Jurisdictionally, design-bid-build has always been done, but the industry is shifting. I was just curious.” Jeff Shamburg, “We are working off of minimum standards of design of the water side of KDHE that were last touched in the early 2000s. Before that, we were working off of standards that were late 1970s. They have not caught up to the times. Any other questions? So, we do have construction, administration, and observation. Administration and observation is probably part C in there if I remember right. Part A services are the design services. We have that as a lump sum right now. We are talking about shifting risk around. Lump sum pushes more risk onto us because we have an opportunity to make some money at the end if we are efficient, but if we are not efficient, we have an opportunity to lose some as well. It makes a lot of sense when we have a well-defined scope and we know what our scope is; it’s to design a treatment plant. On the construction administration side, we have it as an hourly, not to exceed. So, it would be a time and materials basis up to a cap. I have set that cap sufficiently high that I don’t think we would have to come ask for more. The reason we do that is because we don’t know the weather and the contractor and a number of different things that might affect how we manage the project or construction; it might cause it to cost more or less. We just agree to go into it on an hourly basis; you pay us for our time, and if we start to run out of budget, we communicate, and we have to account for why.”

Jeff Shamburg, “That is the format we have, and then there is a whole list of things excluded from the design process. They are routine things. One thing that is notable on this project is that we have limited the scope of design right now to what we know because it is a fixed fee. One of the unknowns right now relative to the CHIPs

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plant project is how we get water out of the city up to Beto. There is probably a pump station involved, probably line upgrades involved in the rural water district, and maybe line upgrades in the city. I am not sure yet. Those are all excluded right now from ours. It is not so we can nickel and dime you later, but it's simply because I can't put my finger on exactly what those are yet. We haven't had those conversations to a level high enough that we can get a read on what that scope is. It would be something if we end up designing those features later; we would add those in."

Council Member Strawder, "Has the city been in communication with the county as far as – because I know the county has been working in with another jurisdiction on water. Is this all-in consideration or --." Jeff Shamburg, "Well, that's a good question. The project as it's defined today, you guys are in a great spot. Just to lay everything out there, you guys are in a really good spot. The project we are laying out today is a project that Danny, the Mayor, and I started talking about when he first got onto council. It was something – what almost 15 years ago that we were talking about these needs. Now, it's starting to come to a head. The plant is getting older, the staff is getting harder to come by, and those kinds of things that will cause you to move in – you are probably doing this project anyway because Danny needs it. We could establish that need. That advantage is it restores the capacity of the treatment plant you guys originally built, and because you're restoring that capacity, you have an excess initially, and you can use it to serve that facility. That's a long way of saying I think you build it regardless. It makes it a little more complex, and there are few more people to talk to. It does make the project trickier, but, in the end, so far, it's a win-win. You guys are getting an opportunity to build a project that you've been needing for a long time, and there is the potential that you have somebody to buy –at least buy the excess water if not participate in the cost share. You're in a really good spot. This is a good moment for it to all come together right now."

Mayor Luke, "I would just like it to come to a head one way or another. Okay, we will get this to Philip." Jeff Shamburg, "Yeah, there is no rush on it. We virtually exhausted the budget on the stuff we are under agreement on now. That shouldn't be a surprise based off of the progress that we have outlined and telling you where we are at on everything. We have done basically everything you were asking us to do. This moves us into the next stage. We're not going to stop working waiting on an agreement. We will keep going, and if we have issues with the agreement, we will get it cleaned up and move on."

**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.

**Killough Construction – Street Improvements:** Superintendent Davidson, "Killough Construction finished their 2024 street project last Monday. We had one soft spot on the northwest corner of the intersection on Alleghany. We were able to go down, dig that out, compact that back, and finish the project."

**Tree Trimming:** Superintendent Davidson, "We have been doing tree trimming. We did several tree removals today."

**Road Maintenance:** Superintendent Davidson, "Driveway and alley culvert replacement and cleaning drain boxes."

**POLICE DEPARTMENT: Update**

**General:** Chief Jones, "Normal duties. The last two weeks, even with the heat kiln, have been kind of crazy."

**Activities/ Cases:** Chief Jones, "We worked injury accidents, non-injury accidents, including an elderly driver that drove into the side of the building at 316 Neosho. His foot was stuck on the accelerator, couldn't get his foot off of it. Arrests for DUIs, criminal damages, assists with Sheriff's Office calls, as well as juvenile calls, juvenile runaways, scams, and welfare checks.

"Including one today, I had one dive into the indoor pool at the Rec Center fully clothed. She got banned for the day from there. Then we had the same individual who had an evaluation meeting with Crosswinds, then went running down the alley to the new Mexican restaurant, went through the back door, and started raising a fuss in the kitchen. We are looking for her. My radio is turned down; I haven't heard if they found her yet.

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“There was a fire call that turned out to be a grease fire on the stove.

“Helping with some animal calls, we took one dog into our animal shelter. The owner was found deceased in Gridley.

“I have been in lots of meetings over the last two weeks. Eight meetings and a funeral just last week. One meeting so far this week, plus tonight.

“We assisted with EMS calls, including one Friday night where we wound up with two ambulances on scene. All of the ambulance crew was in one ambulance, went to the hospital lights and sirens, and one of our officers drove the unoccupied ambulance up to the hospital so they would have it there. They wound up life-flighting her out about an hour and a half later. She’s still in Topeka, and it’s probably not going to be good.”

**Nuisance: Properties/Vehicles Update:** Chief Jones, “We have been working some nuisance calls, including Mrs. Williams and Forte. She lives across the road in the county; Forte is ours. Mr. Massingill the one that bought 1306 Neosho. He did get back in touch with me today; he and I are going to meet next week and take a tour of the property and see if there is anything repairable or salvageable. He doesn’t believe there is, but we are just going to double-check. He gave me a little bit of history on it. Apparently, that is where his grandfather’s blacksmith shop was many, many years ago, the foundation of which is still there.”

**Coffey County Fair:** Chief Jones, “We have fair coming up next week.”

**QUESTIONS / COMMENTS**

Council Member Berryman, “Doug, the three Cumberland properties that I have been asking you about for almost a year, there is no progress, and they are deteriorating.” Chief Jones, “There is some progress at the one. The hole where the drain sewer is has been repaired, that has been filled in, the grass has been cut, but we haven’t gotten anything done inside the trailer yet.” Council Member Berryman, “Have you seen all they have moved out though? It looks worse than the city dump.” Chief Jones, “I have seen it. I was over there this morning.” Council Member Berryman, “Is there going to be action on that?” Chief Jones, “I plan to. Okay. I plan to take action on it.” Council Member Berryman, “And the pile?” Chief Jones, “Like I said earlier, Maxi--ask me for anything but time.” Council Member Berryman, “I know, but like I said, you and I looked at these properties a year ago, and even where the pile of debris – where the famous pink toilet was, it’s so overgrown now by weeds that you can’t see the initial pile.”

Chief Jones, “And I haven’t been able to catch him at home.” Council Member Berryman, “I know you like to make the personal contact, but we are going on almost a year.” Chief Jones, “I know. I give them a chance, okay? I will visit with him one more time. It’s either the trash gets cleaned up, or he gets to come explain it to Judge Campbell.” Council Member Berryman, “You’ll keep me posted on both that and the trailer because --.” Chief Jones, “I’ll do the best I can. It may not be me keeping you posted; it may be Sergeant Stuart.” Council Member Berryman, “Yeah, that’s fine.” Chief Jones, “I have knee surgeries scheduled for next month.” Council Member Berryman, “And I hope you do well. Those properties have existed for a long time.” Chief Jones, “The officers have been working the nuisance properties, and they are all fully aware of what we need to do and where it needs to be done.” Council Member Berryman, “Thank you.”

Council Member Strawder, “So, a lot of times – I mean, what’s the hold up on seeing action being done or progressing to the next step? Is it a staffing issue?” Chief Jones, “No. It has been a staffing issue. It wasn’t until May of this year that we were actually back to full staff. Part of it is weather-related. We had quite a bit of rain the last two months. Some of it is heat-related. Some of it is our call load has been so crazy we just haven’t had the time to get to them. We will get to them.” Council Member Berryman, “Can I ask one more question, Doug? I don’t know if you have had the financial meeting yet, but did you put in a request to see if we can increase the amount of money for nuisance properties?” Chief Jones, “I am not supposed to address that. You are going to need to talk to the finance committee.” Council Member Berryman, “Alright, I am sending you very strong vibes.” Chief Jones, “I am feeling it. That is not my answer. I don’t have an answer to that question.”

Council Member Van Horn, “So, I am really curious where the line is between your nuisance properties that need to be mowed and Jimmy’s nuisance properties that needs to be mowed.” Chief Jones, “If it’s grass, Jimmy does it.” Zoning Clerk Hugunin, “I kind of know what he is working on.” Council Member Van Horn, “So, if it’s

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just grass, it's you, and if it's grass and mess, it's Doug." Chief Jones "If it's more than grass." Council Member Berryman, "More structural." Zoning Clerk Hugunin, "If Doug goes over there, he is going to address the grass and the nuisance." Council Member Van Horn, "Gotcha, thank you."

**PARKS DEPARTMENT: Update**

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

**Mowing and Spraying:** Superintendent Boyce, "The majority of our time has been spent mowing and spraying gravel areas and sidewalks downtown."

**Watering:** Superintendent Boyce, "We have been watering flowers and trees. The past week, we have been going in the evening and watering the hanging baskets. So, they are watered morning and evening."

**Coffey County Fair:** Superintendent Boyce, "We are prepping Kelley Park for the fair next week."

**QUESTIONS / COMMENTS**

Council Member Van Horn, "I don't have a question, but I do have a compliment; your pots look beautiful." Superintendent Boyce, "Thank you."

**FINANCE: Claims Ordinance & Payroll Ordinance**

a. Claims Ordinance	2024-14	\$	<u>489,413.98</u>
b. Payroll Ordinance	2024-15	\$	<u>114,959.42</u>
	TOTAL	\$	<u>604,373.40</u>

**CLAIMS 2024-14:** Council Member Curtiss moved to approve City of Burlington Claims Ordinance 2024-14 for the amount of \$489,413.98 for payment of city bills. Council Member Ernst gave the second. City Clerk Brown, "The larger expenses we have tonight are Brenntag Southwest \$3,530.55, C&B Equipment DBA Douglass Pumping Service \$5,204.84, Kansas Power Pool \$247,070.07, Matador Construction \$5,280.00, Protective Equipment \$3,072.79, and BLP Equipment Share Company \$57,894.00." **Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. Mayor Luke declared, "Claims Ordinance 2024-14 passed, 6:0."**

**PAYROLL 2024-15:** Council Member Curtiss moved to approve City of Burlington Payroll Ordinance 2024-15 in the amount of \$114,959.42, as presented. Council Member Van Horn gave the second. Hearing no discussion, Mayor Luke instructed City Clerk Brown to poll Council for a vote. Mayor Luke declared, "Payroll Ordinance 2024-15 passed, 6:0."

**FINANCE: Notice to Exceed RNR (Revenue Neutral Rate)**

Mayor Luke, "By process, we need to look at the revenue neutral rate, and at this time, we are recommending that we send a notice to the county that we will be exceeding the revenue neutral rate and bring the proposed mill rate to 41.524 mills. Last year, it was 38.82. This year, the appraised value of the property of the city went up 13.2%. With that, that drops the revenue neutral rate down to just over 34 mills, which is below last year's number by several hundred thousand dollars. So, to receive basically the same dollars in, we need to raise the rate up to 41.524, and that will put us just over the revenue that we received last year."

***Council Member Curtiss, "I move to approve the Mayor to sign the letter of intent to exceed the RNR (Revenue Neutral Rate)." Council Member Van Horn, "I second the motion."***

Council Member Strawder, "So, what are we telling the general public for why this is? What are we doing to help ease the communication of these are the reasons why we are doing it? Like this is what you're getting in return for this raise. I know some of the items that we talked about are not included in this and stuff. I have major concerns about even if it's just to hold the level of where we were last year if you don't have anything to show for it...I mean, as a citizen, that's hard to swallow. I guess a little bit of oversight on why. I know you and I talked, but just so everybody can kind of be on the same page with what some of that is. If it's a matter of hey, there's a couple of items that are pretty big up there on community interests, now is our time to take handle on this. Otherwise, it's postponing everything another year and possibly running into the same situation. So, a little bit of



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oversite on what this increase of however many thousand dollars it is, what all that covers, and how we will be able to justify this to them, to the general public. If that makes sense.”

Mayor Luke, “It makes sense. The issue, to be truthful, there is not very many dollars difference. There is a difference in millage rate, but the dollar and cents themselves.... One mill is about \$20,000. If you look at basically 39 mills last year, we are at about \$40,000- \$50,000 more revenue to bring in this year than the previous year. When you are running a budget of 14 million dollars, that is a very small percentage. If you’re looking at the cost of living that has been going up 3%-5%, we are below that number.” Council Member Strawder, “Okay, so then essentially, if you are looking at it that way, then we are cutting the budget even more if we are not keeping up with inflation. Then I go back to should we be considering instead of cutting out, we are already having to raise it, should we consider raising it because you’re going to have to cover some of these other items because you’re going to get a bang for your buck then. Well, why did you raise it? We raised it for a couple different reasons: one cost of living, how the statute is written. It was really putting us in a bind, so we added normal operations, but then we also included this, which is a way to improve our community, and that is what that raise is helping cover. So, it’s a multitude of things rather than saying we had to raise it because of how the statute is written. We are adjusting just a little bit, but we still aren’t keeping up with the rate of inflation. That makes it look like we are raising it because we are just trying to stay level, stay the course. I think there is a lot of need in this community, a lot of interest in this community to do beyond that, to move beyond the staying at a level and address some of these items that might be coming up.”

Mayor Luke, “Any items in particular that people are talking about?” Council Member Strawder, “The nuisance properties, I think, would be up there very high. I think the idea of eliminating at least a part-time position or having some type of discussion on if it’s not there for the budget then how are we going to address this. I have read through the different job descriptions and stuff that’s posted, and code/ordinance enforcement is included in a lot of job descriptions. That doesn’t always show the whole side. It could be workload or the other duties as assigned actually takes a larger amount of their daily activity. I personally, I can’t make a motion right now because we are in the middle of a motion; I want to see us have a full-time dedicated code enforcement. Not part-time, not anything; take it off the plate of people who are being overworked right now. That is what that person’s job is, and hopefully, we can start to see some improvement then.

“There are another two items that I brought up a ways back and mentioned that come budget time maybe we should look at this so that if money isn’t allocated for it, it might be a possibility. That would be further exploring the idea and hopefully setting aside money for the online code hosting so that you could go online and actually read through our code or ordinances without having to put together a puzzle of trying to see what has been passed over the last several years and all of that. The other item that is big on people’s minds that I hear all the time about is having money so that we can record and publish our meetings. They don’t have to be live-streamed or whatever. We can take the same approach--. I am not asking that we make a definitive decision that we do that, but having money allocated for that allows us to have those discussions. It allows us to have some type of idea, some type of work room. As you said, you have a 14 million dollar budget. Whenever the county started videoing their stuff, it was on a cell phone and a tripod. They used a county purchased –it was already a county phone that they were using. They had a purchase of a tripod associated with it. I am not saying that’s what we do; I am not saying that we have a mounted camera, but having money allocated towards that us to continue this discussion and actually show the general public that we are trying to make improvements is the big thing. Sorry, to kind of go off on a tangent.”

Mayor Luke, “No, that’s alright.” Council Member Strawder, “Now is the time to look at that.” Council Member Curtiss, “So, are you suggesting that we go above what is here?” Council Member Strawder, “So, it is my understanding that we also have reserves and stuff. I am not saying deplete all reserves or whatever. I am saying that, and I don’t know what the rate needs to be because I don’t know. I have a hard time increasing the amount without some type of justification, without some type of sales pitch moving forward. So, yes, the end result could be more than the rate listed here, yes, absolutely. Could it be one mill, two mill? I don’t know what that number is. Again, if one mill is \$20,000, then not knowing all of the numbers right in front of me or what is out there for reserves or what is out there for this.

“Can we get a little more creative with the budget to try to offset some of the shortcomings? I know some of the sales taxes haven’t been what they were in years past. Well, if you are getting an area where nuisance properties

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are getting worse and worse. People aren't wanting to move in, then it's only decreasing your sales tax. There is lots of stuff like that. I don't have answers. I don't know what that would be, but if we weren't in a motion right now, I would be making a motion to include those three items in the budget for money allocated to that. That way, we could at least have or continue to have those discussions and not be bound by the idea of oh, we have to wait until this time next year. Then it's going to be well again. It was another deduction or price of living increase, so again, we have to push it another year. With budgets, you are pushing stuff out a year or two from the time that you're discussing it."

Council Member Curtiss, "You have to have this turned in by when?" City Clerk Brown, "Saturday." Council Member Mays, "Can I ask a question on that? I guess I misunderstood how all of this was going to work, and that's probably my fault for not asking questions. So, the budget you guys created, it based upon what they are submitting, what they are going to need, what we are thinking for projects. Then it just comes to us, and we don't get time to sit and ask questions or to really look at it. I'm a little overwhelmed." City Clerk Brown, "What you are looking at right now is where we are right now in the budget." Council Member Mays, "Right." City Clerk Brown, "The 2024 budget has already been approved. When we get the budget set, then we will present that to you guys to have time to look at it."

Mayor Luke, "When we put this number out to the county. It's a not exceed number. We don't have to go to the amount, but we can't go over. If we leave 41.524, we cannot go over that amount. If we change that number to something else, then that becomes the maximum that we can do. If we think that X number of projects will cost us \$60,000, then we raise that three mills basically and then look at how to include the items." Council Member Strawder, "But at the same time, the determination has already been made going to this number, and things aren't included in that." Council Member Curtiss, "No, it has not." Mayor Luke, "That's not included in it, but we can turn down the motion as the 41.524 and make a new motion with whatever new number we want because nothing is finalized or in concrete right now. It is just the preliminary looking through the budget that says that this is what we anticipate needing. If we are going to add some things to it, then we change that number and raise it. Then we go through the calculations and find out where we sit and what we can do to reach whatever point we want to be."

Council Member Strawder, "You can also move to amend it, right?" Mayor Luke, "Yeah." Council Member Berryman, "Now I'm confused because I asked Doug about if he requested an additional sum for nuisance properties, and he said he couldn't answer it. At what point do we--? I think I get Cara's point. Like all of a sudden, here is the budget, approve it." Council Member Mays, "Yeah." Mayor Luke, "We left that in, right? The \$10,000 or whatever it was." City Clerk Brown, "We are putting that in, but I think she is asking for more." Council Member Berryman, "I want it up to \$20,000 because right now it's at \$10,000. For 2025, I'd like to see it—because that limits us. It ties his hands. That's only two buildings. We could condemn half of Burlington." Council Member Strawder, "There are also reserves in that area. The budget item is more than \$10,000; it's just we are adding \$10,000, right?" City Clerk Brown, "Right, we are adding \$10,000. I think there is like \$35,000 in there right now. We just added \$10,000. What we are doing to that so we don't have to raise the mill levy for that \$10,000 is that we are taking that out of our dividend check that we get. I was going to talk about the dividend check in my report. We get a dividend check every year from EMC, and we have been taking \$10,000 out of that to put into that fund for demolition. The rest of that goes into the general fund."

Council Member Berryman, "Okay, so would an additional \$10,000 come out this year to make it \$20,000, or will it stay at the \$10,000?" City Clerk Brown, "It will stay at the \$10,000 for this year." Council Member Berryman, "For 2024?" City Clerk Brown, "Correct." Council Member Berryman, "I am asking about 2025." City Clerk Brown, "So, do you want to take another \$10,000 out of the dividend check? You would be taking \$10,000 away from the general budget then." Council Member Berryman, "I think if the CHIP factory is going to come in and we are talking about housing, many areas are not attractive to people. Doug can basically do what, two houses on \$10,000? There are more than two houses. I mean, just drive up my street any day. How do we get another \$10,000 in there? Can we steal it, not steal, but..." City Clerk Brown, "There is \$35,000 in there right now."

Council Member Strawder, "The actual budget line is \$35,000." City Clerk Brown, "Yes." Council Member Berryman, "So, Doug has \$35,000 he can use?" Council Member Strawder, "That is how much is in the budget, (inaudible), a lot of time that's where your reserve is. You try not to use all of the \$35,000." Council Member Curtiss, "Right, because you don't want to deplete it completely." Council Member Strawder, "What the intent has been has been utilizing no more than essentially a third or a quarter type of thing. That way, if you do have to

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dive into the rest of that but at the same--. I hope that makes sense. The pocket is bigger than \$10,000, but since we are only putting \$10,000 in, that is where I think the goal has been to only spend that \$10,000." Council Member Berryman, "But Doug would have the option of going for four houses at \$20,000 against the \$35,000." Chief Jones, "One time. Once that \$35,000 is gone, there is no money coming in to replenish that. That \$35,000 is gone once we spend it."

Council Member Mays, "Until we get another \$10,000 from the dividend." Council Member Berryman, "So, it would start over again at the \$10,000. If he only spent \$20,000, then \$15,000 would carry over to the \$10,000 that you would get the following year." Council Member Mays, "So, is there a time that we get to sit down and look at like what she is saying? When do we get to sit down? I know Nathan came up and asked about sitting with you and looked--. Where and when do we get to have that stuff presented to us? What's in accounts?" City Clerk Brown, "You can come up anytime, and I can go through it with you." Council Member Mays, "Individually? I just feel like there should be a time that we get to sit and work on that. I mean, I don't know, maybe that's my opinion."

Council Member Berryman, "To ask why there is X numbers of dollars in this one, the next number, and nothing else." Council Member Mays, "Yeah, and if there is money being put and not being spent, and we have reserves somewhere, but now we are asking to raise the mill levy when there is potentially money sitting there. Why are we asking for a mill levy raise?" Council Member Berryman, "This is the first time I have heard about \$35,000. I have always been told, and even by Doug, he only has \$10,000. So, \$10,000 has been installed in my brain." Chief Jones, "Because \$10,000 is what I am told what I have to work with." Council Member Mays, "But I think that's an issue--." Council Member Berryman, "But you have \$35,000 to work with." Chief Jones, "Not until they say so." City Clerk Brown, "It's in the budget. It's on the budget line item." Chief Jones, "Until I bring you a house to condemn and you agree to everything and then you approve bids, I can't spend anything until you all say so."

Council Member Berryman, "Correct, but you could bring us four houses at one time, and the money would be sitting there, say, roughly \$5,000 a house." Chief Jones, "It was \$7,700 last time." Council Member Berryman, "Okay, so times four, you'd be pretty close to the \$35,000." Chief Jones, "Then what about--." Mayor Luke, "The next year--." Council Member Berryman, "Then next year, you start with the \$10,000 and then add whatever is left of the balance, if it's \$5,000." Mayor Luke, "Yeah." Council Member Berryman, "Okay, now I get it because everybody kept telling me there is only the \$10,000 to demolish a house. So, that's exactly your point. I now find out we have \$35,000." Council Member Mays, "And that's -- I mean, I understand it's in the budget we can read through them. I don't feel like we need individually; I personally feel like I don't know if those are options. If we get together and talk about budgets...?" Council Member Van Horn, "I always felt kind of blind about the budget." Council Member Mays, "I do. I mean, coming in new, you have projects that you have already approved and are coming through, and then we have to sit here and say that's the amount of money, and we are approving them. Yes, we vote for them. I read through the minutes from as far back as I could to try to familiarize myself with what's going on in the city and those kinds of things, but I do feel overwhelmed budget-wise. I am not feeling very confident."

Mayor Luke, "We have to have the final information when?" City Clerk Brown, "Well, we need to decide on the RNR first thing." Mayor Luke, "Right." City Clerk Brown, "Which has to be in by Friday, so we do need to vote on that tonight." Council Member Strawder, "Just for clarity, this is to exceed, but it's to get an overall number not to exceed number—not to exceed mill levy?" City Clerk Brown, "Right." Council Member Strawder, "Right, so theoretically, if you raise the proposed mill levy rate to something higher than this, it doesn't mean that you have to raise the mill levy." Mayor Luke, "Correct." Council Member Strawder, "So you can-- random numbers, I am not even going to attempt the 40s. So, if you have a mill levy of 97.5 and you could come back and say you want a 99 mill levy, it doesn't mean you are going to spend all of 99. That just means that that money is there to work on, so whenever you are completing the budget, you can put in stuff for code enforcement or whatever." Mayor Luke, "Correct, you just have to remember that everything you put in for costs the taxpayers somehow some way."

Council Member Strawder, "Yes, but again, just because it's approved doesn't mean it has to be that." Mayor Luke, "That is correct." Council Member Strawder, "And for right now, on the calculation of this mill levy increase, there are a couple of big-ticket items like the part-time code enforcement that was not included to come

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up with this proposed mill levy rate, right?” Mayor Luke, “For the 41, no. It would have been slightly higher for that.” Council Member Strawder, “And per mill, it’s around \$20,000?” Mayor Luke, “\$20,000 - \$21,000.” City Clerk Brown, “So there is a motion on the floor.” Council Member Van Horn, “So I have one more question. If we vote against that and, then can we just move for a bigger amount without going through a bunch of channels?” Mayor Luke, “Yes.” Council Member Curtiss, “Or can you amend that?”

Mayor Luke, “We have to go through the channels between this and the actual filing date; between those two dates, we have to come up with a final number. Whatever we submit here cannot be exceeded.” Council Member Van Horn, “If we decided not to go with this and we were going to raise it, then we have to justify that in order for it be—or not.” Mayor Luke, “You have to send this to the county so they can notify the residents that the city is going to exceed revenue neutral rate, and then before the budget is approved, we have to have a hearing for anybody to come in to--.” Council Member Curtiss, “Question us why.” Mayor Luke, “Question the budget. And that all has to be done in a chronological timeline. The hearing has to be before we do the budget.” Council Member Van Horn, “Okay.”

Discussion on what to amend the motion to took place.

***Council Member Strawder, “I move to amend the proposed mill levy rate to 43.5.” Council Member Mays, “I second the motion.”***

**Hearing no further discussion, Mayor Luke called for a vote. Council Members Strawder, Mays, Berryman, Van Horn, and Curtiss voted Yea. Council Member Ernst voted Nay. Motion passed 5:1.**

***Mayor Luke, “The motion now will be read that the proposed revenue neutral rate is now 43.5. The date of the hearing is September 4<sup>th</sup> at 6:20 p.m., and will be held at 1013 N. 4<sup>th</sup> Street, Burlington, KS, in City Hall.”***

Council Member Curtiss, “And we do not have to go that far up?” Mayor Luke, “Correct.” Council Member Strawder, “So, what I would say is this allows us a little more so that we can look at that code enforcement. If it's full-time, part-time, or some of those other items. This allows us to continue that discussion. It is very possible that the final number might be back down to 41.524.” Council Member Curtiss, “Correct.” Council Member Strawder, “This just allows us that--.” Mayor Luke, “Flexibility.” Council Member Strawder, “To do that.” Council Member Curtiss, “As long as we aren’t held to it, I have no problem with it right now.”

**Motion: “I move to approve that the proposed revenue neutral rate is 43.5. The date of the hearing is September 4<sup>th</sup> at 6:20 p.m., and will be held at 1013 N. 4<sup>th</sup> Street Burlington, KS, in City Hall.”**

**Hearing no further discussion, Mayor Luke called for a vote. Motion unanimously carried, 6:0.**

**WORK SESSION**

Mayor Luke, “The potential information transfer, let’s call it that.” Council Member Mays, “That’s perfect.” Mayor Luke, “Is everybody agreeable to doing that in a work session.” Council Member Curtiss, “Yes, I think that would be the best place to go ahead and do it.” Mayor Luke, “Is Wednesday night still the best night to do it? We will just do it on a 2<sup>nd</sup> Wednesday or a 4<sup>th</sup>.” Council Member Strawder, “Yes, anything but the 3<sup>rd</sup>.”

Discussion on time for the work session took place. It will be held Wednesday 24<sup>th</sup> at 6:00 p.m. at City Hall. The budget and the developer’s agreement (stated later in the meeting) will be the topics for discussion.

Mayor Luke, “I would suggest that if we are going to look at code enforcement officer, that we look at what their responsibilities would be. If we are looking at online meetings, that’s a simple thing to look up and take care of. Mary, have you looked into putting the code out on --.” City Clerk Brown, “We did look at one--.” Mayor Luke, “I would just say be ready to report on what--.” Zoning Clerk Hugunin, “City code is on our webpage in its entirety.” Council Member Strawder, “Yeah, this would be changing that process from what we have now, which is uploaded PDFs to a hosting.... It’s a program essentially.” Mayor Luke, “Then I would suggest getting a hold of Mary and letting her know what that program is so she can investigate it. So, we have something to discuss and have an idea of what costs would be.” Council Member Strawder, “Yeah, I can do that.” City Clerk Brown, “Do you remember the name of the company that we looked at?” Executive Administrative Assistant Mader, “Not off the top of my head, but I have it written down.” Council Member Strawder, “There is Municode and--.” Executive Administrative Assistant Mader, “Yeah, they had a new name. It’s one of those.”

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**PLANNING & ZONING: Update**

**General:** Zoning Clerk Hugunin, “Normal duties.”

**City Hall – Front Sign:** Zoning Clerk Hugunin, “I have a sign update. The part has been shipped to Emporia. They are waiting on the crew to get back from Texas. They should be back this week and be up here hopefully next week.”

**New Computers:** Zoning Clerk Hugunin, “I have started working on quotes for new computers for city hall. We are at the end of the life of the others.”

**Nuisance: Grass/Weeds Update:** Zoning Clerk Hugunin, “Then still working on yards that need mowed. I have a couple, and I am having a heck of a time getting ahold of the people who own the property. I have one that has finally mowed; it’s the old Ford place. They got it mowed and trimmed up, looking good. I am still working on one other. The rest of the people if I ask them to mow, they mow. They don’t like to do their ditches, but they are getting them done.”

**LEGAL DEPARTMENT: Update**

Attorney Wright was not present.

**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.

**EMC Insurance - Dividend Check:** City Clerk Brown, “Last council Kimberly was supposed to be here, and she got held up to present us our EMC dividend check. What that is, is with EMC they do with their municipalities that are insured with them they do a safety group thing which we are a part of. If they are successful, then we receive a dividend check from them at the end of the year. This is due to handling claims, being diligent with our employees, and making sure that safety is an issue, and that is a top priority for our guys and all of the city people. This year, the check was \$28,221.32. That is down about \$12,210.00 from last year, and that is due to cases that we have had.”

**KDWP - Mussels:** City Clerk Brown, “I did get an email from Trever Starks. He was down today. The river was down to look at the mussel site just to check it out. It was just very preliminary; that’s why he didn’t really let anyone know ahead of time. He is planning to do a comprehensive study, possibly in August, with stocking the mussels possibly in September if the site looks good. He will notify us ahead of time on that, so if anybody wants to participate or see what he is doing, he will let us know ahead of time.”

**2025 Budget:** City Clerk Brown, “Most of my time has been spent on the budget.”

**QUESTIONS / COMMENTS**

Council Member Van Horn, “Just to clarify that EMC, that’s an insurance company?” City Clerk Brown, “It’s through TrustPoint.” Council Member Van Horn, “Okay.”

**OTHER COMMITTEE OR COUNCIL BUSINESS**

**REPORT BY CITY OFFICERS:**

**Developer’s Agreement:** Council Member Strawder, “I’d like to talk about the developer’s agreement a little bit if that’s alright.” Mayor Luke, “Alright.” Council Member Strawder, “So, I know some stuff has been brought up in the past meetings on the developer’s agreement and stuff. Over this last month, I have been reaching out because one the things most definitely is that we are going to have to have some type of development to not even grow, just stay the course of what we are right now. There is a lot of approaches. Code enforcement is one of them with those properties because it does no good to have available areas if people are not – don’t want to move here type thing. I reached out because there is not really a development community here, because new development isn’t really happening.

“I reached out to a number of either business people, people that sit on other boards, people that have been elected officials, people who would be that I would consider would be part of a development community if one

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existed. The intent was to just kind of get an overview of what their thoughts were for does the city need new development, they all answered yes. What are some of the things holding new development up? Then, we also looked at the developer's agreement on something. I'll be honest: the feedback on the developer's agreement was not positive towards the developer's agreement. I have probably more favorable approach on the agreement just by my nature of the type of work that I have been in. Agreements are common. Agreements happen all the time in new development between the developer and a governing body. You have agreements for putting in infrastructure; you have agreements by doing it by specials, permits, whatever. There are agreements always in place.

"In some areas, the development is happening at such a rate that there is no other option than to have some type of a standardized agreement like what we currently have to make sure everybody is playing on the same playing field. The concern that I have is that is not the case here. In rural areas where development really isn't occurring at a rapid rate, a developer's agreement, much like what we have, can actually hinder progress because it can either be a stopping point, somebody reads, and they see one item in there that they don't like and they don't move on from that one item. Or they think that there is no room for negotiation, or they whatever it may be or not be. Having read through the developer agreement, I can't really say that the whole agreement is bad because that's not the case. A lot of the stuff that is in here is also elsewhere in city code."

Zoning Clerk Hugunin, "I think about everything that is in that is city code and city zoning regs." Council Member Strawder, "Correct." Zoning Clerk Hugunin, "If you are going to start changing that, then you are going to be looking at changing zoning regs. too." Council Member Strawder, "Correct. So, I guess what I am getting at, and it was pretty much general consensus across the board, is if there are other avenues already in place, then why have a set document that already has a negative opinion about it from a potential development community that there isn't an item in there that the city council cannot put --." Zoning Clerk Hugunin, "At the same time, if you told somebody you're going to sign this that says you're going to follow the zoning regs in city code, there are going to be people that don't want to sign that." Council Member Strawder, "I am just letting you know what I've heard."

Zoning Clerk Hugunin, "And I will tell you we just had a meeting not too long ago with a gentleman about the developer's agreement, and he did not understand that developer's agreement on who was responsible for what. We cleared a lot up, and he left here feeling a lot better about the agreement." Council Member Strawder, "I think that adds to what I am trying to say is that there are other avenues in place to implement the requirements of the city. I don't know if there is a need for the developer's agreement at this time because there are other avenues in place for it. You have an agreement now that, for whatever the reason be, it does have a bad mark on it, the fact that it has never been enacted in the years that it is. I just wanted to lay that out there. If you want--."

Council Member Van Horn, "If I may interrupt you, I think all the developer's agreement is, is just pulling the various places out of the code so that somebody doesn't have to read 55 pages of code to see what the deal is, and also, I have to wonder if the people that have a negative opinion about it, if they have actually read it or if they just had hearsay and don't know. I was pretty surprised when I read it because I didn't know what I thought about it, and it seemed logical, practical to me." Council Member Strawder, "So, again, there was a mixture. There were some people that were very familiar with it, and then there were people that didn't even know one existed to which you know they went, where can we find this; on the website, and we went over it. Again, that's where I'm saying that the individual items within the agreement are not the issue. It's the fact that it's all collected together that seems to be the issue. The fact that they have to sign an agreement, when they have to sign the agreement, per the agreement, it says this is when you sign it, and there are a couple other possibly little bits and pieces. I'll be honest: some of the development opportunities that have even come before us I don't know would technically be allowed on the term sheets that we have agreed to because of the developer's agreement. I wouldn't be surprised if there weren't some things on there that is not allowed by this agreement, to which case I would say that we have already shown the ability that we can negotiate on a case-by-case basis with some of these developments that are trying to occur right now. By possibly eliminating the developer's agreement, you are not eliminating anything that is covered in other ordinances. You are not changing the zoning regulations; you're not changing what money can be spent where all of that. You are taking away, if nothing else, you're taking away the crutch that seems to be the hold up right now. Again, it's not one or two people that I have talked to. There are some people that are adamantly against it. I'm sure everyone has heard people that are adamantly against it. There are people that, you

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know, there are people that develop elsewhere or outside of the Burlington city limits that has very sound funding that would like to develop in the city but said that there is no way that they will ever be able to do it because of the agreement in place; because of such agreement in place.”

Council Member Ernst, “Did they say why? What about the agreement that they didn’t like?” Council Member Strawder, “The amount of money that they have to put in beforehand when the agreement has to be signed per the agreement, and those types of stipulations. They might also be answering to a board, or it might be a civilian board, or it might be a board of trustees or whatever that that tends to be a lot of the hold-up.” Zoning Clerk Hugunin, “The board that they would answer to would be the planning board.” Council Member Strawder, “No, no, I’m talking about the developer, so either like a board of investors or that type of thing.” Zoning Clerk Hugunin, “Oh, okay.” Council Member Strawder, “Or a civilian board. Where they were point-blank honest that it’s not going to happen with the developer’s agreement in place; whenever I start looking at a lot of that stuff, it’s possible that the concern is just strictly the developer’s agreement. It’s not the contents; it’s the collective of all of it. I know most all of it is covered elsewhere. I think there might be a couple lines in there that by signing your name to it up front whenever it’s platted, I think is where that has to be done; you have to do it all upfront. Then you have to put in money beforehand and all of this.

“Even at the last meeting, we talked about the potential development that that individual may not have to sign that development if the city is not putting in the infrastructure. The development agreement says any development that occurs has to have a developer’s agreement. There is a lot of stuff like that that is in here, and I’ll be honest with you, if we are serious about trying to grow and trying to attract new development, one very strong way of doing that would be the fact that we have a few things currently in the works. We have two pieces of development currently in the works. If the city takes a proactive approach by eliminating the developer’s agreement, that very much could attract the attention of other possible developers in the area or outside of the area.”

Zoning Clerk Hugunin, “Is the county working on a developer’s agreement right now for all of that up north?” Council Member Strawder, “Do what?” Zoning Clerk Hugunin, “The county is working on a developer’s agreement.” Council Member Strawder, “Correct, and again, I am not opposed--.” Zoning Clerk Hugunin, “I’m just saying what’s the difference (inaudible) and the county has one?” Council Member Strawder, “The difference with this one versus with what’s being done up north is that one is being done because of that project. That one is being done on a case-by-case basis. That is going to be the agreement for that project, not the agreement that is also for a project that could be happening on the very south end of the county. That is the thing with this developer’s agreement is that it is inclusive of the whole city.” Council Member Curtiss, “So, are you suggesting to get rid of our developer’s agreement and work on a project case by case—by project?”

Council Member Strawder, “For now, yes, that is what I would agree to.” Council member Curtiss, “But they would have to understand the codes and all of that, that they would have to meet.” Council Member Strawder, “There are also other codes that they have to meet that is not included in the developer’s agreement. So, I understand, like what Lila had said about it’s a collection, so they don’t have to look elsewhere. Again, I hate bringing up where I work at or whatever, but I mean, the reality of it is I am in code compliance. That is what I do. I don’t go out into the fields and check it, but I look at and review the plans that come in to make sure that they meet our ordinances. We have documents where we took that approach. We tried to take the important bits and pieces, here you go, people will read it, but they don’t read the other items that are outside of it because they think that this is all that they need to read. They think that this is all that they are bound to. So, it really limits what they are looking at for their understanding in general of the whole process. For right now, what I would think would be beneficial for us is to allow us to continue the discussions with potential development that’s coming on a case-by-case basis. They still have to follow our ordinances, that’s point blank. That allows us stuff that might be in the agreement, not in the ordinances, or stuff that maybe could be beneficial for us to, I’m going to use the term, negotiate but discuss back and forth on other possible avenues. It allows us to have the case-by-case discussion, and not, no, you sign the developer’s agreement, and this is what you have to go with because at that time, you know, it’s too late at that time. If we are requiring people to sign an agreement, the negotiations are done, or else you’re negotiating it, and then you’re having them sign, but then you’re going to have to have them amend the agreement. Well, then, why have the agreement anyways then.”

Council Member Mays, “The development that is potentially going to go up north here, did they--? I know we did a term sheet, but are they...?” Mayor Luke, “That is as far as it’s gone.” Council Member Mays, “Have

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they looked at the developer's agreement?" Zoning Clerk Hugunin, "Yes." Council Member Mays, "Okay." Council Member Curtiss, "But they would still be signing something." Council Member Strawder, "Yes. I am not opposed to the city having agreements and some type of developer agreement." Council Member Curtiss, "But you are suggesting case-by-case?" Council Member Strawder, "I am suggesting for the time being, until we can get to a point where we need not be case by case, let's approach this by a case-by-case basis and not a one size fits all basis, which is what the current developer's agreement is."

Council Member Mays, "So, you're just asking, do we want to continue talking about it?" Council Member Strawder, "I mean, we can. I have a motion prepared. Honestly, I did put it in writing because I know that can be helpful." Council Member Curtiss, "So who would come up with this new agreement?" Council Member Strawder, "Again, it would be—think of it like the term sheets have been done or whatever. It's done on a case-by-case basis. It would possibly include input from a different department, input from the city council, inputs from the mayor, from the attorney, all of that. Again, it's on a case-by-case basis, where right now, it's not; it's one size fits all. If it were a shirt, you have extra small to 3XL." Council Member Curtiss, "Yeah, right, I understand that."

Council Member Strawder, "It's that type of thing, so again, by eliminating the current developer's agreement doesn't mean that development can just run wild. They still have to follow ordinances. They still have to follow code. They still have to get their permits. If they want to include any type of program through the city, they still have to get our approval and all of that stuff. And if it gets to a point where a development, well, some form of a developer's agreement, an agreement has to come in there that allows us the flexibility to cater that agreement for that developer for that development for the needs of the city right now and doesn't hold them to something that was developed clear back when or doesn't hold them for something that was put into the agreement because of one possible instance that is not applicable here."

Council Member Curtiss, "I have to have something to look at." Superintendent Boyce, "Can this be added to the special budget meeting? Discuss the budget and discuss the developer's agreement?" Mayor Luke, "We can have two subjects, but we cannot go outside of those two, and we cannot vote on it or any of that. We can just have a discussion and consensus." Council Member Strawder, "By eliminating it or whatever, again, it doesn't stop from—it doesn't change course with how we currently operate. The stuff that is covered by ordinance in the developer's agreement is still in effect. The only difference is that they are not signing these papers of the developer's agreement. That is the only change. They might be signing an agreement that looks identical to this, or they might be signing an agreement that is altered from this. But it is allowing it flexibility to look at it on a case-by-case basis. To look at it on the needs of the developer or the needs of the city at that time."

Council Member Mays, "I think there are things in there that are set in stone, like our ordinances; I mean, there are – just from meeting with the developer that we are having issues with, there are just different things that I think that could be considered negotiable or applicable on different places. You're not saying we are not ever going to have an agreement, correct? The one we have--." Council Member Curtiss, "There will be an agreement, right." Council Member Mays, "There is just bits and pieces of the current one that I think just needs to be--." Council Member Strawder, "But do you customize that agreement, or do you tell them this is the agreement and there is no customization? That's what I am trying to say." Council Member Curtiss, "I kind of agree to customize it, yes, because not all are the same."

Council Member Ernst, "But do you think we are going to open ourselves up to lawsuits because we are doing one thing for somebody and doing something totally different for some other developer." Council Member Van Horn, "I've also thought about that and the other thing is there is going to be an increase in attorney's fees. I'm not saying I disagree with you. I am saying these are things we need to consider. I don't know about you guys, but I am not ready to vote on this until there has been some time to think about it and discuss it." Council Member Curtiss, "I say we put it on the work session." Mayor Luke, "Okay." Council Member Strawder, "Again, the intent here right now was not to replace this with something else." Council Member Curtiss, "Right, I understand that." Council Member Strawder, "As long as we are – lawsuit wise, this is several pages, and if we make two developers sign this, but then we go back, and we don't hold both of them to a T because enforcement is the other issue here, that opens us up for even greater liability on some of this. This person had to follow to the T of the agreement, and this person got by with doing this or that. By opening it up, it's something for us to be considerate of whenever a developer comes in and is asking us to, whatever it may be, bring in the utilities the corner of the lot or whatever. Sometimes it might be applicable; sometimes it may not be applicable."



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Mayor Luke, “Okay, we will have further discussion on the 24<sup>th</sup> at our work session, and that will be our two subject matters at this time. Are there any other subject matters that we need for that?” Council Member Curtiss, “I think that will take up enough time.”

**MAYOR’S COMMENTS:**

Mayor Luke declared the meeting adjourned.

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