



**UNOFFICIAL DRAFT**  
**MINUTES OF THE BOARD OF ALDERMEN MEETING**  
**CITY OF BALLWIN – 300 Park Drive**  
**April 25, 2016**

**STATEMENTS ATTRIBUTED TO INDIVIDUALS IN THIS “DRAFT” ARE NOT VERBATIM QUOTES. THE MINUTES OF THIS MEETING ARE REPORTED IN SUMMARY. THIS IS AN “UNOFFICIAL DRAFT VERSION” OF THE MEETING MINUTES. DRAFT VERSIONS OF MINUTES ARE SUBJECT TO REVIEW, MODIFICATION, AND APPROVAL OF THE BOARD OF ALDERMEN.**

**THE MINUTES ARE PREPARED IN SUMMARY TO REFLECT THE OVERALL DISCUSSIONS, NOT VERBATIM QUOTES.**

The meeting was called to order by Mayor Pogue at 7:03 p.m.

*Roll Call*

PRESENT

ABSENT

Mayor Tim Pogue  
Alderman James Terbrock  
Alderman Michael Finley  
Alderman Kevin Roach  
Alderman Mark Stallmann  
Alderman Frank Fleming

Alderman Jim Leahy

Alderman Ross Bullington  
Alderman Kathy Kerlagon  
City Administrator Eric Hanson  
City Attorney Robert E. Jones

The Pledge of Allegiance was given.

*A moment of silence was held for Bud Brown who passed away earlier in the week.*

## MINUTES

The Minutes of the *April 11, 2016 Board of Aldermen meeting minutes* were submitted for approval.

*A motion was made* by Alderman Roach and seconded by Alderman Fleming to approve the April 11, 2016 Board of Aldermen meeting minutes as presented. A voice vote was taken with a unanimous affirmative result and the motion passed.

The Minutes of the *April 11, 2016 Board of Aldermen Closed Session meeting minutes* were submitted for approval.

*A motion was made* by Alderman Stallmann and seconded by Alderman Fleming to approve the April 11, 2016 Board of Aldermen Closed Session meeting minutes as presented. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **PRESENTATION**

Plaque presented to Kathy Kerlagon for her dedicated service as Alderwoman to the City of Ballwin and representing Ward 4, since September 2011.

## **OATH OF OFFICE**

The Oath of Office was given to Aldermen Michael Finley, Alderman Kevin Roach, Alderman Frank Fleming, and Alderman Raymond Kerlagon.

## **SECOND ROLL CALL**

### **PRESENT**

Mayor Tim Pogue  
Alderman James Terbrock  
Alderman Michael Finley  
Alderman Kevin Roach  
Alderman Mark Stallmann  
Alderman Frank Fleming  
  
Alderman Ross Bullington  
Alderman Raymond Kerlagon  
City Administrator Eric Hanson  
City Attorney Robert E. Jones

### **ABSENT**

Alderman Jim Leahy

## **CITIZENS COMMENTS**

**Derek Grier**, 2271 Baxter Rd, introduced himself to the Board and stated that he is running for the 100<sup>th</sup> District Senator.

**Scott Peterson**, 902 Castle Pines Dr, expressed his sincere thanks and gratitude to the Ballwin Police Department for solving a speeding problem on Castle Pines Dr. He was very impressed with the speediness and rapid response to this call. He also thanked Alderman Kerlagon for his help.

## **NEW BUSINESS**

## **LEGISLATION**

**Bill 3923** Stop Sign Ordinance Amendment with Respect to Signs at Ries Bend Rd.  
*A motion was made* by Alderman Fleming and seconded by Alderman Finley for a first reading of Bill No. 3923. A voice vote was taken with a unanimous affirmative result and Bill No. 3923 was read for the first time

**A motion was made** by Alderman Terbrock and seconded by Alderman Finley for a second reading of Bill No. 3923. A voice vote was taken with a unanimous affirmative result and Bill No. 3923 was read a second time.

A roll call vote was taken for passage and approval of Bill No. 3923 with the following results:

Ayes – Aldermen Terbrock, Finley, Fleming, Kerlagon, Roach, Bullington, Stallmann;

Nays -- None.

Bill No. 3923 was approved and became **Ordinance No. 16-13**

## CONSENT ITEMS

### a. Gas Line Replacement for the Police Department

**A motion was made** by Alderman Fleming and seconded by Alderman Bullington to approve the Consent Items as recommended by staff. A voice vote was taken with a unanimous affirmative result and the motion passed.

## MAYOR'S REPORT

**Town Hall Meeting:** On Wednesday Night at the Parkway Central High School Theater from 6:30 PM until 8:00 PM, the topic is Heroin. This will be a very informative discussion.

**Board Work Session:** Tentatively scheduled for Monday, May 16<sup>th</sup> at 7:00 PM

**Drug Take Back:** Ballwin Police Department is hosting a Drug Take Back event on Saturday, April 30<sup>th</sup> from 10:00 AM until 2:00 PM. This will be held at the Police Department. There is also a prescription drug drop box in the lobby of the Police Department to properly dispose of your prescription medicines.

**Senate Bill 788:** This bill was heard earlier on Monday and was filibustered by Senator Nadal. Mayor Pogue encouraged everyone to follow the progress of this bill.

## CITY ADMINISTRATOR'S REPORT

**Multipurpose Swap Loader Vehicle:** The manufacturer's representatives will be meeting with City Administrator Hanson on Thursday to discuss options. Board members interested in meeting with these members are encouraged to let City Administrator Hanson know by Wednesday morning. Staff from Public Works as well as the representatives will be available to answer questions.

**Stop Signs:** A lot of requests come through to install stop signs. After conducting traffic studies and reviewing accident reports, the majority of these requests are not necessarily warranted. Staff could use some direction when handling these situations so everyone is on the same page.

Mayor Pogue stated that a standard would need to be established to fall back.

Alderman Fleming stated he doesn't disagree about wanting the data but he has seen incidents in which other circumstances are present that mitigate in favor of a sign.

Alderman Roach agreed with Alderman Fleming's comment and added that the city needs to look at objective information that such studies collect but the subject elements of the intersection too. He has not had a request for a stop sign anywhere in Ward 2. He added that he can't remember a time where a stop sign has been removed, since living here for almost thirty years. The City may be at an all-time high for stop signs. If an objective/subjective process for adding stop signs is necessary, the City should also look at requests from residents for the removal of unnecessary stop signs.

Mayor Pogue stated that when a request is made, staff should continue the proper protocol, complete the studies both on the statistical side and on the special circumstances side, and provide a notification to the Board of what the findings are.

Alderman Stallmann added that this would also be useful for when these residents call, having this information will allow them to see what the study showed.

Alderman Roach agreed and stated he would like to see what the study shows as well.

## STAFF REPORTS

### **Police Department** – Police Vehicle Purchase

It was brought to the staff's attention by a vendor that the Police Department was not in compliance with the City of Ballwin's purchasing ordinance. A review by staff resulted in the decision to initiate a formal bid process in compliance with the ordinance. Sealed bids were solicited and staff is recommending the Board award the contract for the purchase of five (5) Ford Interceptor Sedans be purchased from Lou Fusz Ford who had the lowest bid.

*A motion was made* by Alderman Bullington and seconded by Alderman Stallmann to award the contract for the purchase of five (5) Ford Police Interceptor vehicles from Lou Fusz Ford. A voice vote was taken with a unanimous affirmative result and the motion passed.

## CITY ATTORNEY'S REPORT

**Right-of-Way Usage Code:** Mainly this rewrite is being written to include the right-of-way for Telecommunications facilities and other users.

Alderman Roach asked if there are other similarly situated municipalities in need of an overhaul such as this. City Attorney Jones stated that he did not know of any other city that has waited fifteen years to rewrite their right-of-way ordinance.

Alderman Kerlagon added that he is concerned that these telecommunications companies will start coming in with tall devices in the right-of-way.

Alderman Stallmann added that anything the City can do to control what is happening would be worth looking into. With telecommunication and technology continuing to change, there will be more and more facilities and the state allows. The City needs to establish what ordinances it can to regulate these facilities.

Alderman Roach asked if there are any other potential risks, other than telecommunications devices with which the City should be concerned in regards to how the ordinance is currently written.

City Attorney Jones stated that in regards to the usage of the right-of-way, it is City property, and if someone is going to use it, they should pay the City.

Alderman Fleming asked if any City that has rewritten their right-of-way ordinance has stood up to a challenge.

City Attorney Jones stated that most utility companies ultimately try to work with the cities and have a relationship with the city because there are certain things they will need to comply with.

**SB5 Ruling** City Attorney Jones outlined the challenges in a court case that found sections of Senate Bill Five to be unconstitutional. The Motion was filed by the following cities Normandy, Cool Valley, Velda, Village Hills, Glen Echo Park, Bellridge, Belle-nor, Pagedale, Moline Acres, Uplands Park, Vinita Park, Northwoods, and Wellston, in addition to a couple of North County mayor's. The motion challenged Senate Bill Five, which limited the amount of revenues that cities can garner from traffic cases. It placed thirteen different standards upon communities including the certification of the Police Department by either COELA or Missouri Police Chief Association, it required certain levels of insurance, written policy for emergency vehicles and use of force, a lot of these standards had to do with the police departments. The entire section was ruled to be unconstitutional as a special law and also deemed to be an unfunded mandate because under the Hancock Amendment, you can't require the Cities to do something like this as a state actor without providing a funding mechanism (tax, fee or some other way to pay for it).

City Attorney Jones stated that he would continue to update the Board of any proceedings and changes to Senate Bill Five rulings.

Mayor Pogue asked if the City should still continue with certification of the Police Department or if we should wait until the ruling from the appeals court.

City Attorney Jones stated that he thinks it would make sense to continue with the certification of the Police Department.

Mayor Pogue stated he was approached by the Municipal League to help cover the costs for the litigation of the Cities appealing Senate Bill Five; Mayor Pogue informed the Municipal League that he would not be asking residents to cover part of the legal fee. The City already meets or is in the process of meeting the certification standards.

Alderman Stallmann asked how this appeal might affect the St. Louis County Bill that is being challenged by several cities and if there is a correlation between the two.

City Attorney Jones stated that there is a correlation and that he is representing the Cities that are suing St. Louis County. He presented this argument to the St. Louis County Circuit Court on April 15<sup>th</sup> and it's under submission.

Alderman Roach asked if City Attorney Jones, in regards to Senate Bill Five, if he is aware of any parties seeking temporary enforcement or injunction pending appeal.

City Attorney Jones stated that the injunction was entered as part of the Cole County Judges Order.

Alderman Fleming stated it might be useful to look at court recordings and to incorporate those items into the Cities template.

City Attorney Jones stated that a mechanism was designed to do so prior to this decision but the City could rely on the safe harbors of 5.8% of the operating budget since minor traffic violations are only a subset of this. The ability is there to determine which items are minor traffic violations based upon what

REJIS has done for the City.

Alderman Fleming stated that it might not be a bad practice to start being more specific with the reporting.

Alderman Roach agreed with Alderman Fleming.

**Vehicle Tax** City Attorney Jones stated that the citizens of Ballwin have passed the Use Sales Tax and it now continues. He stated that how we report the continuance of this tax to the Department of Revenue has become a little bit tricky. The Department of Revenue has required a couple of things: a copy of the original ballot, an attorney's opinion with regards to the language of the ballot proposition and a new ordinance that states the City held an election, the proposition was passed, and the City is continuing to impose this tax.

**A motion was made** by Alderman Stallmann and seconded by Alderman Terbrock to have Attorney Jones draft a new Vehicle Tax Continuation ordinance. A voice vote was taken with a unanimous affirmative result and the motion passed.

**St. Louis County Municipal League** City Attorney Jones stated that the St. Louis County Municipal League is holding its newly elected officials conference on Wednesday, April 27<sup>th</sup> at 4:00 PM in Maryland Heights. Alderman Roach attended this conference. City Attorney Jones will be speaking at this conference, covering various topics such as planning and zoning, board of adjustments, best practices for municipal officials.

## ALDERMANIC COMMENTS

**Alderman Finley** wanted to express his gratitude with this meeting being the beginning of the new session. He complimented Mayor Pogue stating that he is one of the hardest working guys in the City and he is honored to serve under him for another term. He makes every meeting, every planning and zoning and he is always well prepared. Alderman Finley thanked him.

He addressed Board President Alderman Fleming, the opening day of filing he and Ray Kerlagon were there and the question of the last few terms was "is Frank coming back?" When Alderman Fleming walked in, Alderman Finley was very happy and stated it's an honor to serve under him as well.

Finally, Alderman Finley wished to thank the unsung heroes of Ballwin: the department managers and ranking officials, Eric, Bob, Tom, Haley, Denise, Chief Scott, Linda and Gary. He also thanked his colleagues and is thankful to be able to serve with them for another term.

**Alderman Fleming** wanted to thank the residents and voters who really do care for the town. It's easy to work with people when everyone cares about the community and wants to do the best for it. He greatly appreciates all the elected officials, city staff who makes the job easy.

**Alderman Roach** wished to thank Alderwoman Kathy Kerlagon for her many years of service, to both the City of Ballwin and the Citizens of Ward 4 and he looks forward to working with Alderman Ray Kerlagon.

**Alderman Bullington** wished to thank Alderwoman Kathy Kerlagon for allowing him to work with her and he looks forward to working with her husband. He would again like to recognize Bud Brown. Alderman Bullington had the opportunity to work with Bud through Ballwin Days. He also thanked his family for the years and years of dedicated serve to the Ballwin Community. Bud will be missed.

*A motion was made* by Alderman Fleming and seconded by Alderman Roach to adjourn the Board of Aldermen Meeting. A roll call vote was taken with a unanimous result, and the meeting was adjourned at 8:03 p.m.

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TIM POGUE, MAYOR

ATTEST:

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ERIC HANSON, CITY ADMINISTRATOR

A Johnson

Updated: **April 28, 2016**