



**UNOFFICIAL DRAFT**  
**MINUTES OF THE BOARD OF ALDERMEN MEETING**  
**CITY OF BALLWIN – 300 Park Drive**  
**February 27, 2017**

**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 7:07 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 Raymond Kerlagon  
City Administrator Eric Hanson  
City Attorney Robert E. Jones

The Pledge of Allegiance was given.

## MINUTES

The Minutes of the *February 13, 2017 Board of Aldermen meeting minutes* were submitted for approval.

*A motion was made* by Alderman Terbrock and seconded by Alderman Stallmann to correct ordinance numbers from 16-02, 16-03, 16-04 to 17-02, 17-03, 17-04 from the February 13, 2017 Board of Aldermen meeting minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

*A motion was made* by Alderman Terbrock and seconded by Alderman Roach to correct the spelling of Alderman Roach’s name in Aldermanic Comments from the February 13, 2017 Board of Aldermen meeting minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

*A motion was made* by Alderman Fleming and seconded by Alderman Terbrock to approve the amendments from the February 13, 2017 Board of Aldermen meeting minutes and approve the minutes as amended. A voice vote was taken with a unanimous affirmative result and the motion passed.

## PRESENTATION

### City Hall Presentation by Navigate

Todd Sweeney from Navigate presented a four phase process to establish a potential solution for establishing a more practical City Hall that will add value to the community. Mr. Sweeney stated his firm's primary focus is to be the liaison between the City and the contracted companies to make sure the project is completed on time, at budget or below budget, and at the right quality.

The Board agreed to work with Navigate in the first Phase of the company's proposed plan. Board members also asked to be provided with the repair list that was created when looking at utilizing the current City Hall.

*A motion was made* by Alderman Fleming and seconded by Alderman Terbrock to approve the recommendation to start Phase one with Navigate. A voice vote was taken with a unanimous affirmative result and the motion passed.

## NEW BUSINESS

### LEGISLATION

#### **BILL NO. 3953 ESTABLISHMENT OF ZERO PROPERTY TAX RATE INCREASE**

*A motion was made* by Alderman Fleming and seconded by Alderman Finley for a first reading of Bill No. 3953. A voice vote was taken with a unanimous affirmative result and Bill No. 3953 was read for the first time

Alderman Stallmann stated this was the 29<sup>th</sup> year the City has passed a zero property tax increase.

*A motion was made* by Alderman Finley and seconded by Alderman Fleming for a second reading of Bill No. 3953. A voice vote was taken with a unanimous affirmative result and Bill No. 3953 was read a second time.

A roll call vote was taken for passage and approval of Bill No. 3953 with the following results:  
Ayes – Aldermen Finley, Fleming, Bullington, Stallmann, Kerlagon, Roach, Terbrock, Leahy;  
Nays -- None.

Bill No. 3953 was approved and became **Ordinance No. 17-05**

#### **BILL NO. 3954 AMENDMENT TO THE LIQUOR LICENSE ORDINANCE**

*A motion was made* by Alderman Kerlagon and seconded by Alderman Fleming for a first reading of Bill No. 3954. A voice vote was taken with a unanimous affirmative result and Bill No. 3954 was read for the first time

Alderman Finley asked why there are changes. Finance Officer Denise Keller stated it was to bring the liquor license ordinance in agreement with the state law for the manufacturing of wine. There are currently no businesses that hold this type of liquor license.

**A motion was made** by Alderman Fleming and seconded by Alderman Terbrock for a second reading of Bill No. 3954. A voice vote was taken with a unanimous affirmative result and Bill No. 3954 was read a second time.

A roll call vote was taken for passage and approval of Bill No. 3954 with the following results:  
Ayes – Aldermen Fleming, Terbrock, Leahy, Bullington, Roach, Kerlagon, Stallmann, Finley;  
Nays -- None.

Bill No. 3954 was approved and became **Ordinance No. 17-06**

## CONSENT ITEMS

*Budgeted items which are low bid and do not exceed expenditure estimates and/or items which have been previously approved in concept.*

- a. PARKS & RECREATION GOLF CART BID
- b. SALARY INCREASE

Alderman Roach asked that item “b” be pulled for further discussion.

**A motion was made** by Alderman Stallmann and seconded by Alderman Terbrock to accept Consent Item A. A voice vote was taken with a unanimous affirmative result and the motion passed.

## CITY ADMINISTRATOR’S REPORT

**Consent Item B:** Alderman Roach stated he believed it was agreed during the budget session to approve the 3% salary increase. City Administrator Hanson stated it was originally suggested there be a 3% salary increase but to be within the needs of the budget, staff included a 2% salary increase that was approved in the 2017 operating budget by the Board in December.

Alderman Roach added that in February of 2016 the Board approved a 3% raise and at the time he was aware that the economy was a factor for this raise. He stated taxes were down 2.3% in February 2016 and the Board approved a 3% raise and now the taxes are up by essentially the same amount but the raise this year is less. He stated he didn’t think this made any sense and that the employees should have the 3% range and should be guaranteed that merit increase. He also added that when staff provided salary adjustments, street maintenance worker’s salary was reduced by 5.4%. City Administrator Hanson stated the reduction is only taken into account if the employee is at the minimum, such as a new hire.

Alderman Roach stated that since the employee salary only accounts for approximately 63% of the Operating Budget, he feels if money should be saved in the budget it should be done elsewhere. He added that none of these jobs got any easier over the last year.

Alderman Roach made a motion to amend the proposal and increase the salary from 2% to 3%. Alderman Fleming seconded the motion.

Mayor Pogue stated that the final 2017 Operating Budget approved a 2% increase and would need to be amended as well.

Alderman Roach added that he was confused as to why the Board agreed to a 3% increase in the work sessions but the approved Operating Budget only included a 2% increase. Alderman Terbrock stated it

was discussed. Alderman Leahy recalled that a 2% increase would be fine with him and that City Administrator Hanson had said it could be as high as 3% but it wasn't a solid number when it was presented in the work session. He added he would be voting in opposition to the motion made by Alderman Roach.

For clarification Mayor Pogue stated that there was a motion by Alderman Roach and seconded by Alderman Fleming for 3% and stated he would give a roll call vote on the motion.

Alderman Fleming withdrew his second. He provided his reason was that issues had by any member of the Board should be heard ahead of time because this item seems to have caught some people off guard. He asked that this item be held over to the next Board meeting in order for the Board to make an informed decision.

**A motion was made** by Alderman Roach and no one seconded to amend the proposal and increase the salary from 2% to 3%. This motion died due to no second.

City Administrator Hanson added that for clarification purposes, when staff came back that he knows this item was discussed and reduced down to 2% as part of all the costs that were in the budget. There were two budget workshops in October where this 2% was calculated into the discussion. He stated if this was missed or if this needs to be done differently in the future that he would do so. He did not intentionally mean to catch anyone off guard.

Ms. Keller provided that in her presentation in September she provided information on a 3% increase which would calculate to \$185,000 including FICA and LAGERS and the 2% increase was only \$150,000 including FICA and LAGERS. She added this effects range adjustments and more positions would receive a range adjustment at a 2% increase than at a 3% increase.

This item was tabled until the next meeting.

#### **Holloway Road Study:**

City Administrator Hanson stated the City is at a point to submit the application for the Holloway Road project. In discussing with East-West Gateway, staff believes the application will score better with a regulated intersection at Kehrs Mill Road and Holloway Road. If this application is submitted to include a regulated intersection and the City receives federal funding, the expectation will be to install traffic lights. He asked the Board if having that intersection regulated is not something they will consider, he will need to know. The application deadline is March 1<sup>st</sup>.

Alderman Terbrock stated he goes through that intersection every day and that he was caught off guard at the last meeting about regulating the intersection since he has never had any issue with it. He added he came home later than usual one afternoon, he noted the time was 5:20 PM, and he was stopped on the hill before Seven Trails driving south on Holloway. He stated that if the City puts in lights, the road will need to be widened back to the Danbury Subdivision to prevent traffic from backing up even further. He also added that a regulated intersection would cause cars to cut through the Danbury subdivision and Claymont subdivision to avoid this intersection which he does not want to see happen. He believes to apply for a grant to create extra funds for this project will create more problems the City does not want.

Alderman Finley stated he agreed with everything Alderman Terbrock stated.

Mayor Pogue recalled that at the last meeting he did not get the sense the board was in favor of traffic signals at this intersection.

Alderman Terbrock added that in their discussion they looked at the alignment of the lanes on the intersection and thought the wide lanes causes some confusion.

City Administrator Hanson stated that if lights were not favored they would have a little more work to do on this application before Wednesday's deadline.

## STAFF REPORTS

### **POLICE – MODOT TRAFFIC ENFORCEMENT GRANT**

Chief Kevin Scott stated he was seeking the Board's approval to request funding through the MoDOT Traffic Enforcement Grant and that these are all overtime grants. He stated the funding is being requested for Occupant Protection, Hazardous Moving Violations, Youth Alcohol Enforcement and DWI Enforcement (No Check Points). These are the same grants requested as last year.

Alderman Finley asked for an explanation on the first grant, Occupant Protection. Chief Scott stated it's for seatbelt enforcement and also child restraint. Alderman Finley also asked about youth alcohol enforcement. Chief Scott stated this is a proactive control of the target of possession and purchase of alcohol by minors.

*A motion was made* by Alderman Bullington and seconded by Alderman Finley to approve staff recommendation for funding through the MoDOT Traffic Enforcement Grant. A voice vote was taken with a unanimous affirmative result and the motion passed.

### **PUBLIC WORKS – ADA SIDEWALK TRANSITION PLAN**

In order to be compliant, Director of Public Works Gary Kramer stated the outline allows for a timeline of the City's effort to becoming ADA compliant. The federal government requires this to be done.

Alderman Terbrock stated he likes the self-evaluation included in the plan.

Alderman Fleming stated he thought this plan looks good.

Alderman Roach asked if it was a part of his plan to include an accommodation request form on the website. Mr. Kramer stated this plan can go on the website.

*A motion was made* by Alderman Stallmann and seconded by Alderman Bullington to accept the ADA Sidewalk Transition Plan as provided by Staff. A voice vote was taken with a unanimous affirmative result and the motion passed.

### **PARKS & RECREATION – GOLF COURSE CHEMICAL**

Director of Parks & Recreation Linda Bruer stated that she recommends awarding the purchase to lowest unit priced vendor in each category that meets specifications on an as needed basis. She added that based on weather and playing conditions the purchases were not to exceed budgeted amounts. A total of \$38,500 was budgeted for chemicals this year.

*A motion was made* by Alderman Terbrock and seconded by Alderman Kerlagon to accept staff recommendation for the purchase of Golf Course Chemicals. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **PARKS & RECREATION PROGRAM PARTICIPANT APPAREL**

Director of Parks & Recreation Linda Bruer stated that she recommends that the Board award the purchase of staff and recreation program participants apparel to the second low bidder, St. Louis Sportswear, in the amount of \$14,508.25. \$17,000 was budgeted in the 2017 operating budget. The low bidder, Ad Wear, located in Houston Texas, does not meet specifications as the specification stipulated the successful vendor must be located within 21 miles of the City of Ballwin.

Alderman Roach stated he would like to point out that St. Louis Sportswear is the lowest qualified bidder.

*A motion was made* by Alderman Stallmann and seconded by Roach to accept staff recommendation for the purchase of staff and recreation program participant apparel. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **CITY ATTORNEY'S REPORTS**

**Report on Drones:** City Attorney Jones provided that the State statutes defines aircraft as including balloons, airplanes and hydroplanes and every other vehicle used for navigation through the air. He stated he had to look through other state laws which provided that the ownership of the space below the air is the person who owns the ground or the water that's directly below it. State law provides that a person should be allowed to fly an aircraft over the lands and waters of the state unless it's at such a low altitude that it interferes with the existing use to which the land or water is being utilized at the time.

City Attorney Jones said his firm has only drafted one ordinance in regards to the drones and that was for the City of Wildwood. He added it's the same model being used as the Missouri Municipal League. City Attorney Jones stated the first part to this ordinance would be for the City to add a new offense for constructive invasion of privacy ordinance and regulate unmanned aircrafts as enforceable. The second part would be to regulate the unmanned aircraft or drones. The suggested regulations for drones includes: need to remain below any obstacles in the area they are being flown, be in sight of the person operating the drone, should not be within five miles of any airport or within any 25 feet of any person, building or vehicle and there provide some limitations on how large the drone may be and during what times they may be flown. His conclusion, based on the model ordinance that was adopted by the City of Wildwood, is enforceable under Missouri law and Federal law to the extent that it is pre-empted by state law and there is language in the ordinance that states "unless otherwise provided by state law."

City Attorney Jones stated that if this is an issue the Board wishes to pursue, that the model ordinance takes care of these issues and what he would recommend using.

Mayor Pogue stated he believes Ellisville passed this same legislation model.

Alderman Fleming stated he has received two drone emails from residents. One was a complaint that a neighbor flies the drone through their backyard all the time, makes a lot of noise with it and is pretty invasive.

Alderman Stallmann stated this is a problem that will only become more intrusive as time goes on.

Alderman Fleming stated there are legitimate purposes for flying a drone such as for real estate or survey companies but as long as they don't infringe on privacy he doesn't see a problem with drones. City Attorney Jones stated farmers and ranchers are big users of drones.

Alderman Kerlagon asked if policing this will be difficult. City Attorney Jones stated it will be complaint driven and if someone who witnesses an unlawful flight is not willing to come in and testify, whoever is involved from the law enforcement stand point isn't going to have a case.

Alderman Kerlagon received a question asking if the drone was caught, would the person who caught the drone be in violation of the recreational use of a drone. City Attorney Jones stated that if the drone was more than 25 feet above the structure below then that person would be violating the rights of the person flying the drone.

## ALDERMANIC COMMENTS

**Alderman Fleming** provided a recap of the Finance & Administration Committee Meeting for the Board members who were not in attendance:

In regards to the **Escrow** process the committee voted 3-0 to recommend all items as suggested by Mr. Hixson.

In regards to the **Sewer Lateral Repair Program** the Committee:

Recommends using a sole source vendor for a 2 year contract

Recommends a user fee of \$150

Recommends not making any decision on raising the assessment tax of \$28

In Regards to the **Purchasing Policy Authority**, the Committee recommends:

Department Head amount be \$3,000.00

City Administrator amount be \$15,000.00

Advertising threshold amount be \$20,000.00

This will be brought formally to the Board at the next meeting.

**Alderman Terbrock** stated that he appreciates Denise and Eric's work on the Budget and for coming up with the 2% budget salary increase. He stated if this is what they recommend going with then that is what the Board should agree on. He added that it would be nice to pay everyone a million bucks but the City can't but appreciates everyone who works at Ballwin. He restated that since staff worked the budget out to include a 2% increase then he is in agreement with it.

**Alderman Stallmann** complimented Chief Scott and his officers. Alderman Stallmann attended Coffee with a Cop that morning at the Wolf Café. He said there was a great turn out. The next Coffee with a Cop event will be a joint event with the Mayor next month at McDonald's.

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Mayor Pogue announced that Pursuant to Section 610.021 [1] RSMo, the board would meet in closed session to discuss matters regarding litigation. He stated he did not expect any action to be taken.

**Adjourn to Closed Session:** A motion was made by Alderman Kerlagon and seconded by Alderman Leahy to adjourn to closed session to discuss litigation. A roll call vote was taken with the following results:

Ayes: Aldermen Terbrock, Finley, Roach, Stallmann, Fleming, Leahy, Bullington, Kerlagon;

Nays: None

**The motion passed to adjourn to closed session at 8:48 p.m.**

**The Board reconvened in open session at 9:21 p.m.**

Mayor Pogue reconvened the open session and stated the Board met in closed session to discuss litigation matters and that no formal action was taken at that time.

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*A motion was made* by Alderman Fleming and seconded by Alderman Kerlagon to adjourn the Board of Aldermen Meeting. A roll call vote was taken with a unanimous result, and the meeting was adjourned at 9:21 p.m.

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TIM POGUE, MAYOR

ATTEST:

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ERIC HANSON, CITY ADMINISTRATOR

A Johnson

Updated: **February 28, 2017**