



MINUTES OF THE BOARD OF ALDERMEN MEETING  
CITY OF BALLWIN – 300 Park Drive

March 9, 2015

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.

PRESENT

MAYOR TIM POGUE  
ALDERMAN JIMMY TERBROCK  
ALDERMAN MICHAEL FINLEY  
ALDERMAN MARK STALLMANN  
ALDERMAN JOHN SCHWENT  
ALDERMAN FRANK FLEMING  
ALDERMAN JIM LEAHY  
ALDERMAN KATHY KERLAGON  
CITY ADMINISTRATOR ROBERT KUNTZ  
CITY ATTORNEY ROBERT E. JONES

ABSENT

ALDERMAN MIKE BOLAND

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *February 23, 2015 Board of Aldermen meeting* were submitted for approval. *A motion was made* by Alderman Fleming and seconded by Alderman Terbrock to delete the last two sentences on Page 4 under Bill 3874, paragraph 5. A voice vote was taken with a unanimous affirmative result and the amendment was approved.

*A motion was made* by Alderman Fleming and seconded by Alderman Terbrock to approve the Minutes as amended. A voice vote was taken with a unanimous affirmative result and the motion passed.

PRESENTATION

None.

PENDING ISSUES

**BILL # 3866 - AN ORDINANCE AMENDING THE NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT APPROVED PER ORDINANCE 13-28 FOR CERTAIN LAND AT CLAYTON ROAD AND HENRY AVENUE IN THE CITY OF BALLWIN, COMMONLY KNOWN AS THE BALLWIN GROVE PLAZA.**

Mr. Feretti, of the Circle 7 Ranch Restaurant, passed out documents to the Board. He said that Alderman Finley had asked about the reason for the patio covering. He said that there is equipment stored outside the kitchen door that cannot be kept inside the kitchen. This stored material is unsightly. The cover will hide it. In the original proposal, it was understood that this area would be enclosed. Mr. Feretti said that changing weather can affect the experience of the customers. Rain forces customers to come inside and there may not be room. The patio cover allows customers to finish their meal.

Mayor Pogue asked about the meeting with representatives of CVS. Mr. Feretti said that the CVS corporate office approved reserved parking space signage. Assistant City Administrator Aiken said that

CVS is wanting to put signs on the wall in front of several parking spaces, to indicate reservations for CVS customers. He said there is still room in the wall signage allocation, based on the Code. They could put up the signs without any amendment to the Code. Signs on posts on the other side of the parking lot pose a problem because there's nothing in the Sign Code that addresses this.

Mr. Feretti provided parking space availability information for evenings over various occasions since the last meeting.

Alderman Fleming said he is concerned that the tent covered patio will have more people, which will also affect parking availability. Mr. Feretti said his study of available spaces on busy nights suggests that the parking problem is intermittent and does not occur every Friday and Saturday. .

Alderman Terbrock said that the problem is that there are two extremely successful restaurants in one plaza. He said he doesn't think a bigger problem will be created that will negatively affect the customers. There haven't been any residents come to address the Board on this issue.

Alderman Leahy said that CVS is the victim of the parking problem. He asked Assistant City Administrator Aiken if he believes this problem can be resolved. Mr. Aiken said that there will be parking spaces for CVS, as long as no one violates the message on the signs.

A motion was made by Alderman Kerlagon and seconded by Alderman Terbrock for a second reading of Bill No. 3866. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3866 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3875 with the following results:  
Ayes – Kerlagon, Terbrock, Schwent, Leahy, Stallmann, Finley. Nays – Fleming. Bill No. 3866 was approved by a vote of 6-1 and became **Ordinance No. 15-15**.

#### **BILL # 3874 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BALLWIN WITH REGARD TO ADMINISTRATIVE SEARCH WARRANTS.**

*A motion was made* by Alderman Terbrock and seconded by Alderman Schwent to remove Bill 3874 from the agenda and further consideration. A voice vote was taken with a unanimous affirmative result and the motion passed.

#### **CITIZEN COMMENTS**

***Brock Ayers, 618 Henry Oaks Ct. and property owner of 758 Henry:*** Mr. Ayers said 758 Henry is the closest house to the property in Bill 3866. He said that he is in favor of the site plan amendment for Ballwin Grove Plaza. He said the whole development enhances the area.

***Matt Miller, 751 Muirview, off of Henry Road:*** Mr. Miller said he is in favor of the site plan amendment for Ballwin Grove Plaza. He said that even though parking is an issue, he has always been able to find a parking space.

***Joe Vilmain, 835 Holly Ridge:*** Mr. Vilmain spoke in favor of the Ballwin Grove Plaza amendment and project. He believes that the tent cover is a good addition to the project.

#### **PUBLIC HEARINGS**

None.

## NEW BUSINESS

### LEGISLATION

#### **BILL # 3875 - AN ORDINANCE CREATING THE OFFENSE OF DISTURBING A JUDICIAL PROCEEDING.**

A motion was made by Alderman Finley and seconded by Alderman Leahy for a first reading of Bill No. 3875. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3875 was read for the first time.

Alderman Finley asked about the penalty wording. City Attorney Jones said that these are the exact words that are used in the State Statute. One other change is until December 31, 2016, it only applies to men disrupting a proceeding. In 2017, both men and women can be penalized. This is the State Statute wording, and "he" would be interpreted as meaning all people in general.

A motion was made by Alderman Kerlagon and seconded by Alderman Leahy for a second reading of Bill No. 3875. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3875 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3875 with the following results: Ayes – Kerlagon, Fleming, Stallmann, Finley, Schwent, Terbrock, Leahy. Nays – None. Bill No. 3875 was approved and became **Ordinance No. 15-16.**

**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. Golf Course Chemicals
- B. Pool Chemicals
- C. Golf Club Roof
- D. North Pointe Painting

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

### **MAYOR'S REPORT**

**Consultant Services:** Mayor Pogue said that eight proposals were received from search firms to assist with the City Administrator replacement. Three finalists were selected. Conference calls were then conducted with the three firms, reference checks and calls to former clients of the three search firms. Mayor Pogue said the recommendation is ***SGR Personnel Consultant***, not to exceed \$27,000. He said this firm has done work in Cape Girardeau for the hiring of the Assistant City Manager and Police Chief. They have also done work in Sikeston, with the Missouri Municipal League, and partners with the Municipal League in the Certified Elected Officials training. He believes this firm is very qualified.

*A motion was made* by Alderman Stallmann and seconded by Alderman Schwent to approve the proposal for SGR. A voice vote was taken with a unanimous affirmative result, and the motion was approved.

**MSD Rate Proposals:** Mayor Pogue said MSD is going to the Rate Commission with two rate proposals. One is for storm water rates, and one for waste water rates. They will be conducting a series of Town Hall meetings on Wednesday, April 8, at The Pointe At Ballwin Commons, from 7:00 – 8:30 p.m. The increases will have a significant impact on monthly user bills and bonds that MSD will be proposing. They are looking to invest \$4.7 billion as part of the MSD Project Clear.

**Lafayette Area Mayors' Meeting:** Mayor Pogue said that on March 20, the Lafayette Area Mayors Association will meet with legislators to discuss various bills of municipal interest.

## **CITY ADMINISTRATOR'S REPORT**

**Policy Manual Change:** City Administrator Kuntz said that Alderman Fleming would like to add an amendment to the proposal. Alderman Fleming suggested that under "Golf", the last sentence be removed, and the first sentence of "Golf" amended to read "The Mayor, Board of Aldermen, City Administrator, and former elected officials having served more than 10 years....."

*A motion was made* by Alderman Fleming and seconded by Alderman Leahy to amend the "Golf" paragraph as suggested. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Ballwin Days Fireworks:** City Administrator Kuntz said this contract is a renewal with the firm used in previous years, for the most amount of value within the budget. J & M Displays has offered to do more fireworks for the same amount of money.

*A motion was made* by Alderman Terbrock and seconded by Alderman Leahy award the contract for Ballwin Days fireworks to J & M Displays. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Amusement Rides:** City Administrator Kuntz said that Miller Spectacular Shows, Inc. has proposed the same service at the 2014 rates.

*A motion was made* by Alderman Stallmann and seconded by Alderman Terbrock to award the contract for Ballwin Days amusement rides to Miller Spectacular Shows, Inc.. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **STAFF REPORTS**

None.

## **CITY ATTORNEY'S REPORT**

**Plumbing & Mechanical Code Changes:** City Attorney Jones said a proposed ordinance has been provided for consideration, and addresses licensing of plumbing and mechanical contractors. This is the person actually doing the work, as opposed to the person who acquires the permit. He said a mechanism is already in place for adopting portions of the St. Louis County Code. This draft renumbers Ballwin's existing section as sub-paragraph 1 of Section 7-42, and adds a new paragraph which describes those sections of the County Code that would be adopted by reference.

City Attorney Jones said that Code Enforcement Supervisor Jerry Klein suggested including the information about financial responsibility, bond and insurance required for a licensee. He said that three copies will be kept at the Government Center for viewing in accordance with State Law.

City Attorney Jones said that Ballwin would still be using the 2006 Code. There hasn't been an opportunity to review in detail the 2012 and 2015 Code. He said that with this in mind, it doesn't make sense to change from 2006 Code to 2009 Code. This should not be a problem for reputable contractors.

Alderman Fleming asked for an explanation of making sure the person getting the permit is the person doing the work. City Attorney Jones said that some changes to the application process may have to be made. Code Enforcement Supervisor Klein believes that this can be done.

Mayor Pogue suggested that the person getting the permit would have to put their Permit number on the form. New construction is easier to keep track of this.

*A motion was made* by Alderman Terbrock and seconded by Alderman Leahy to authorize City Attorney Jones to provide this ordinance at the next meeting. A voice vote was taken with a unanimous affirmative result and the motion passed.

### **ALDERMANIC COMMENTS**

**Park Fees:** Alderman Terbrock raised a concern about the park fee in the subdivision ordinance applying to all lots. A \$4,000 Park Fees in some cases could discourage people from going forward with construction and development plans.

City Attorney Jones said that the question came up because of a single existing lot with an existing structure, being divided into two lots for an infill subdivision. The question was if one or two lots had to pay the Recreation Fee. The Ballwin Ordinance is not clear because there are two different calculations. Depending on the calculation, they pay the lesser of the two. He said that one of the calculations refers to “lots or units, whichever is greater”. That’s what led him to the conclusion that it needed to be paid for each lot. He said a change would need to be made in the ordinance to eliminate this situation.

Mayor Pogue said suggested that existing structures be exempt on those subdivisions, when the dwelling is going to be retained on the lot and occupied as a residence.

*A motion was made* by Alderman Terbrock and seconded by Alderman Stallmann to authorize City Attorney Jones to draft legislation regarding crediting new subdivision for existing houses being kept and occupied in the new subdivision.

**Pending Issues & Citizens Comments:** Alderman Leahy said that a person left this meeting who wanted to speak in opposition to Bill 3866. He said the Citizen Comments should be on the Agenda before Pending Issues. He asked that this change be made on the Agenda in the future. He said that the gentleman still had the right to talk, but was upset because action was taken before audience comments could be heard. The Board was unanimous in their agreement with this suggestion.

**Adjourn:** A motion was made by Alderman Fleming and seconded by Alderman Leahy to adjourn. The motion passed unanimously and the meeting was adjourned at 8:00 p.m.

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TIM POGUE, MAYOR

ATTEST:

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ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

**March 9, 2015**