



MINUTES OF THE BOARD OF ALDERMEN MEETING  
CITY OF BALLWIN – 300 PARK DRIVE

April 11, 2011

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The meeting was called to order by Mayor Pogue at 7:02 p.m.

PRESENT

MAYOR TIM POGUE  
ALDERMAN JIMMY TERBROCK  
ALDERMAN MICHAEL FINLEY  
ALDERMAN RON MARKLAND  
ALDERMAN PAT MCDERMOTT  
ALDERMAN FRANK FLEMING  
ALDERMAN JIM LEAHY  
ALDERMAN RICHARD BOERNER  
ALDERMAN KEN MELLOW  
CITY ADMINISTRATOR ROBERT KUNTZ  
CITY ATTORNEY ROBERT E. JONES

ABSENT

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *March 14, 2011 Board of Aldermen meeting* were submitted for approval. A motion was made by Alderman Boerner and seconded by Alderman Terbrock to approve the Minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

PRESENTATION

**Kehrs Mill Road Resurfacing & Sidewalk Project:** Director of Public Works/City Engineer Kramer introduced Design Engineer Rick Brown of HR Green Company to describe the project to the Board prior to the public forum to be held in early May. Mr. Brown said that the goals for the project is to resurface Kehrs Mill Road, from Clayton Road to Holloway Road, which is about 1.5 miles. The second goal is to provide a continuous sidewalk on the south side of Kehrs Mill Road from Clayton Road to Holloway Road. The current budget is \$1.35 million. The construction is planned for the summer of 2012. It is expected that the work will be done during the summer months when schools are out of session, during the daylight hours and during non-peak traffic periods. Traffic will be restricted to a single lane. When not actively working, traffic will be restored to two lanes.

Mr. Brown said to build the sidewalk, easements will have to be acquired from 10 property owners. The developer at this property at 660 Kehrs Mill Road that is being sub-divided has agreed that it will be providing new right-of-way to the city in order to build a sidewalk on that property. Part of the project requires replacing any non ADA compliant curb ramps that exist within the project limits. Twelve residential driveways will need to be replaced in order to allow the sidewalk to be built through the properties. All of the properties that have driveways must be removed and replaced.

Mr. Brown said that the higher quality super pave asphalt will be used. It was used on Clayton Road. It is more durable and gives a longer life.

Alderman McDermott asked if money is being saved by only going 4 inches in depth for the re-paving. City Engineer Kramer said yes and no. The super pave costs considerably more than standard asphalt. The savings that come from removing less pavement will be put into the super pave. Alderman McDermott asked when were the original curb and gutters installed? City Engineer Kramer said the road was rebuilt with curbs and sewers in early 1970s. Alderman McDermott asked if we will get the life expectancy out of this without going full depth? City Engineer Kramer said probably so, at least 15 years. The water mains are all behind the curb.

Alderman McDermott asked what standard will be used for the sidewalks. City Engineer Kramer said it will be ADA standard, which will be 5-foot wide. Mr. Brown said that MoDOT is very particular about ADA requirements.

Alderman Markland said that there is currently a continuous sidewalk on the north side of Kehrs Mill. He asked is there a requirement to build a sidewalk on the south side? City Engineer Kramer said there is a Ballwin aldermanic policy that all the major streets will have a sidewalk on both sides. He said when Ballwin applied for the funds, it had to go through an application process. Points are given for different things, such as pedestrian facilities, share the road signs for bicyclists. Alderman Markland asked if there is a requirement that we put in 6,000 feet of sidewalk? City Engineer Kramer said because of the federally funded project, the application included the sidewalk, therefore, we are obligated to fulfill what our application stated. If we don't do it at this point, we risk losing federal funds.

City Engineer Kramer said that the federal grant is obligated only to paying 80% of \$1,350,000 for construction. Alderman Markland asked if the project comes in at \$1,550,000, would we have to pay the additional \$200,000? City Engineer Kramer said this is a possibility. Alderman Markland asked if Ballwin could pull the sidewalk if the project was over budget? City Engineer Kramer said he does not know what the State and Federal Government will say. Alderman Markland asked that this question be asked. City Engineer said he will find out the answer to this question.

Alderman Terbrock asked about the plan for blocked driveways. City Engineer Kramer said that the residents may be able to park on a side street. They will be provided a place to park because there's no parking on Kehrs Mill. We may have to provide some protective parking on the street with a one-lane situation for a few days.

Alderman Terbrock asked about the 4 inch cut for the pavement. City Engineer Kramer said that the contractor will mill off 4 inches and have a paving crew right behind putting 2 inches back in place. There should never be more than a difference of 2 inches to drive on. After that, they will come back and add the top 2 inches.

Alderman McDermott said that we don't want to have a situation that happened in another community where the angle of approach is so great that people are dragging the bottom of their cars. He said there's a house in the 700 block of Kehrs Mill, that as soon as you come off of Kehrs Mill, it's up a steep hill. He encouraged looking at this very closely. This property will be a challenge because of the distance between the curb and the angle. He said that the crews will be into that front yard quite a bit.

Alderman Markland asked if the traffic pattern for the construction period will be presented at the open house. City Engineer Kramer said the residents will be advised what to expect. During the day, there will be flagmen and one lane of traffic. In the evening, there will be 2 lane traffic. Weekends and holidays will still be 2 lanes.

## **PENDING ISSUES**

None.

## **CITIZEN COMMENTS**

*Jim Robinson, 203 Wildbrier Drive:* Mr. Robinson said he is speaking as a director for the Missouri Asian American Bar Association. He said, "In the press, after the last time I spoke, there was a statement that a group is critical of Ballwin and race relations. That is not true. If that message came across, it's my fault and I apologize. I have lived in Ballwin for quite some time and I am not critical of this Board acting in a raciest manner or an exclusionary manner. I'm commending Ballwin for their commitment to diversity. In the hiring of the Prosecutor, I ask this Board to reconsider and review their hiring ordinance. I believe one of the provisions in the hiring ordinance relates to the provisional prosecuting attorney and the relationship that the provisional prosecuting attorney would have to the prosecuting attorney. I ask this Board to consider a situation where a direct relationship not be necessary between those two, and that the first selected person to take the role of prosecuting attorney not be forced to take the second candidate as his provisional attorney. The reason I ask this in my role as a director agent of Missouri Asian Bar Association is that we have very few law firms or shared office space arrangements where there would be an attorney of color officeing with a white attorney. If this Board selects a white attorney as its prosecuting attorney, It would be very difficult, perhaps impossible, to have a provisional attorney or leadership position for an attorney of color. That requirement would act as an exclusionary measure. I ask the Board to reconsider this and loosen up those requirements. Give your prosecuting attorney more leeway in selecting the provisional attorney. Give this Board more leeway in selecting the provisional attorney. With respect to the hiring criteria, I ask this Board to carefully examine the criteria they are using. No one is accusing this Board of adopting hiring criteria or a matrix that is raciest by design. Please consider something that may be inclusionary. For example, if this Board requires that an attorney to be considered must have any amount, any amount, of experience as a municipal judge, a municipal prosecutor, or as a municipal public defender, I can tell you now, that would mean that no Asian attorney will be considered for that position. I do not believe this is the intent of this Board to apply a hiring criteria that by its application will exclude an entire segment of your population. Please reconsider all of your hiring criteria to make sure we are not excluding any group of our community. The Missouri Asian American Bar Association, the Mount City Bar Association, the Bar Association of Metropolitan St. Louis, and the Missouri Bar Association are all at your disposal. We would be more than happy to assist this Board with its hiring process, with adopting a hiring matrix, with adopting hiring criteria to give this Board the opportunity to examine the largest group of qualified candidates. I would love to assist the Board and I know that my fellow attorneys in those associations would appreciate the opportunity to meet with you and assist in implementing those practices."

## **PUBLIC HEARINGS**

None.

## **NEW BUSINESS**

### **LEGISLATION**

#### **BILL # 3669 - AN ORDINANCE AMENDING PROVISIONS RELATING TO THE MUNICIPAL COURT JUDGE AND THE PROSECUTING ATTORNEY IN THE CITY OF BALLWIN.**

A motion was made by Alderman Finley and seconded by Alderman Fleming for a first reading of Bill No. 3669. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3669 was read for the first time.

Alderman Boerner asked about Sec. 16-92, Item 5, if this is the only mention of a list of three attorneys. City Attorney Jones said yes, that this was the approved motion that was made at the last meeting. Alderman Boerner said, "I was looking at the language that we had adopted, and were given the instructions to adopt the language for the prosecuting attorney and the provisional prosecuting attorney." City Attorney Jones said that is why he referenced Section 1 of ordinance 11-11, which is the one by

which the Mayor is charged with selecting a candidate from among the three that you will interview at your next meeting. He said he didn't include the whole process, just referred back to that ordinance. A motion was made by Alderman Fleming and seconded by Alderman Markland for a second reading of Bill No. 3669. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3669 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3669 with the following results:  
Ayes – Fleming, Mellow, McDermott, Markland, Leahy, Terbrock, Boerner, Finley. Nays – None.  
Bill No. 3669 was approved and became **Ordinance No. 11-13**.

**BILL # 3670 - AN ORDINANCE IN THE CITY OF BALLWIN, MISSOURI, TO READOPT ORDINANCE No. 09-24 WHICH ESTABLISHED A PROCEDURE TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST AND SUBSTANTIAL INTEREST FOR CERTAIN MUNICIPAL OFFICIALS.**

A motion was made by Alderman Boerner and seconded by Alderman Mellow for a first reading of Bill No. 3670. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3670 was read for the first time.

Alderman Markland asked, "Since several aldermen have or currently work for contractors, how does this apply, should they be bidding on something that was approved at one of these sessions?" City Attorney Jones said, "The way the ordinance is drafted, the disclosure would be necessary if there was a transaction in the previous year that involved one of the vendors. If there were three possible bids and one of the vendors was someone for whom you had been employed or gave consulting work within the past year, that would be the time to disclose." Alderman Markland asked if this is closing the door after the horse is out of the barn. City Attorney Jones said, "You wouldn't know what the transaction is to know whether it was a possible conflict until someone bids on it." City Administrator Kuntz said that would relate to a current interest as well. In those cases, you would simply state the relationship and offer to abstain from the vote. If there was a question, we would get an opinion from the City Attorney. If there was doubt, there would be disclosure and abstain from voting.

City Attorney Jones said, "The employment information is made irrespective of whether there is a bidding opportunity or not. Isn't the form that everyone fills out with the employment information, that's not triggered by possible conflict of interest or purchase. It's something that's required." Alderman Markland asked, "What happens if I owned 10% of Fred Weber, where the asphalt is being purchased? Would this be a conflict?" City Attorney Jones said, "I think it would be. That's in Section C2 of this ordinance, which requires disclosing any corporation or limited partnership in which the person owned 10%. We would know that before the bidding process began that there was such an interest." Alderman Markland said, "This is reporting on last year's business instead of looking forward." City Attorney Jones said, "This is true. A conflict of interest has to be identified on a case-by-case basis from that point forward, based on the information that's shared by the aldermen and the elected official and the target group of employees. This is a formality. If we don't adopt this, we are governed by the Statute, which is very similar. By adopting this ordinance, we can use the short form of reporting, as opposed to the more onerous version of the Statute." Alderman Markland said this is used on the form that the candidates fill out. City Attorney Jones said yes, this is pertaining to the City having its own ordinance.

Alderman Finley said, "The way I read Sec. 3-C, it looks as though the Chief Administrative Officer and the Chief Purchasing Officer are the only ones who have to disclose the aspects of 1, 2, and 3 below that. Is this correct?" City Attorney Jones said that is correct. City Administrator Kuntz said that he has an Ethics Disclosure form that has to be completed as Chief Administrative Officer and submitted every May. City Attorney Jones said, "This leaves section 2 for the Mayor and any member of the Board of Aldermen who has a substantial interest to disclose this when the vote comes up."

Alderman Terbrock said that a couple of years ago, someone with his same last name was bidding on a remodel of the old School House. He said he abstained from the vote because of the name.

Alderman Finley asked if in Section C-1, the word employees should be employers. City Administrator Kuntz said that in the form that he has to fill out every May, he has to list family members, and anyone else in the immediate family that might have a connection to a firm or board of directors or partnership that engages in activities with the City.

City Attorney Jones said that the group of people that are covered by this ordinance is set forth in this ordinance. He said he can review it and bring it back for the next meeting.

*A motion was made* by Alderman Fleming and seconded by Alderman Finley to hold over Bill # 3670 until the next meeting. A voice vote was taken with a unanimous affirmative result and the motion passed.

**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. Easement Acquisitions
- B. Salt
- C. Skidsteer Replacements
- D. Joint Sealer
- E. Concrete
- F. Slab Replacement (With Milling)
- G. Slab Replacement (No Milling)
- H. Ries Road Curb &Gutter Replacement

City Administrator Kuntz requested that Item G be removed for further discussion.  
Alderman Fleming requested that Item C be removed for further discussion.

*A motion was made* by Alderman Terbrock and seconded by Alderman Boerner to accept the Consent Items A, B, D, E, F, H. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **MAYOR'S REPORT**

**Planning & Zoning Appointment:** Mayor Pogue recommended the re-appointment of Michael Wind to the Planning & Zoning Commission.

*A motion was made* by Alderman McDermott and seconded by Alderman Terbrock to re-appoint Michael Wind to the Planning and Zoning Commission for another 4-year term. A voice vote was taken with a unanimous affirmative result and the motion passed.

**School Districts:** Mayor Pogue said he attended the Lafayette Area Mayors' meeting. Also attending were superintendents from Rockwood, Parkway, and Special School Districts. There was a question and answer session on how the Cities can help the school districts. Chesterfield is considering doing cooperative purchasing with the Parkway School Districts. He suggested that staff research this to also help the school districts.

## **CITY ADMINISTRATOR'S REPORT**

**Item C, Skidsteer Replacement:** City Administrator Kuntz said this is a recommendation for two replacement units, based on a formal competitive bid. The low bidder did not submit as competitive

trade-in price as some of the higher bidders. For that reason, it is recommended that the bid be awarded, without trade, so that we can test the waters on the Gov Deals Auction site. This has proven to be very successful in securing high value for surplus equipment.

Alderman Fleming said with one of the units having 2,600 hours and the other having 3,200 hours, divided by a 40-hour work week, one has about 65 weeks of work and the other has about 82 weeks of work. He asked if this is the normal life expectancy. City Engineer Kramer said this equipment is worked very hard, especially when the milling machine is used. It's not unusual to see that many hours of use on this equipment in this condition. Both are 11 years old. One has a lot of rust. This equipment is used all summer, but not in the winter and fall. It's used for milling and slab removal.

Alderman Markland asked about the minimum selling price of \$5,000. City Engineer Kramer said that we received \$14,000 the last time we sold similar this equipment. He said that 5% of the sale is paid to Gov Deals.

*A motion was made* by Alderman Fleming and seconded by Alderman McDermott to accept the skidsteer replacement as submitted by staff. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Item G, Slab Replacement (No Milling):** City Administrator Kuntz said that City Engineer Kramer recommended that because of the favorable bid situation that we authorize utilization of a portion of the excess from the low bid and apply it on the unit basis to additional slabs. Mr. Kramer has recommended an alternative to the 4 streets. The recommendation reflects approximately the same amount, \$1,000. The total of the additional work would be around \$218,000. Some of the budgeted funds will be left over as a contingency against unforeseen slab work.

City Administrator Kuntz said the reason this was removed from the Consent Items was the question of which additional streets the Board would favor. City Engineer Kramer said there are three substitutions. Concrete work is needed on Windcliffe, which serves a lot of homes and provides access to Sulphur Springs. Ries Bend is in need of curb and gutter replacement, which will complete the loop. Castle Ridge Court would be included along with Castle Ridge Drive because of their proximity.

*A motion was made* by Alderman Terbrock and seconded by Alderman Boerner to accept the slab replacement as recommended by Staff. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Fireworks – Ballwin Days:** City Administrator Kuntz said this is a performance based contract. It is driven by budget. Based on past experience, it is the Parks Director's recommendation that Ballwin go with Gateway, which is the 12 – 15 minute show of 480 shells per show, as opposed to the extreme pyrotechnics which appear to be a longer show with more shells. There are other factors involved in selecting the best vendor for these shows. Getting a reputable vendor and the kind of show that is needed for this festival, there are certain precautions that meet the approval of the fire department, crowd control, etc. He said we have had good experience with Gateway Fireworks.

Mayor Pogue asked who has been used in the past two years. Director of Parks & Recreation Bruer said J & M was used. The did a fine job.

Alderman Markland said that if a family comes early to get a good spot to view the fireworks, and in 12 minutes it's all over, with another 45 minutes before leaving. He said will they think it was a great show or a very short show. Ms. Bruer said that the Ballwin Days Committee decided to try to do a show each evening. The purpose is to add to the atmosphere in the park. It's not advertised as a 30-minute show. Alderman Markland said that there would be a lot of family preparation time for only a 12-minute show.

City Administrator Kuntz said that when we used to have a fireworks display on the 4<sup>th</sup> of July weekend, within 5 minutes of each city's display, there was a critique and comparison of the cities displays. Our fireworks display is part of the Ballwin Days festival, not a Manchester Road competition.

Alderman McDermott asked if the Extreme Pyrotechnics have a lot of smaller shells. Parks Director Bruer said yes. These are called cake shells and don't go up very high. Alderman McDermott said that it's important to use the 3-inch shell in order to get the height in the fireworks. Some companies will bid low, a lot of shells, but they can't be seen due to a lack of height. He said it took 1½ years to get this fine tuned. He said staff is making the right recommendation.

Alderman Terbrock said that it may seem like an abbreviated show, but it's not designed to be an attraction unto itself. It's to go along with the Ballwin Days festival. This will also keep the money in Missouri instead of Illinois.

*A motion was made* by Alderman Markland and seconded by Alderman Terbrock to accept the recommendation by staff for the fireworks purchase. A voice vote was taken with a unanimous affirmative result, and the motion passed.

**2012 Budget:** City Administrator Kuntz said at this time, in accordance with previous discussions, he is bringing to the table the question of budget preparation, information, and to give this some serious thought. Based on discussion that were held toward the end of the last budget workshop season, he proposes that the Board consider changing the process. In the past, it was started from an overview of the revenues projection. Presentations were made by each of the Departments. In response to that number, keeping it within a total that you have already heard is what we project to bring in. Some would argue that this works to the idea of maintaining a status quo and working backwards or starting from what we've always done in the past, instead of starting with a blank sheet of paper, establishing priorities, and then once those goals and priorities are established, putting some numbers of cost, and then coming back and looking at it again from a revenue standpoint. If that is something that the Board would like to consider, it seems to be less traditional and closer to a performance based concept, where there is an in-depth session with each of the departments and goes through everything that it does and decide what is most important, what needs to be changed, and what the goals and priorities are. Only then do we get into looking at the other side.

City Administrator Kuntz said he is asking the Board for direction. An alternative is this could be a discussion item for the Finance & Administration Committee.

Alderman Terbrock asked if this would cause the budget process to start earlier in the year. City Administrator Kuntz said there won't be a lot that's new. The question is are we focusing our efforts in the directions that are important to the Board. There will be better revenue numbers later rather than earlier. Every year, staff rushes to provide requested revenue numbers that become moving targets as time goes on. City Administrator Kuntz proposed four work sessions – one devoted to each department – what does that department do, why do they do it, what do we want to see done differently, and getting in depth with each of the departments. This is a way to look at it differently than has been done in the past. Other ideas and suggestions are welcome.

Alderman Finley suggested priorities similar to how the streets are graded 1 thru 10. City Administrator Kuntz said that it's a matter of how things are done and are all procedures necessary. Should some things be done by contract or in-house, or why 12 trucks instead of 10? Quality of life priorities for the residents is also considered. Every department has a list of programs that can be reviewed.

Alderman Markland asked for a more simplified explanation. City Administrator Kuntz said, almost everyone on the Board has been dissatisfied with the procedure. He's looking for direction. The revenue can be placed first, and then everything can be a function of the revenue driving it. Alderman Markland asked is there a way of fixing potholes for less money than last year? More salt was used because there was more snow. Alderman Terbrock asked would this change the whole philosophy of what we do in the

city. We have to establish what our objectives are as a city, even long term. Are we going to eliminate one thing to accommodate something else? Could this change the whole philosophy of how we operate and what we do, and what the objective of the city truly is now? This has future implications.

Alderman Markland said, "We take great pride in saying that we get the snow off the streets better than anybody, but when I drive from my house and hit Kehrs Mill, and the County doesn't plow Kehrs Mill, it doesn't do me a lot of good because I can only go one-half mile before I'm on unplowed ground. Perhaps we should start looking at what can we do to consider the cost of different levels of service. We had leaf pickup, which was less than last year. Did that affect the cost of pickup, or do we do 2/3 of what we normally do for the same cost? In the discussion about hauling off concrete debris, it costs \$2 more if we had a tandem axel truck, \$42 vs. \$40 for a single axel. How many loads does it take to rent a truck to save the difference? \$38 a load might build up at the end of the day. This is the concept that I'm thinking of."

City Administrator Kuntz said that this is done on an incremental basis every year. The status quo budget was requested and that's what was done. We didn't eliminate any programs or services. A lot of neighboring cities are eliminating programs and services. Some of those, we have already eliminated. We ended last year with \$300,000 in the excess. We either didn't spend it all or received more in revenue.

Alderman Terbrock said there are certain things in Ballwin that the residents won't take kindly to if they are changed. Snow removal, leaf pickup, streets lights are things that may have to stay. Before we prioritize what we feel, these things may have to remain and only consider how we are doing these things.

Alderman Markland said, "The article in the packet states that revenues in malls and strip centers is to stay at the level it is going, which is down. Our income is going to drop, based upon what we've lost this year in the major stores. We should be looking at not spending anymore money next year."

Alderman Fleming said, "I thought we were going to do the 2010 recap at the second meeting in April, which is what the Finance & Administration Committee recommendation was, and everyone accepted it when all of the new people were onboard. After that point, the Finance & Administration Committee can meet again to consider some of the ideas that Alderman Markland is talking about. Some of those ideas were discussed at the January Finance & Administration Committee meeting as well, but no recommendations came from that discussion."

City Administrator Kuntz said that it's his preference to give two more weeks to read the financial information, and to put it back on the next agenda. Alderman Terbrock said that he will not be able to attend the next meeting due to an out-of-town seminar. Alderman Boerner said that he prefers to wait until the next agenda also. The Board agreed to hold over the departments reports and presentations to the next meeting.

**Food Trucks:** City Administrator Kuntz said that several legislative changes would have to be made if this request is granted for satellite food trucks and related parking in a commercial district.

Alderman Markland said, "I stopped at QuikTrip today and I said, I notice that you don't have soda, windshield washing fluid and the other stuff that all the other ones have. They said, we can't do that here. I said, why is that? They said it's against Ballwin's law. I'm thinking what can we do to make stuff work. They say they can have a display outside for three days. If you have 400 cases of soda sitting out front of your store, after 72 hours goes by, where do you put them? They can't. We are inadvertently restricting them. I'd like to find some way of helping Mr. Harry's Carnival Foods. What can we do to make it work, instead of why it won't work. Can we turn it around and make it a plus for the community? Someone might be infringed upon because I can take the moveable restaurant to someplace. I think we would give the other people the same prerogative. We wouldn't be eliminating it. It seems that having

lost a few more stores since the last meeting, we don't need to lose anymore commercial enterprise in the City of Ballwin. We need to get them back. What can we do to make it a plus to be here instead of trying to throw roadblocks at them? There might be a change in policy. Every dollar that QuikTrip makes selling windshield washer fluid, we get a nickel. Every nickel we get means we don't have to consider a property tax."

Alderman Finley asked, "Would we be able to designate something like this as an annex of the existing building, and that it would have to adhere to the codes, regulations, which that merchant has to deal with, with the business in their existing business space? They would not have to get a separate business license for the annex. This would eliminate any concern of someone driving a trailer around town as a business." City Attorney Jones said, "Yes, we could do that as long as it is tied to another business, they wouldn't have to have a separate business license. It seems like the impact is the trailer itself. We have some fairly significant restrictions on trailers in the commercial and residential districts. Unless we treat it as a trailer, in addition to treating it as an annex to the business, we will run afoul of sections that we have already created. One of the fundamental questions would be, do we want to draw some distinctions for food trucks or trailers. This seems to be a trend in the City of St. Louis and urban areas. Food trucks are a big deal. They are separately licensed. If we want to allow that kind of a business, it needs to be decided if it should be allowed both as annexed to an existing store front, and separately as a food truck. If that can be answered, the rest can fall in line. Assistant City Administrator Aiken has done a lot of research about what is impacted by the use. I can come up with an ordinance. It needs to be decided if you want to allow this and to what extent."

Mayor Pogue said, "Currently, this subject touches on 10 different ordinances in one way or another. I'd like to be able to help the business, but what you have to look at is if we allow a trailer in one commercial district, are we going to have another business along Manchester Road, causing an influx of trailers. That's my concern with allowing trailers in commercial districts. We can't tell one business they can have a trailer and another that they can't have a trailer." Alderman Markland said, "Wouldn't that be a wonderful problem, all of these business flocking to Ballwin to set up shop?" Mayor Pogue said, "Putting a dozen trailers in the commercial district? I'm not sure that's the appearance we want." Alderman Markland said, "I haven't seen it but, we could figure out how to solve that problem. Right now we don't need to run anymore businesses away. It's not a unique trailer. There are other people using this means of cooking and it's permissible at other locations." Mayor Pogue said, "I have yet to see one in St. Louis County. I'm surprised in the last two months you haven't had a chance to go see this knowing this is would be on the agenda." Alderman Markland said, "No, I haven't gone over there to look at it. I don't feel that I need to."

Alderman Terbrock said, "I would like to figure this out for them. There's a parking area behind the building and there are issues with carrying the food up the stairs into the location. I don't want to make it difficult for them to operate, but I don't want to set a precedent, and what businesses would flock to Ballwin since they could have trailers parked in the parking lot. About allowing businesses to store product outside on the sidewalks of their place of business, I'm not much for that because the sidewalks are limited and a passageway for the whole shopping center. I don't think Ultimate Electronics and Borders would still be here if they were able to keep books and televisions outside on the sidewalk. I don't think a little gym would be operating gymnastics on the sidewalk. On a code enforcement issue, what is the reason for not allowing this?"

Assistant City Administrator Aiken said, "This was the standard when I came to work here, so, I'm not sure what the origin of this regulation is. Perhaps the Board of Aldermen felt that having merchandise stored on the sidewalk becomes a permanent practice. It won't be there every once in a while, it will be there all the time. The sidewalks are limited in width causing a potential to push people into the parking lot if they get overly generous with the displays on the sidewalk. It wasn't considered to be very attractive. I think the feeling was it gave a junky look, if not policed well. There are a few types of business that are allowed to do this by a Special Use Exception such as the outdoor storage, sale and display of gardening supplies, such as Sears and Lowe's. This is the only Special Exception that can be issued in Ballwin. Anybody else that may be doing this today is not doing so legally. Businesses have

been cited over the years and understand that this is something that Ballwin doesn't allow. If the Board feels that it's an inappropriate thing to do, it's a matter of making the change and not telling people they can't do it anymore."

Alderman Terbrock asked about theft of the outdoor storage items. Police Chief Schicker said, "We have always had that situation after closing, things disappear."

Alderman Fleming said, "Changing the way we've been doing things without more closely examining this, based on one request because it's inconvenient for them, is an over-reaction on our part, unless we want to re-think how we do everything. There was a request last year for a business to put up a sandwich board on the sidewalk. We kept telling her to take it down. These are the same rules that everybody plays by. This is an isolated request because it's less convenient to have the trailer in back instead of in front."

Assistant City Administrator Aiken said, "Except in a loading zone, you're not allowed to permanently park a commercial vehicle in a commercial district. A trailer is classified as a commercial vehicle." Alderman Fleming asked if it could be parked behind the front edge of the building. Assistant City Administrator Aiken said the code does not provide for that. The trailer is illegally parked. We've been letting it stay there until the Board makes a decision. It's not legal to permanently park a trailer or any kind of commercial vehicle on the site. Alderman Fleming asked if there's anyplace he can legally park the trailer. Assistant City Administrator Aiken said not unless he has a garage. This is for any size or kind of trailer. Some trucks can be small enough to park if it falls below the threshold of 22 feet. The trailer can't be parked in the back and be legal. The code would have to be changed in order to make the trailer legal to be kept on the site.

Alderman McDermott said, "The trailer has been observed as a violation, we're letting it go until we come up with a conclusion. If the business owner had more square footage inside, would he be able to completely run his business inside? Is that why he's using the trailer?" Assistant City Administrator Aiken said he doesn't know. This is a specially equipped trailer for cooking barbeque.

Alderman Finley asked if there is a concern that the trailer will be moving up and down Manchester Road? Mayor Pogue said the concern is the placement of multiple trailers. Alderman McDermott said that if the trailer was the size of the AT&T truck, there would be no problem. The trailer in question is about a 30-foot trailer.

Alderman Terbrock asked, "If he got the property owner's approval to move the trailer to the back and make it immobile, would that be acceptable?" Assistant City Administrator Aiken said this would be a shed, which would need a proper footing. It's probably better to have a trailer look like a functioning trailer than for it to look like a derelict trailer. They can put a shed on the property, which would be an accessory structure, get a permit, and it would be legal. It's because it's a trailer that makes it a code violation. If the trailer was parked inside a garage, it would be legal.

Alderman Markland said an effort should be made to find a way to make this happen. Alderman Leahy said that we don't want to have 20 trailers along Manchester Road. We should also show some flexibility to relocate the trailer in the back, even though they have to walk up a flight of stairs. This trailer is about a \$30,000 trailer, but the next requested trailer may not be that nice. He said that's where we don't want to go.

Alderman Terbrock asked what would be involved and impacted if we allow trailers in the rear? Assistant City Administrator Aiken said that we can't differentiate between a nice looking trailer and an ugly trailer. If the code is changed to allow trailers, it will be okay for anything that's a legal trailer. In this particular location, there's a house immediately adjacent to the property. If a lot of barbecue smoke is coming out of the trailer, the residential property owner may not like that.

Alderman Terbrock asked, "Would we get into any legal situation if we make it legal to park trailers in the rear, but they have to be able to do certain things?" City Attorney Jones said, "Potentially. If you are trying to differentiate between trailers that are used as an accessory to another business use parked on that same property, as we define property, and make it behind the building line, you're less likely to run into some kind of inconsistency. If it's enclosed, it would help, but there's still potential for someone to challenge that there is a 24-foot trailer in a commercial district. An ordinance can be drafted in a way that can be tied into an existing use on the same premises, making it an accessory like in a residential area." Mayor Pogue said that he would like to be shown proof from the property owner allowing them to have the trailer on the property.

City Attorney Jones asked if this would be under one business license. Alderman Terbrock said this would keep the trailer on that one site. Assistant City Administrator Aiken asked how many trailers per business should be allowed? Alderman Terbrock said if they want more than one, they need to get a bigger space. Assistant City Administrator Aiken said that some plazas don't have a back yard.

City Administrator Kuntz said he believes there has been enough information provided so that a draft ordinance can be prepared.

**Hot Mix Asphalt and Construction Debris:** City Administrator Kuntz said this item and Construction Debris are inter-related. He said that City Engineer Kramer combined the quantities for a combination price for the hot mix disposal and broken concrete into one bid package, which was not originally intended. Since there was so much difficulty receiving proposals, we are asking to reject the Peerless proposal, and to award the combined contract to Simpson Construction Materials, who submitted the lowest combined price for all issues.

Alderman Markland said, "This is the kind of thinking that we were talking about regarding budget preparation. This is outside the box. I like it." Alderman Terbrock asked, "Was that a compliment?" Alderman Markland said, "Yes, that is a compliment, in case there is any question about what I was saying. It is a compliment."

*A motion was made* by Alderman Terbrock and seconded by Alderman McDermott to reject the Peerless proposal for construction debris. A voice vote was taken with a unanimous affirmative result and the motion passed.

*A motion was made* by Alderman McDermott and seconded by Alderman Terbrock to approve the agreement with Simpson Construction Materials, as recommended by staff. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Crushed Rock:** City Administrator Kuntz said this has to do with alternative proposals. City Engineer Kramer is recommending that the contract be awarded to Fred Weber, Inc., who submitted a unit price of \$9.25 per ton. This was not the lowest but was the only responsible bid. City Engineer Kramer said that the other bid had to be rejected because, by their own admission, left the hauling charge that was required in the specifications, out of their bid. As a result, he withdrew his bid.

*A motion was made* by Alderman Boerner and seconded by Alderman Fleming to award the contract to Fred Weber, Inc., without the alternate. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **STAFF REPORTS**

City Administrator Kuntz said, "Earlier this evening the Board directed staff to defer the departmental year-end activity reports to the next Board meeting. We have the financial reports for not only the 2010

financial condition, but also provided information on the first quarter financial analysis, and Finance Officer Loehr is here. If you have any questions about any of this, and I know that Alderman Boerner was particularly interested in the quarterly reports. We have been attempting to be sensitive to this. I hope this is in line with what your expectations were, Alderman Boerner. Before we get to the first quarter, I want to mention to the Board that Ballwin ended 2010 in good financial condition. Not only was it not necessary to apply the reserve funds that were originally authorized for balance of budget, we did not use any of those dollars, and we actually are supplementing the reserve fund balance by \$300,000 at year end, based on the auditors' report. That is good news. A comment was made earlier regarding the recent business closures. We have three stores and one potential closing. The one is being re-developed, as an approved re-development project. For the last three to four years, at all of these locations, the sales had been declining on a significant basis. We are actually looking at a gross annual impact of about \$215,000. You won't see that in 2011 because they did operate through the first quarter. As I mentioned in my report, I can't give too much of a total impact projection for 2011 because it's early and we only have one quarter under our belt. Of that \$215,000, there will be some offset for what was approved, for example at the Rothman site as soon as it opens. The corridor is in a state of flux and we are doing all we can and continue to work very closely with the owners of Olde Towne Plaza to find someone to move into the Ultimate Electronics space. This closing was a corporate decision. There was nothing that specifically reflected on Ballwin. The same is true of Borders. I just found out that not too long ago, the Ultimate Electronics store that closed in the first wave of bankruptcy in Brentwood has finally been leased to one of the pet stores chains. It's about a \$215,000 shortfall. I don't want to minimize the first quarter or all the work that Finance Officer Loehr put into providing you with the highlights. If there are any questions, I'd like to defer to Ms. Loehr to address those."

**Financial Reports:** Finance Officer Loehr presented a brief overview of the 2009 – 2010 Financial Highlights. She said the 2010 revenues ended up about 2% over 2009. The expenses were less than 1% difference. The net was a gain of \$300,000. It is anticipated to have about \$9.9 million unreserved fund balance at the end of the year. Sales tax was about 1% over 2009. Utility revenues were up 5% and are economically driven. Cable franchise fees were up 13%. Business license fees were down because a lot are based on retail sales. Contractor's licenses were up. Motor fuel taxes were up. The County road taxes were down 2%. They are based on assessed valuation, which went down in 2010. Inspections and permits were up 24% over 2009 due the addition of electrical permits. The golf course was down 6%, most likely due to the hot weather. The North Pointe was up for the same weather related reason. We gained in the cash investments at the end of the year, and only spent about 93% of the budget. This is the reason for the increase in the fund balance.

Alderman Terbrock asked, "On the 2010 financial highlights, it says the County road tax is down about 2% based on evaluation, and from 2011 is down about 8%. What does that mean?" Finance Officer Loehr said, "The County tax is shared with municipalities on the basis of assessed valuation. Some evaluations went up and some dropped. Overall the evaluations in Ballwin dropped from 2009 to 2010." City Administrator Kuntz said, "Every year we get a combined statement of consolidated assessed evaluation, even though we don't levy a property tax. Most of the other cities had to levy their tax, certify their tax, by the last couple of weeks. That is based on new permits and all of the factors, that go into setting commercial as well as residential values. Part of the tax reform, as the stock gets older and values aren't climbing, you will see a little impact. We have no way of auditing it, no way of knowing if it's a good number; we get a check and that's what comes from accounting." Alderman Terbrock said, "They give us less, they take more, and the values are down."

Alderman Terbrock asked, "The Golf Course Clubhouse revenues are down 6%. Was that due to anything other than the economy being down, it was hot, and not buying as much?" Director of Parks & Recreation Bruer said, "For the first 3 months last year, we didn't have any rentals because of renovating the facility."

Alderman Boerner requested that the last five pages of the report be moved to the front. Alderman Boerner said, "If you look at the total expenses for the first three months of 2011, it's \$600,000 less than

the expenses for the first three months of 2010. There is an increase in cash of roughly \$700,000 when you compare in the general fund 2011 – 2010. Do we truly have \$600,000 less in expenses this year compared to last year in terms of outgoing? What is the reason for this? Is this an expectation?” Finance Officer Loehr said, “We bought the front end loader in the first three months of last year, which was approximately \$118,000, and we didn’t have that this year.” Alderman Boerner said, “\$600,000 difference is significant.” Finance Officer Loehr said, “We do this on the cash basis.” Alderman Boerner said, “This ties directly into your report”. City Administrator Kuntz said, “It’s an easy switch and we can easily do that next quarter.” Alderman Boerner explained the page order that he would like to see used in report. Finance Officer Loehr said, “We also bought police cars in the first quarter of last year. We haven’t done that yet in 2011.” City Administrator Kuntz said, “The best way to handle this is that we will get back with you on this, Alderman Boerner. Your point is well taken, it’s a big number and we can add a notation on this. We’ll make sure we get you the right information and get back with you on this.”

**Department Reports:** Next meeting.

### **CITY ATTORNEY’S REPORT**

**Legal Issues and Updates:** City Attorney Jones said, “Tomorrow morning at 9:00 a.m., in the Adams vs. Vergonza sewer lateral case, arguments will take place in the Missouri District Court of Appeals. John Hessel, Kirkwood City Attorney, is going to provide about half of the argument on behalf of the municipalities. There will also be a representative from the St. Louis County Counselor’s office providing the remainder of the argument. I’m not going to attend. My partner, Stephanie Carr, will be there to review and offer a report. There’s no reason to double up since there are many cities involved. We agreed to participate with the none other cities and split the time. There’s no reason to have two attorneys present.”

**Clayton Corners:** City Attorney Jones said, “I have a completion and settlement agreement, which was presented today. We’re sort of back to what we tried to do in September, 2010, which is that the bonding company is willing to release the amount of money necessary to complete the curbs and gutters and overlay the street, if the city in turn will agree to reduce the penal sum of the bond by the same amount. This will be a two-stage settlement with the bonding company. We’ll get the most important work done first, and then negotiate with them for the second stage to see what we can do with the remainder of the \$70,000 that’s in the bond.” City Administrator Kuntz said, “These are minor items such as landscaping and things of that nature. You have always said that streets are at the top of the list. We are finally going to get the street taken care of.” City Attorney Jones said, “There are some things that I don’t think the bonding company is going to agree to pay, such as sidewalks that were poured improperly without the right mix of Meramec River gravel. That’s an issue that they’re arguing over, so what we try to do is carve out the most important part. If this can be approved, they say the work can be done by May 13. If you are so inclined, I’d like to have a motion to allow the City Administrator to sign a Completion and Settlement Agreement.”

**A motion was made** by Alderman Leahy and seconded by Alderman Fleming to authorize City Administrator Kuntz to sign the Completion and Settlement Agreement as described by City Attorney Jones. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Candidate verification:** **A motion was made** by Alderman Fleming and seconded by Alderman Boerner for the City Attorney to review, research, and recommend any needed changes to our candidate verification process for future municipal elections. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **ALDERMANIC COMMENTS**

**Mosquito Control:** Alderman Terbrock said, “There have been questions about mosquito control. Mayor Pogue and I were at the Fox Creek Subdivision meeting on Saturday, and the question was raised about what we are doing this year because they felt there was little to none done last year. For this year, we approved using the County again for mosquito control. I also agreed with the residents that the situation was worse last summer. Are we locked in on the contract? I received a call one day after the meeting and from residents on the south side of town, that Fishpot Creek and the creek running through the golf course that has an effect on Ward 1 greater than other areas. My advice to them was that if this is the plan that we’re going with, it didn’t seem that there were a lot of complaints last year, and they should call to complain so that it is documented. I don’t want the residents to have to deal with this all this year if we can possibly make them do the process different and make them to be pro-active.”

City Engineer Kramer said, “I don’t think we can make them do anything different related to fogging. They told me at the end of last year when I was preparing the budget for this year, how much we spent, and we should increase our budget because they intend to do more larvaciding, in other words, get them before they are hatched. This will step up the process a lot. There will be a higher bill this year because of the increase in larvaciding. There is a cancellation clause in the agreement with a 30-day written notice.” Alderman Terbrock asked, “What would be the implications if we took it back over?” City Engineer Kramer said, “We’d have to take a person doing street repairs off the street to driving at night. We still have the fogger. We’d have to buy chemicals and make sure the employee keeps the State license current.” City Administrator Kuntz said, “That is my compromise to you to propose, that we evaluate it, don’t cancel the County contract. If that constituent level of concern is there, it needs to come back to this Board with a recommendation that we supplement it with our own spray. We’re doing something different than they did. They are approaching it differently.” City Engineer Kramer said, “I asked for a record or log on complaints to know the locations of the calls. They said they would give me a report. Only time will tell if there is improvement over last year.” Alderman Terbrock said, “I will try to notify everyone I can that rather than only calling the County, they should call us as well.” City Administrator Kuntz said, “We can have a mosquito hotline section on the website.” Alderman Terbrock said, “I think there was a far greater problem than I realized when we were discussing this the last time. I halfway feel bad for letting it go with as little battle as I did, considering what I have heard in the last three weeks. It doesn’t seem to be concentrated in one area; it’s all across the board from all of my travels from north to the south. This is a fair plan, but I don’t want to double spend on it either.” City Administrator Kuntz said, “I don’t want to arbitrarily cancel either, and then a year later, we ask for another contract.” Mayor Pogue said, “We can put this in the next newsletter that comes out in July, which will be the height of the mosquito season.”

**Tree Trimming:** Alderman Terbrock said, “Someone brought to his attention that the tree trimming that was done in Fox Creek, that some of the trucks were from Nebraska. The point was raised why are we paying someone from out of state to trim our trees.” Director of Parks & Recreation Bruer said, “The contractor is from Columbia, Missouri.” Alderman Terbrock asked, “Are we locked into the grant that we had to use them.” Director of Parks & Recreation Bruer said, “No. We bid it out and they were the low bid.” City Administrator Kuntz said, “These are sub-contractors. Ameren did the same thing when we had the storm outages. We contract locally.” Alderman Terbrock asked, “When we put out bid specs, can we say sub-contractors cannot be from out of state?” City Attorney Jones said, “Yes. We can require that the sub-contracted labor be Missouri labor. We will have to make sure we police it somehow.” Alderman Terbrock asked, “By policing it, would it be as simple as they would have to submit who they would be sub-contracting to and we could drive around and look at the trucks?” City Attorney Jones said this could be required. Alderman Markland said, “It doesn’t keep the employee from living in Nebraska.”

**Storm water projects:** Alderman Fleming said, “I attended a subdivision meeting recently and someone from Metropolitan Sewer District was there. They reinforced again that for storm water projects, they have zero money now. He said in normal times, this is similar to street problems, wherein they would like to have a budget of about \$85,000,000 to deal with storm water issues. When times are good and they have money, they have about \$25,000,000. Don’t expect any money for storm water projects.”

**Recognition:** Alderman Fleming thanked the election winners from the previous week. He thanked Pat McDermott for his service on the Board. He stepped in at a time when an Alderman abruptly resigned in the middle of the budget process and what is typically a very busy time of year. He was the perfect person to do this with his experience and city background to be able to make a positive contribution and make sure his ward had two votes and was equally represented.

**QuikTrip Outdoor Display:** Alderman Markland said, “Going back to my QuikTrip visit today, is there a way for us to look into what the problems might be with allowing the QuikTrip up here the same rights and privileges that every other one that I’ve been in have? I understand that there’s safety concerns and sidewalk space, etc. As I was driving, I passed a restaurant with tables outside. Look at a car dealership. They have all the merchandise they sell in front of the building. Why should a car dealership be able to put cars in front of the building when QuikTrip can’t put windshield washer fluid in front of their building? As long as you abide by whatever the code says for passageway for the customers, it would seem that this should be the requirement, not something that maybe 15 years ago was established. It might have been a good idea then, but this is today. There’s going to be things that are different today then they were 15 years ago. I would hate to see when we open the gas station at the corner that they feel that they cannot make as much money as they would like to and close down and move on. Lowe’s might be in the same position.” City Administrator Kuntz said that Lowe’s has a Special Use Exception, but he sees the point.

*A motion was made* by Alderman Markland and seconded by Alderman Fleming to research our policies on items such as the QuikTrip and see if they are still relevant today, and get a report back. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Mosquito Control:** Alderman Finley said, “The County offers a scientific approach to the issue with the traps and larva instead of just driving around with a machine. I’m hoping for the best with that, especially being a parent of someone who has a pretty strong reaction to bites.”

**Prosecuting Attorney:** Alderman Finley said, “Former Alderman Robinson brought up the issue of experience for the prosecutorial positions. I want everyone to keep in mind that when we are considering municipal prosecutorial experience, it doesn’t have to be someone who has been a prosecutor somewhere else because someone can be a good prosecutor if they have 10 years as a practitioner. That person would be more qualified than someone who has one year of experience as a prosecutor in another municipality.”

Alderman Terbrock said, “I have had some lengthy discussions with former Alderman Robinson about this issue of not necessarily looking at the municipal experience or the prosecutorial experience. There seems to be, from Mr. Robinson’s point of view, a perspective of someone who is a prosecutor vs. someone who is not, they both look at the whole picture completely differently. It’s his feeling that prosecutors operate in one way. The municipal court is not a court of great impact. It’s a revenue generator. A lot of times the prosecutorial mind bogs that whole system down to where someone who does not have prosecutorial experience comes at it from a different way. It’s a different philosophy that some will agree with and some will not. I don’t know which way to go, but that’s one of his points.”

Mayor Pogue asked the Board if we are still looking for absolute municipal experience or is the Board open to not necessarily having five years of municipal experience as either a prosecutor, public defender, or a municipal judge.

Alderman Markland said, “You passed out a matrix and one of the columns was municipal experience. Will it be one year, five years; I think that’s appropriate.”

Alderman Boerner said, “The people I talked to that are prosecutors for a city, said that it is important to have some prosecutorial experience because the municipality is different. One of the things is to minimize the number of cases that are certified and to move the cases through the system, and to know

how to move them through the system, and move them in an expedited manner. That's the feedback that I've received. I think it is important to have prosecutorial experience."

Mayor Pogue asked, "Are you looking solely for prosecutorial experience?" Alderman Boerner said, "Yes. That would be my preference for sure."

Mayor Pogue said, "There are approximately 66 applicants for the position. Approximately 12 applicants show no experience as a prosecutor." Alderman Finley said, "I don't think we should penalize someone if they have not been a prosecutor in the past. If someone has not been a prosecutor before, perhaps that individual would be the most motivated than anyone with experience, if this is their first shot at the job. I don't want us to exclude someone who has never been a prosecutor before."

Alderman Markland said, "We want someone who can walk into the court that knows what they are doing and has years of experience doing this. I would prefer that person, vs. a prosecutor, who has worked only in front of Grand Juries. There's no comparison. If you were going to be looking for a prosecutor for a Grand Jury, you wouldn't hire the person who worked as a municipal attorney. You're making a blind matrix." Mayor Pogue said, "These are all of the potential items that I will be looking at." Alderman Markland said, "I would tend to find someone that when you looked at all of their aspects, and they had a good level of experience, whatever that is, that's how you will make a decision."

Alderman McDermott asked, "Of the 12 applicants that don't have 5 years experience as a prosecutor, how many had more than 10 years experience? I'm understanding Mayor Pogue's position that if someone has been in that field for 20 years, but have zero prosecuting experience, they may outweigh the person who has five years experience as a prosecutor." Mayor Pogue said he would have to check.

Alderman Terbrock said, "It's my opinion to draw from each one of these groups of attorneys, to see what everyone felt would make the best prosecutor." City Attorney Jones said, "The categories are municipal experience, years of relevant experience, trial practice, area practice, Martin Dale Hubble rating; you can't have a lawyer with an AB Martin Dale Hubble rating that's been in practice for less than 10 years. If you are looking for the top applicants with the top AB or AB premier, you're only going to get that from someone who has been in for 10 years. These areas will provide the pool of candidates you're looking for. They are all relative to prosecutorial function, as they were to the judge and city attorney. How much weight to be given to these items is difficult to determine."

Alderman Boerner said, "If we are going to pay someone potentially \$80,000 per year for 500 – 700 hours of work, then I think we deserve to have someone who has municipal experience. You wouldn't hire somebody that pays that much that would not have that kind of experience. If they have successfully demonstrated that they can keep the number of certified cases and move them through the system, I think those people should be given preference. This is a \$2,200 per month job, and there's a lot more that they earn than \$2,200 per month."

Alderman Finley said he doesn't want the selection process held up when he is absent from an upcoming Board meeting. Alderman Terbrock said that he wants to see the process even though he will be absent from the next meeting on a business trip.

Mayor Pogue said, "The three candidates will be presented to the Board on May 9, and answer questions. The following meeting will be the selection." City Attorney Jones said, "We will need to amend the ordinance because the schedule is in an ordinance."

**A motion was made** by Alderman Fleming and seconded by Alderman Finley to amend the time frame for selection of the Prosecutor to the first Board meeting in June, which is June 13. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Adjourn:** A motion was made by Alderman Fleming and seconded by Alderman Terbrock to adjourn. The motion passed unanimously and the meeting was adjourned at 9:51 p.m.

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TIM POGUE, MAYOR

ATTEST:

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ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

**April 11, 2011**