



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

January 12, 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 7:04 p.m.

PRESENT

ABSENT

MAYOR TIM POGUE
ALDERMAN JIMMY TERBROCK
ALDERMAN MICHAEL FINLEY
ALDERMAN FRANK FLEMING
ALDERMAN JIM LEAHY
ALDERMAN KATHY KERLAGON
ALDERMAN MIKE BOLAND
CITY ADMINISTRATOR ROBERT KUNTZ
CITY ATTORNEY ROBERT E. JONES

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *December 8, 2014 Board of Aldermen meeting* were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Boland to approve the Minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

PRESENTATION

None.

PENDING ISSUES

None.

CITIZEN COMMENTS

None.

PUBLIC HEARINGS

None.

NEW BUSINESS

LEGISLATION

BILL # 3859 - AN ORDINANCE APPROVING THE FINAL PSD DEVELOPMENT PLAN FOR WESTGLEN COURT SUBDIVISION.

A motion was made by Alderman Boland and seconded by Alderman Fleming for a first reading of Bill No. 3859. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3859 was read for the first time.

Alderman Finley asked about the recommendations in the staff report. Assistant City Administrator Aiken said that the recommendations were for additional landscaping in the rear of a couple of lots.

A motion was made by Alderman Kerlagon and seconded by Alderman Boland for a second reading of Bill No. 3859. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3859 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3859 with the following results: Ayes – Kerlagon, Leahy, Fleming, Finley, Terbrock, Boland. Nays – None. Bill No. 3859 was approved and became **Ordinance No. 15-01**.

BILL # 3860 - AN ORDINANCE APPROVING A ZONING CHANGE FROM R-1 SINGLE FAMILY TO PSD PLANNED SINGLE FAMILY DWELLING DISTRICT FOR 214 AND 216 RIES ROAD.

A motion was made by Alderman Terbrock and seconded by Alderman Boland for a first reading of Bill No. 3860. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3860 was read for the first time.

Alderman Boland asked about Planning & Zoning recommendations. The garages were not to exceed 50% of the building frontage. City Attorney Jones said that was the only item in his notes. Assistant City Administrator Aiken said that it has to go back to Planning & Zoning for final approval. There will be another review to be sure everything has been addressed.

A motion was made by Alderman Finley and seconded by Alderman Fleming for a second reading of Bill No. 3860. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3860 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3860 with the following results: Ayes – Finley, Terbrock, Boland, Kerlagon, Fleming, Leahy. Nays – None. Bill No. 3860 was approved and became **Ordinance No. 15-02**.

BILL # 3861 - AN ORDINANCE PROVIDING FOR THE APPROVAL OF A SUBDIVISION PLAT FOR ESSEN ESTATES SUBDIVISION, AS PROVIDED IN CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN, MISSOURI.

A motion was made by Alderman Leahy and seconded by Alderman Boland for a first reading of Bill No. 3861. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3861 was read for the first time.

A motion was made by Alderman Leahy and seconded by Alderman Terbrock for a second reading of Bill No. 3861. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3861 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3861 with the following results: Ayes – Leahy, Fleming, Finley, Kerlagon, Terbrock, Boland. Nays – None. Bill No. 3861 was approved and became **Ordinance No. 15-03**.

BILL # 3862 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO PREMIER AUTO SERVICE FOR FRONT YARD PARKING AND OPERATION OF AN AUTOMOBILE AND MOTOR VEHICLE SERVICE BUSINESS AT 14925 MANCHESTER ROAD.

A motion was made by Alderman Kerlagon and seconded by Alderman Boland for a first reading of Bill No. 3862. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3862 was read for the first time.

Alderman Boland asked about the cross easement access issue, due to different elevation from one property to another. City Attorney Jones said that this is addressed in sub paragraph 14 of the Exhibit. It was determined that this was not needed regarding this site, and is waived.

A motion was made by Alderman Boland and seconded by Alderman Leahy for a second reading of Bill No. 3862. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3862 was read for the second time.

Findings: A vote in favor of the bill finds that the Petition, as submitted, would not substantially increase traffic hazards or congestion; would not adversely affect the character of the neighborhood; would not adversely affect the general welfare of the community; would not over-tax public utilities; would not adversely affect public safety and health; is consistent with good planning practice; can be operated in a manner that is not detrimental to the permitted developments and uses in the District; and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area. A vote against the bill means that one or more of these findings is absent.

A roll call was taken for passage and approval of Bill No. 3862 with the following results: Ayes – Leahy, Fleming, Boland, Kerlagon, Terbrock, Finley. Nays – None. Bill No. 3862 was approved and became **Ordinance No. 15-04**.

BILL # 3863 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BALLWIN WITH REGARD TO FLOODPLAIN MANAGEMENT.

A motion was made by Alderman Leahy and seconded by Alderman Fleming for a first reading of Bill No. 3863. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3863 was read for the first time.

Alderman Finley said that there are references back to sections which are not in this bill. He suggested amending Sections A, B, etc. to correspond to the new section numbers. City Attorney Jones said Section 10.1 is Section A. Section 10.2 is Section B, etc. He said that he did not change the form that was received from FEMA to correspond with the Section numbers in the Ballwin ordinances. The first section in Article 2 is 10.21, which is Section A in the specimen ordinance that was sent by FEMA.

City Attorney Jones said that an amendment to change those items can be done. The substantive provisions could not be changed in the specimen ordinance.

A motion was made by Alderman Finley and seconded by Alderman Fleming to amend Bill 3863 to correspond to the new section and article numbers. A voice vote was taken with a unanimous affirmative result and the motion passed.

A motion was made by Alderman Finley and seconded by Alderman Leahy for a second reading of Bill No. 3863. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3863 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3863 with the following results: Ayes – Fleming, Boland, Leahy, Kerlagon, Terbrock, Finley. Nays – None. Bill No. 3863 was approved and became **Ordinance No. 15-05**.

BILL # 3864 - AN ORDINANCE ACCEPTING SUNSET FOREST COURT FOR PUBLIC MAINTENANCE, AS PROVIDED FOR IN THE CODE OF ORDINANCES OF THE CITY OF BALLWIN.

A motion was made by Alderman Boland and seconded by Alderman Fleming for a first reading of Bill No. 3864. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3864 was read for the first time.

A motion was made by Alderman Leahy and seconded by Alderman Boland for a second reading of Bill No. 3864. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3864 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3864 with the following results: Ayes – Leahy, Boland, Kerlagon, Terbrock, Finley, Fleming. Nays – None. Bill No. 3864 was approved and became **Ordinance No. 15-06**.

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. Check Signatories
- B. Year-End Financials
- C. Street Tree Inventory
- D. Police Surplus Vehicles

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

MAYOR'S REPORT

Ward 2 Vacancies: Mayor Pogue said in November and December, he met with former Aldermen Harder and Dogan to discuss replacements to fill their vacancies until the April 7, 2015 election.

Mayor Pogue recommended that Mark Stallmann and John Schwent be appointed to fill the openings until the April election. Mr. Stallmann and Mr. Schwent explained their past experience and background that are beneficial to these positions on the Board.

A motion was made by Alderman Fleming and seconded by Alderman Leahy to appoint Mark Stallmann to fill former Alderman Mark Harder's term of office until the April, 2015 election. 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 Leahy to appoint John Schwent to fill the remainder of former Alderman Shamed Dogan's term of office until the April, 2015 election. A voice vote was taken with a unanimous affirmative result and the motion passed.

Planning & Zoning Appointment: Mayor Pogue recommended that Chad Silker be appointed to fill the position of John Schwent on the Planning & Zoning Commission.

A motion was made by Alderman Fleming and seconded by Alderman Kerlagon to appoint Chad Silker to the Planning & Zoning Commission. A voice vote was taken with a unanimous affirmative result and the motion passed.

Ballwin Days Co-Chairman: Mayor Pogue recommended that Darryl Holman be re-appointed to the Ballwin Days Committee as Co-Chairman for another 3-year term.

A motion was made by Alderman Fleming and seconded by Alderman Boland to re-appoint Darryl Holman for another term as Co-Chairman of the Ballwin Days Committee.

Ameren Public Hearing: Mayor Pogue said that last week, he testified in the Ameren Rate Case Public Hearing, as an individual Ballwin resident, not as a representative of the City of Ballwin. The July, 2013 report was discussed regarding the Ameren experiment with the conversion of the street lights on Holloway Road, to LED. His recommendation was that they do not adjust any of the 5M or 6M tariff rates until Ameren has developed a schedule for LED lights in the tariffs. In the Ameren report, it says that they were working on tariff schedules for those conversions to LED, but after 1½ years, they still have not produced any rate schedule. He said that Ameren admitted that 24% of the lights would make common sense to convert to LEDs and run more efficiently. They have not proceeded to that as well.

Mechanical Licensing: Mayor Pogue asked the Board to authorize City Attorney Jones to draft legislation regarding Mechanical Licensing. He said that when mechanical work is being done in Ballwin, such as HVAC, plumbing, etc., the person doing the work is not required to be licensed through St. Louis County. The person pulling the permit must have a Master Permit. St. Louis County requires that all work being done on these systems are required to have a St. Louis County Mechanical License for whatever respective field that they are working in. He said that this will help the Ballwin inspectors by preventing second inspections. When the work is not done to code, our inspectors have to go back to do a second inspection. Usually, there is no charge for a second inspection.

Alderman Boland asked if this licensing is required in other municipalities. Mayor Pogue said that Ellisville has the requirement for anyone doing work on plumbing, HVAC systems, fire sprinklers, etc., to have a St. Louis County Mechanical License, as well as a Master in that trade, to pull the permit.

Mayor Pogue said that Ballwin currently does not require the person doing the work to hold that license, just the person pulling the permit. City Administrator Kuntz said that this stricter accountability, will require that a licensed plumber be doing the work. The appropriate licenses will be provided by the individual pulling the permit.

Mayor Pogue said that there are advertisements online requesting someone to pull a permit, but the person doing the work is not properly licensed. The person pulling the permit is paid a fee for obtaining the permit for someone unlicensed to do the work.

A motion was made by Alderman Terbrock and seconded by Alderman Fleming to authorize City Attorney Jones to draft legislation for consideration regarding Mechanical Licensing. A voice vote was taken with a unanimous affirmative result and the motion passed.

CITY ADMINISTRATOR'S REPORT

Sewer Lateral Insurance Program: City Administrator Kuntz recommended that this legislation has been drafted to define the difference between maintenance and an eligible repair.

Alderman Boland said that some realtors are putting this into sales contracts. City Attorney Jones said that Section 21-8 already exists. The language added is in sub section (a)1a defines a failure. In Section (a)2a, it indicates what has to be done in order to be eligible for funding under the program. Sub-section e says that the presence of roots or vines does not constitute a failure, if there is no history of blockages.

Alderman Terbrock asked who will make the decision on the cause of the break in the sewer lateral? City Administrator Kuntz said that the purpose of the program is to provide relief, not reasons for rejection. A video will provide the required information. Videos are reviewed by the Code Compliance Supervisor who manages this program.

A motion was made by Alderman Terbrock and seconded by Alderman Fleming to authorize City Attorney Jones to draft legislation for consideration regarding the Sewer Lateral Insurance Program. A voice vote was taken with a unanimous affirmative result and the motion passed.

Olde Towne TIF: City Administrator Kuntz said that this is ongoing. He and Finance Officer Keller are looking at all options and monitoring the process. This is the only long-term debt that Ballwin has. He will update the Board.

Alderman Boland asked about the 2022 maturity. Will this be a balloon payment at the end? City Administrator Kuntz said when it was written, payments were set, assuming sustained and growing business. Higher coupon bonds are being considered in the 4% – 5% range as opposed to 2%. He said Ballwin did not sell the bonds, therefore it's not Ballwin's debt to refinance. City Administrator Kuntz said that a major issue with the financing issue has been the success of the owners in property tax protests. Ballwin has no ability to challenge protests. City Attorney Jones said that Chapter 137 only allows a property owner to go to the Board of Equalization and to the State Tax Commission. A tenant doesn't even have standing in this situation. Many tenants insist on putting a provision in a lease that requires the owner or landlord to appeal a tax where the assessment is raised, 5% or 10% as a triggering mechanism. Standing is difficult to achieve and is only for a property owner.

STAFF REPORTS

None.

CITY ATTORNEY'S REPORT

Legal Issues: City Attorney Jones spoke about the lawsuit that was filed by the City of Chesterfield, challenging the constitutionality of the sales tax distribution method, which is used in St. Louis County. The "A" cities are point-of-sale cities, and "B" cities are in pools that shares according to population. He said that Chesterfield is relying upon a couple of constitutional provisions against special laws. One creates offices, prescribes powers or duties of officers in the regulation of the affairs of counties, cities, townships, election or school districts.

City Attorney Jones said it's not clear what the effect on Ballwin would be, because Ballwin is a blended city, with areas that receive point-of-sale sales tax because of the local options sales tax that Ballwin adopted in 1970. There are also parts of Ballwin that are in the pool receive pool sales tax funds. If Chesterfield is successful in all respects, knocking out all sections of the statute, presumably it will roll back all of the pool collections and restore all areas of the County to point-of-sale. He said it's almost definite that Ballwin will lose something, but how much is unknown at this time. Since Ballwin is going to be impacted to some extent, Ballwin has been asked to consider intervening in the lawsuit as a plaintiff. City Attorney Jones said he will provide an update at the next Board meeting.

Alderman Fleming asked what will intervening allow Ballwin to do? City Attorney Jones said it will allow participation in the discovery. Whatever documents are produced that show legislative history, and the financial documents that determine what the impact would be will all be provided to Ballwin. This will also allow Ballwin to advance with the court, instead of depending on someone else to do this for us.

ALDERMANIC COMMENTS

None.

Adjourn: A motion was made by Alderman Fleming and seconded by Alderman Boland to adjourn. The motion passed unanimously and the meeting was adjourned at 7:59 p.m.

TIM POGUE, MAYOR

ATTEST:

ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

January 12, 2015