



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

MAY 11, 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 7:01 p.m.

PRESENT

MAYOR TIM POGUE  
ALDERMAN JIMMY TERBROCK (RUNNING LATE)  
ALDERMAN MICHAEL FINLEY  
ALDERMAN MARK STALLMANN  
ALDERMAN KEVIN ROACH  
ALDERMAN FRANK FLEMING  
ALDERMAN JIM LEAHY  
ALDERMAN KATHY KERLAGON  
ALDERMAN ROSS BULLINGTON  
CITY ADMINISTRATOR ROBERT KUNTZ  
CITY ATTORNEY ROBERT E. JONES  
MAYOR TIM POGUE

ABSENT

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *April 27, 2015 Board of Aldermen meeting and closed session* were submitted for Board approval. Alderman Roach wished to make an amendment to his comment under Bill # 3881 and asked that it read as follows, “Alderman Roach said the thickness of the pavement on the street is a concern to the residents and that the city [needs to] be aware of the street’s condition before and after the construction of the subdivision at the end.”

*A motion was made* by Alderman Fleming and seconded by Alderman Leahy to approve the amendment made by Alderman Roach. A voice vote was taken with a unanimous affirmative result and the motion passed.

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

PRESENTATION

2014 Audit Report - Penny Scovill, a representative from the audit company, Hochschild, Bloom & Company LLP, presented the 2014 audit report for the city of Ballwin. The audit report will be submitted to the Government Finance Officers Association for an award. The auditors believed an award may be granted.

The **Financial Section** of the audit report includes a letter from the auditors stating the management’s responsibility and the auditor’s responsibility. Page two gives a clean opinion from the auditor stating, “The financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities...” and that no errors were found which is standard based on previous audit reports.

Page seven shows the **Income and Expense** for the year. The income was stable and shows where additional grants were given and how the sales tax increased this year [2014]. The expenses increased by \$550,000, from parks increases.

Page ten shows a listing of **Capital Assets** which includes building, infrastructure and equipment expenses for the year. It increased from \$58 Million to \$62 Million.

A snapshot of the debt can be seen on page eleven. It increased to \$14.9 Million from \$14.1 Million. This increase includes a capital lease for the geothermal HVAC system for \$2 Million and normal principal payments on other debt. The majority of the debt is from TIF debt – which the city is not obligated to pay and comes from TIF revenue.

Page thirteen and fourteen explains, in more detail, the debt snapshot from page eleven.

Pages fifteen through eighteen are the **Governmental Funds to the Statement of Net Position**. This statement breaks the report down by funds – the general and special allocation capital projects and includes the smaller funds. This report shows the balance sheet for each fund. On page seventeen is the income statement for each fund. The statement does not include the capital assets or debts. The debt service expenditures, when you pay a principal, is shown as an expenditure and the same is true for when you buy capital assets. Reconciliation of revenues is found on page eighteen; this is for governmental funds outlays, capital outlays and debt service.

Starting on page 52, is the **Statistical Section**, this section is new this year. In order to complete a comprehensive annual financial report, it requires ten years of data. This includes a summary of the statement of how much fund balance you have. It also shows revenue trends; it shows the different types of revenue for the last ten years. There is summary on the different utilities taxes the city received, sale taxes, information on personal property taxes – even though the city does not collect property tax, the information shows the assessed value, trends and tax rate of all the various areas. This report compares all the information for the city for the past ten years.

In a separate report for **Federal Awards**, if the city spends more than \$500,000 on federal projects, the city is required to have a single audit done. The opinion from the auditors is that there were no findings. The auditors looked at several of the grant projects, the biggest being the culvert on Holloway which cost \$493,000. In total, \$531,000 was spent in federal money, which is why this audit was completed, to make sure the money was spent properly and everything was documented. This report will have to be filed with the federal government.

Finally, as Ms. Scovill drew her presentation to an end, she discussed that in addition to the audits, a letter for Management was written. The auditor is required to look at internal controls. While doing so, the auditor found a few, non-significant, issues where management could improve some of their controls.

City Administrator Kuntz stated that this is the first year that Ballwin has taken the steps, with thanks to Finance Officer Denise Keller, who did most of the work, for getting a Comprehensive Annual Financial Report (CAFR) and submitting it. It is something that is looked favorably upon by the financial markets. This is something the city will build on every year. It does not have as much tenured data as it would a year from now or thereafter. Each year it will create a better source of the financial condition about the city-- for individuals who want to sit down and analyze our financial condition. Mr. Kuntz is very appreciative and thinks this is a big step for the city of Ballwin.

Ms. Scovill, of Hochschild, Bloom & Company LLP, thanked the staff (Finance Department, Mr. Kuntz and herself) for all the hard work everyone did to get this report completed. She stated that the first year is always the hardest and once the certificate is received, they can roll forward every year since the report is not as difficult complete. She concludes her comment by insisting that this report be read.

## **CITY ADMINISTRATOR – OFF AGENDA ITEM**

City Administrator Kuntz, asks the Mayor if he can speak off agenda for a moment before moving forward with the meeting. Since this will be his final board meeting, he would like to recognize his wife Connie in the back [of the board room]. Mr. Kuntz jokes that she has only been to two or three board meetings during his career and that he truly does go somewhere when he puts a suit on. Mr. Kuntz also recognizes his son, Steven, his daughter-in-law, Yuka and his grandson Anjin. He thanks them all for coming and putting up with him.

Mayor Pogue comments what an honor it has been to work with Mr. Kuntz for the last 11 years that he has served on the Board. Mr. Kuntz has taught him a lot. Mayor Pogue has seen a level of respect for Mr. Kuntz, not just in the region but by the state, as they have gone to different conferences. It seemed like everyone knows who Mr. Kuntz is. It's been great and Mayor Pogue hates to see him go, it has been a pleasure working with him and Mayor Pogue is going to be missing him around here.

## **PENDING ISSUES**

### LEGISLATION

#### **BILL # 3880 - AN ORDINANCE ADOPTING A MANCHESTER ROAD REVITALIZATION OVERLAY DISTRICT FOR CERTAIN LAND COMMONLY KNOWN AS 15505 MANCHESTER ROAD IN THE CITY OF BALLWIN AND CURRENTLY ZONED C-1 COMMERCIAL**

The first reading was previously read during the April 27 Board of Aldermen meeting.

A representative of the petitioner was present. Mayor Pogue asks for the information that was missing from the last meeting --Revised site plan with traffic study. A copy of the revised site plan was given to the board member.

Brandon Harp, of CEDC Civil Engineer, on behalf of Andy's Frozen Custard and Gordon Plaza, spoke about the revised site plan. The revisions that were discussed were implemented on the updated site plan and were included in their packet. The revision includes six additional spaces on the North property line-- which makes twelve spaces, and widening the single curb-cut onto Manchester Road to three lanes – one lane in, two lanes out. Also included in the packet with the revised site plan is MoDOT's feasibility letter, which was submitted to Mr. Aiken. This update should address the site plan issues that were requested. Mr. Harp would like to make a formal submittal back to this board.

Mr. Harp continues on by stating that, "Lee Cannon, the traffic Engineer with CBB Inc., is here to explain the traffic study. Because the time between the two meetings, wasn't long enough, and additional counts were required, a formal study has not been finalized and submitted to Mr. Aiken. Lee will talk about the summary of his findings."

Lee Cannon, with CBB Traffic Engineer and Principal, office at 12400 Olive, Suite 430, stated that as Mr. Harp has previously mentioned, his firm has been diligently working on the request for the additional information. Additional counts were completed at the Highview Drive / Manchester Road intersection. Mr. Cannon said, generally speaking, the Highview Drive counts to and from Manchester, were about half as much as the traffic counts to Manchester at Hillsdale. Mr. Cannon went on to say that he was surprised to see that the driveway to the site carries a similar amount of traffic to and from Highview as the curb cut onto Hillsdale. In the peak traffic hour, there were more vehicles entering the site from Highview than there were on Hillsdale In the PM Peak hour, about 20 cars enter the site and 10 cars exit.

Mr. Cannon goes on to say that some, most likely the South bound trips to Gordon Plaza, will remain on Hillsdale and will access the site via Manchester Road. The trips that are headed back have a choice to either make two Lefts – one on to Manchester and another at Hillsdale or may choose to make a Right onto Manchester and a Right onto Highview and then using Center Court Drive (primarily) or Cornet

Drive, to get back over to Hillsdale. The numbers represent about four cars during the PM peak hours and five cars in the early evening peak hours which is when the Andy's peaks.

The traffic study anticipates that Andy's will receive about 10% of its site generated traffic from the adjacent neighborhood. Out of the total traffic volume, up to 15 cars in and another 15 cars out will average to one car every two or three minutes being added to Highview. Mr. Cannon states that they don't anticipate that traffic from the Andy's will go out onto Highview, and then onto Manchester.

The levels of service for traffic at Highview and Manchester based on the existing volumes are level service "C." The addition of Andy's is not anticipated to change this level of service.

Lastly, Mr. Cannon explains that a gap study was asked to be done. The result showed there were very limited numbers of gaps available to turn in and out anywhere, on Manchester Road. The gaps are equivalent to or less than the volumes at the intersection. This is a reality when adding additional retail venues on a heavily traveled road. In peak flow times there is a forced flow condition. Left turns are not possible unless someone allows you a courtesy gap in traffic. This is what is being seen as happening in the peak hours of traffic flow on Manchester Road.

Mr. Cannon apologized to the Board for not getting the report done in time for them to see. He wanted to present what they had accomplished for this meeting.

Mayor Pogue asks that when the formal written report is completed, that it gets submitted to Mr. Aiken.

Before a motion was made, City Attorney Jones, pointed out that in paragraph nine of Bill 3880, an amendment was made based on review of the site plan, that the HVAC equipment is ground mounted and not roof mounted. The City Attorney asks that the second reading should be read as amended in paragraph nine.

The petitioner was okay with this amendment.

*A motion was made* for a second reading of the title only, as amended was made by Alderman Fleming and seconded by Alderman Leahy. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3880 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3880 with the following results:

*Ayes* – Fleming, Bullington, Stallmann, Kerlagon, Roach, Leahy, Finley *Nays* – None

Bill No. 3880 was approved and became **Ordinance No. 15-23**

## **NEW BUSINESS**

### **LEGISLATION**

**BILL # 3883 - AN ORDINANCE GRANTING A SPEICAL USE EXCEPTION TO ROBERT AND ELIZABETH UYEMURA FOR THE OPERATION OF A RESTAURANT WITH LIQOUR BY THE DRINK FOR CONSUMPTION ON THE PREMISES WHERE SOLD .**

*A motion was made* by Alderman Roach and seconded by Alderman Fleming for a first reading of Bill No. 3883. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3883 was read for the first time.

*A motion was made* by Alderwoman Kerlagon and seconded by Alderman Fleming for a second reading of Bill No. 3883. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3883 was read for the second time.

Mayor Pogue read the following statement: 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. 3883 with the following results:

*Ayes:* Kerlagon, Fleming, Roach, Stallmann, Leahy, Finley, Bullington *Nays:* None

Bill No. 3883 was approved and became **Ordinance No. 15-24**

### **CONSENT ITEMS:**

- A. Dental Insurance
- B. Liquor License for Ballwin Days – West County Rotary
- C. Banking Services
- D. Salt

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

### **MAYOR'S REPORT**

#### **A. Mayor Pogue made the following Aldermanic committee assignment for 2015-2016**

- a. Parks & Recreation
  - i. Alderman Terbrock – Chairman
  - ii. Alderman Stallmann
  - iii. Alderman Leahy
  - iv. Alderman Bullington
- b. Public Works
  - i. Alderman Terbrock
  - ii. Alderman Roach
  - iii. Alderman Leahy – Chairman
  - iv. Alderman Kerlagon
- c. Finance & Administration
  - i. Alderman Finley
  - ii. Alderman Roach
  - iii. Alderman Fleming – Chairman
  - iv. Alderman Kerlagon
- d. Health & Safety
  - i. Alderman Finley – Chairman
  - ii. Alderman Stallmann
  - iii. Alderman Fleming
  - iv. Alderman Bullington
- e. Planning and Zoning
  - i. Alderman Stallmann to serve for the next year on this committee

*A motion was made* by Alderman Fleming and seconded by Alderman Roach to approve the appointment of Alderman Stallmann to serve on Planning and Zoning. . A voice vote was taken with a unanimous affirmative result and the motion passed.

**B. Mayor Pogue made the following Board and Commission Vacancy recommendations for 2015-2016**

- a. Planning and Zoning: Mayor Pogue recommended the re-appointment of Mike Wind to serve a four year term.

*A motion was made* by Alderman Fleming and seconded by Alderman Roach to approve the appointment of Mike Wind to serve on Planning and Zoning. A voice vote was taken with a unanimous affirmative result and the motion passed.

- b. Board of Adjustments: Mayor Pogue recommended that the following people be reappointed to serve five year terms

1. Gary Winter – Ward 1
2. Olivia Pieknik – Ward 4
3. Stephen Nichols – Ward 4
4. Jane Souzzi – Ward 1
5. Phyllis Erwin – Ward 3

*A motion was made* by Alderman Stallman and seconded by Alderman Kerlagon to approve the appointment of Gary Winter, Olivia Pieknik, Stephen Nichols, Jane Souzzi and Phyllis Erwin to serve on the Board of Adjustments for a five year term. A voice vote was taken with a unanimous affirmative result and the motion passed.

- C. **Future Meetings** – Reminder: The next Board of Aldermen Meeting will be held on June 22<sup>nd</sup> at 7:00 P.M. The Board of Aldermen Meeting will defer to the Summer Schedule for June July and August – the Board of Aldermen Meetings will be held on the Fourth Monday of those months. There will be a Closed Session Meeting on May 27<sup>th</sup> at 4:30 P.M. at the Government Center to meet with Gary from the Search Firm to discuss the future City Administrator. This will be a closed meeting in regards to personnel matters under State Statute 610.0213.
- D. **Senate Bill 221** Mayor Pogue would like to thank Senator Schmidt – Senate Bill 221, which would change the distribution of sales tax revenues in St. Louis County, does not appear to be going through this session. Senator Schmidt opposed the bill when it came back to the Senate after amendments were made in the House. It's believed to be referred back to committee but as of right now it has not been assigned a date and may not progress. Mayor Pogue sent Senator Schmidt an email thanking him for his action on this item. The mayor asks that everyone else do so as well.
- E. **National Police Week** Our service began in 1982. In 1962 President Kennedy signed a Proclamation which designated May 15 as Peace Officers Memorial Day and the week in which that date falls as Police Week. Mayor Pogue wishes to thank all of Ballwin's officers. For taking their job seriously and taking their lives in their hands every day by getting in potentially dangerous situations. We have had very low crime rates in Ballwin and that is due to our police department. Mayor Pogue asks that the Chief and Captain forward on to their staff that the city is very appreciative of that and would like to thank all of them.
- F. **MSD Rate Commission Meeting** Was held on Tuesday, May 12 at The Pointe and will begin at 6:00 P.M. This is a series of Rate Commission Meetings that MSD will be holding. The city of Ballwin is lucky enough to be hosting one of these meetings. Mayor Pogue encourages the citizens to see their presentation – it is quite a significant rate increase that MSD is proposing.

- G. **Neighboring Municipalities** A Ballwin resident brought an issue to the Mayor and asked that this issue be brought to the Board's attention and to see if any action was necessary. A neighboring municipality recently passed an ordinance in regards to Sweet Gum trees and gumballs. This city recently made it mandatory that any gumballs on the public sidewalks be swept up by a certain time period. Mayor Pogue said that based on past conversations with this resident and in light of the Board's feelings in regards to the government imposing such regulations on its residents, in addition to previous discussions regarding the snow removal on sidewalks. The Mayor asks that the Board members take some time to ponder upon this issue and to let him know if any action was necessary.

### **CITY ADMINISTRATOR'S REPORT**

- A. **Intersection Improvement** The Board authorized the improvement of the Intersection to eliminate the pavement rutting conditions in New Ballwin Road at Manchester Road. After soliciting for bids, the city received a low bid of \$130,094.50 by NB West Contracting Company. This is not the same company doing the Manchester Great Streets Project; the city will try to coordinate the construction with the Manchester Road contractor. The majority of the work will be done in the evening or off-peak traffic hours. The City Engineer, Gary Kramer, stated that the final surface asphalt placement and the curb and gutter replacement will be expected to be done during normal hours. The contractor will be allowed only one night to close the road from the hours of 8:30 P.M. to 5:30 A.M. for milling and base placement. City Administrator Kuntz states that this is a high volume traffic area and the city would like to award this as soon as possible in order to get the work completed while school is not in session. Mr Kuntz goes on to say that the city has worked with this company before and that there were no issues. He asks for a motion to be made.

Alderman Finley questions the closure of the entire intersection. Mr. Kramer it will only be for one night, between Debula Drive and Manchester Road. There is too much equipment for the milling and the base for this and road closure is necessary.

*A motion was made* by Alderman Stallmann and seconded by Alderman Fleming to approve the Intersection Improvement. A voice vote was taken with a unanimous affirmative result and the motion passed.

- B. **Street Art** Local Artists have gotten together with the City of Manchester to create visual improvements on their traffic signal boxes located on Manchester Road. Parks and Recreations Director, Linda Bruer, thought this would be a great opportunity for Ballwin and spoke with the Parks and Recreations Directors of Ellisville and Wildwood to discuss the expanding this artistic endeavor as part of the Great Streets Initiative and discussed the possibility at getting a grant to fund this project. If the grant funding does not materialize, the city earmarked the first annual Craft Beer Festival for public art projects. Mr. Kuntz asked for a request to move forward with approval.

*A motion was made* by Alderman Fleming and seconded by Alderman Bullington to approve the Street Art Project. A voice vote was taken with a unanimous affirmative result and the motion passed.

- C. **Personnel Manual Changes** After a comprehensive review of the Personnel Manual, there are some clarification issues that need to be made. Both the Human Resource Coordinator and Finance Officer have recommended revisions to provide flexibility for the staff.

Alderman Finley asked if there were scenarios that came up which caused the recommended decrease for four hours off to being able to take off just one hour on both vacation and personal days.

Human Resource Coordinator, Haley Morrison, said that the way the policy read, employees were only allowed to take four hour increments or a whole day. It was thought that by removing the minimum of four hours, the policy would be more family friendly and employee friendly. If you just had to run to the school to take care of something for your child for an hour or two, you didn't have to take half a day or a whole day vacation. It was thought that this change would allow employees to do

these kinds of things throughout the day and then return to work, instead of having to take a whole day off.

Alderman Finley asks about personal days not being taken for the last fourteen days of employment. Ms. Morrison confirmed that this policy addresses a person's final fourteen days of employment. She goes on to say that when an employee leaves, vacation is paid out and personal leave and sick days are not paid.

*A motion was made* by Alderman Fleming and seconded by Alderman Kerlagon to approve the Personnel Manual Changes. A voice vote was taken with a unanimous affirmative result and the motion passed.

- D. **Tax Holiday** Initially, Ballwin did not participate in this event, but in the past two years the city has participated in the annual sales tax holiday. The City Administrator and the Finance Director can attest that since the city does not collect the sales tax directly and instead receive it in a lump through St. Louis County, it is impossible to measure the true economic impact of this incentive. This sales tax holiday is geared towards school supplies and related purchases. There is a deadline of June 17, 2015 that legislation must be sent if the city does not wish to participate. If nothing is done, the city will automatically participate in this tax holiday.

Alderman Fleming is in favor of continuing this tax holiday and to continue, no action is necessary. Alderman Roach is in agreement with Alderman Fleming and is in favor of keeping this sales tax holiday.

No action is made - the city will continue to participate in the No Sales Tax Holiday.

- E. **In-Car Cameras** The upgrade of the Police Departments In-car Cameras with the latest technology available has been discussed previously. Both Chief Schicker and Captain Boswell have spent a lot of time with various vendors and trying to make sure that compatibility issues and storage issues would meet the department's needs. In addition, they not only looked at the cost of the system but made sure it was going to be user friendly and accomplish the goals of the department. The bulk of the police to citizen contact come from motor vehicle stops. It was strongly felt by the Police Department, the City Administrator and the Board, that the first technology advancement should be to get a new In-Car Camera system and to continue evaluating the feasibility of a body camera system.

There are still many questions in regards to body cameras and best practices are not straightforward enough to take action on at this time. It is felt that the first order of action is to upgrade the In-Car Cameras.

The recommendation is to award this contract to Watch Guard Video who submitted the lowest quote that was responsive to the department's specifications. A motion is needed to move in this direction.

Alderman Fleming asked for some clarification in regards to storage of these videos. He asks how much more information will be recorded compared to what is recorded now and what could be anticipated in the future as far as expense for storage of these recordings.

Police Chief Steve Schicker responded by saying that the videos will be placed on the Police Departments server. No outside server will be used for storage. The department has recognized what its storage needs will be with regards to the recordings. Captain George Boswell also responded and said that the system purges itself after so many days so the need for additional storage is not anticipated. After 30 days or at a predetermined amount of time, the department will be able to access the car's camera. Any data that is accessed and categorized will be saved. Unused / un-needed data will be erased from the server. Immediately after officers return to their vehicle, they will categorize the incident and it is stored on the system for a predetermined amount of time before being purged. If an incident results in the matter going to court, the incident is recorded onto a disc to be placed in the



evidence locker. The information stored on the system from this incident will have a predetermined date when it will be erased from the system. Though the cars will be constantly recording data, extra storage is not anticipated due to the purging of the system of un-necessary recordings after a certain period of time.

Alderman Roach asks about the categorization being done by the officer after the incident happens. Chief Schicker informed Mr. Roach that since the individual is the officer participating in the incident, she/ he will enter the location and what the incident was about. Alderman Roach asks about uncategorized video that will be needed in the future. Chief Schicker responds that if the need for the video, prior to the 30 day, is required, the department can still access this information and categorize the video. Once the 30 days is up and there is no need for the data, the recording will be purged from the system.

***A motion was made*** by Alderman Bullington and seconded by Alderman Stallmann to approve the In-Car Cameras. A voice vote was taken with a unanimous affirmative result and the motion passed

The mayor would like to make a note in regards to the body cameras, that this is a very complex issue, he stated that he has read a couple of articles that have come out recently, our state legislatures are trying to decide how they are going to handle the need for data storage from the body cameras. He encourages staff to continue to look down that avenue and keep the Board updated on the technology.

### **Information Only**

- A. Emergency Repairs:** City Administrator Kuntz said that emergency repairs to the North Pointe pump room were necessary due to the damage that was incurred during the recent storm. These repairs are imperative to the opening of North Pointe. There was insufficient time to bid this work and complete the repairs by the Memorial Day opening in accordance with the purchasing policy. Mr. Kuntz informed the Board that the city proceeded with the emergency repairs. All of the repairs will be reimbursed through insurance.

The Mayor would like to have this approved, even though this was an emergency purchase. Approval for the emergency repair with Rockhill Mechanical for repairs at the North Pointe is asked.

***A motion was made*** by Alderman Stallmann and seconded by Alderman Fleming to approve the Emergency Repairs at North Pointe. A voice vote was taken with a unanimous affirmative result and the motion passed

- B. Photo Op** Newly appointed members were asked to arrive early at the next board meeting on June 22 to get their photos taken.

### **CITY ATTORNEY'S REPORT**

- A.** City Attorney Jones said that the Board approved a user agreement for dispatch equipment with the ECC. This was a statutorily created commission that is going to supply radios and other equipment for inter-activity for first responders. The user agreement that was approved by the board, states specifically that the Emergency Communication Commission is going to furnish and install the dispatch equipment and the workstation furniture. The city has since learned that "install" doesn't really mean "install." The city will be responsible for removing the old wiring and making-ready the area where the new dispatch equipment and furniture will be installed. Chief Schicker and Captain Boswell are investigating this further. The concern was that the user agreement was fairly clear and it was thought that this was the responsibility of the ECC and not the local agency. There are paragraphs that define the obligations of the local agency but they are minimal compared to the obligation that this could turn out to be. City Attorney Jones had a discussion with the St. Louis

County Counselor who was representing the ECC. After going through the language with the Counselor and pointing out that it was their responsibility and not the city's, the Counselor said that while the language is not as precise as it should be, the ECC is simply not going to pay for it. If the equipment is not removed and the site not prepared, the equipment will not be installed, and if it is not installed it will be a hole in the interconnectivity of this system. In summary, City Attorney Jones asked for guidance if this issue should be pushed and to fight with the ECC over whose responsibility it is and if so, is litigation required or should the city allow this to play out in terms of an item that has not yet been budgeted. Mr. Jones believes it will be difficult to litigate with the ECC over this issue and may not be worthwhile for a \$2,000 or \$2,500 issue. A \$20,000 or \$25,000 issue would be another matter. Mr. Jones' recommendation would be to allow this to happen.

Alderman Roach asked if there were similar circumstances in other municipalities and how the issue was resolved. City Attorney Jones responded that other agencies have covered that cost. Ballwin has a unique configuration in its dispatch center and a couple of different users, which makes this install more expensive. For other municipalities that Mr. Jones represents, when all of the equipment is on one wall and just pulling one particular feed, this issue has not been a big deal.

After the Chief had spoken to a couple of other cities, they were just as surprised as Ballwin was that this cost was the responsibility of the local agency. They were not expecting it any more than Ballwin. Mr. Jones states that he wanted to present this issue to the Board, so when the issue of the budget comes up for this cost, there would be no surprises. No formal motion is needed at this time and Mr. Jones will keep the Board updated on this issue.

- B. City Attorney Jones also reported on the ongoing appeal of the City of O'Fallon and Ballwin with respect to the streetlights. The Public Service Commission dismissed the complaint and the Court of Appeals confirmed that decision. The opinion came down on the 28<sup>th</sup> of April, the day after the last Board meeting. The application to transfer this to the Missouri Supreme Court is due this Wednesday. An e-mail was sent out to all the Board members. The application to transfer this appeal to the Missouri Supreme Court is being drafted. The city of O'Fallon has also approved to transfer the case to the Missouri Supreme Court. There is a general interest in the matter to all the citizens of the state because this is a regulated Monopoly. This will get the courts to look at and reexamine the current street lighting. This should not be too expensive since all the research has been completed. Another opportunity to apply directly for transfer in the Missouri Supreme Court for the exact same pleading as was filed in the Court of Appeals, may present itself if this one is turned down. The City of Ballwin moved forward with this in joint with the City of O'Fallon, with the same sharing arrangement as before – O'Fallon pays 2/3 and Ballwin pays 1/3 of the cost of this action.
- C. City Attorney Jones mentioned that he was happy to see Alderman Roach at the Newly Appointed Officials Conference which was held on April 29 at Maryland Heights, with approximately 85 other newly elected officials. They attended a seminar on various topics on municipal government that was presented by former St. Louis County Municipal League President, Rich McGee and four members of his law firm. Mr. Jones thought it was a good evening and was glad to see everyone there.

## **CITIZEN COMMENTS**

Paul Markworth, 68 Monceau Terrace of Lake St. Louis, MO, where he is City Administrator, wished to make a comment to City Administrator Kuntz.

Mr. Markworth wanted to personally congratulate Mr. Kuntz and the City of Ballwin on 27 years of achievement together. This achievement has led to national publication recognizing Ballwin as a great place to live. Mr. Kuntz is well regarded in the community of City Administrators. Mr. Markworth informed the Board that Mr. Kuntz will be chairing for the St. Louis Area Insurance Trust this year. One of the reasons Mr. Markworth is happy to know Mr. Kuntz is that in Lake St. Louis, Mr. Markworth was commenting to Mr. Kuntz about not having very good insurance coverage and asked if there was any opportunity to getting into SLAIT. Mr. Kuntz said he would work on the issue (there were a few

individuals who were against spreading out into St. Charles County) but Mr. Kuntz worked his magic and it has saved Lake St. Louis over half a million dollars in the past five years.

Mr. Markworth thanked and wished Mr. Kuntz luck.

### **ALDERMAN COMMENTS**

***Alderman Finley*** wished to congratulate City Administrator Kuntz on his tenure with the City and to give a few observations. When first elected, Mr. Kuntz sits down with each Alderman and goes through the process and hands out a packet. Mr. Kuntz has always made himself available for questions. He is always at the Board meetings and makes the City look good. Something interesting Mr. Finley learned from Mr. Kuntz is that being a city official means that you sometimes have to withstand personal attacks from various parties and Mr. Finley always thought Mr. Kuntz handled those situations with class and conducted himself very well and professional. Mr. Finley goes on to say that the city has always had an excellent budgeting process, always in the black with no debt issues. Mr. Kuntz has always done well dealing with the Board members and their idiosyncrasies. Mr. Finley mentioned a former Alderman who had a requirement on the chairs. Mr. Finley thanks Mr. Kuntz for everything he has done for him and congratulates Mr. Kuntz on his retirement and asked that God bless him with good health, a good retirement and a good time with his family.

***Alderman Terbrock*** wished to make a comment to Mr. Kuntz. Mr Terbrock began by stating that he is finishing his tenth year on the Board and he had no clue as to what he was getting into when he first started. Mr. Terbrock never thought of being an Alderman, but the Mayor (at that time Mr. Pogue was an Alderman) said he should do this. So Mr. Terbrock did. He too, like Mr. Finley, walked into Mr.Kuntz's office for the first and sat down to talk. Mr. Terbrock commented how it was just like talking to a friend. It wasn't an interview, Mr. Terbrock never thought of it as an interview until later on when Mr. Kuntz said it was.

Since that time, Mr. Kuntz has become an amazing friend. He has learned so much in his position, as alderman, from Mr. Kuntz and from all those that surround him. Mr. Terbrock said Mr. Kuntz has almost become a surrogate-like father figure to him because he can call him about anything and they talk and Mr. Kuntz is always there for him.

Mr. Kuntz has had an amazing career, a lot of people have no idea of the things he has accomplished or does because Mr. Kuntz will never "toot his own horn." Mr. Kuntz is a very brilliant man and has had a very wonderful career and thanks Mr. Kuntz for everything.

***Alderman Stallmann*** wanted to add that he has only had the pleasure of sitting on the Board for the last 4 ½ months, but has had the pleasure of knowing Mr. Kuntz for quite a few years. Mr. Kuntz is somewhat responsible for him moving to Ballwin. Fifteen years ago he met Mr. Kuntz for the first time. Mr. Stallmann thought it was election night and he saw Mr. Kuntz watching election returns. They talked about Ballwin. For years, Ballwin has been a great city, a great financially sound and up and coming city because of Mr. Kuntz's hard work and he wanted to thank Mr. Kuntz for being there for all of the Aldermen. Mr. Stallmann is thankful for the introduction to the city that he received when in the same meeting as Mr. Kuntz-- he was very helpful and is thankful for everything Mr. Kuntz has done for the city.

***Alderman Fleming*** warned Mr. Kuntz that he would not get overly sentimental, but he wanted to thank Mr. Kuntz for everything he has done for the City over the years and for him personally. Like the example Mr. Markworth shared, there are countless examples of Mr. Kuntz helping someone that you never really hear about and that's how Mr. Kuntz has always done things. Making sure to do the right thing and he didn't really care who got the credit for it, just that it helped somebody. Mr. Fleming concludes his comment by thanking his family for putting up with times when he is not around because there are "after hours" times and people calling about why their streets aren't plowed at two o'clock in the morning. He just wanted to say thank you to Mr. Kuntz's family and hopes it didn't short change them

too much and that they will have Mr. Kuntz all to themselves now and thanks his family again for allowing him to stay for as long as he wanted.

**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 8:22 p.m.

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TIM POGUE, MAYOR

ATTEST:

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ROBERT A. KUNTZ, CITY ADMINISTRATOR

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**May 11, 2015**