



MINUTES OF THE BOARD OF ALDERMEN MEETING
CITY OF BALLWIN – 300 Park Drive
June 22, 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.

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *May 11, 2015 Board of Aldermen meeting and closed sessions* were submitted for approval. Alderman Fleming asked that a comment he made under Aldermen Comments towards Mr. Kuntz be amended from 'warned' to 'promised.'

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

PRESENTATION

Dominic Lloyd, of 688 Crowsnest Dr, made a presentation to the Board about why the City of Ballwin should consider allowing residents to raise chickens. He pointed out the pros and cons to raising chickens and mentioned surrounding municipalities that allow residents to raise chickens. He concluded his presentation by suggesting how the city might regulate raising chickens by requiring a resident to apply for a permit and having an inspector come out weekly to check and make sure the chickens were being maintained properly.

CITIZEN COMMENTS

John Babb, of 14932 Manchester Rd, with the company The Floor Project, made comments in regards to the building of the proposed site for the storage facility, restaurant and the changes this will have on the current flow of traffic. He was in favor of this development. It will create an additional access to the Ballpark behind his building and it would bring more traffic and exposure for his business.

James Humphrey, 14560 Manchester Rd, spoke as an individual in favor of Bill #3885 Self storage. He thinks that the building has been an eye sore and that this would be an improvement from the way the site looks currently.

Tony White, 14413 Rue De Gascony, spoke as an individual in favor of Bill #3885 stating that this type of storage facility with access being granted inside the building, lends a sense of security when storing one's items and thinks this bill should be approved.

Steve Langford, 14767 Manchester Rd, of U-Haul Company of St. Louis, addressed his concerns to the board in regards to Bill #3885. As a business owner on Manchester Rd, He is concerned with Section D – Indoor loading and unloading in regards to the safety of an enclosed space and possible liabilities that may be present (children running around). He also raised the point that the proposed law does not allow a

business fronting on Manchester Rd. to have storage facilities. He noted that he tried to get a curb cut onto Timka to allow for a storage facility but was told it would not be allowed.

Mark Harder, 542 Learing Ct, spoke to the board as a resident in opposition of the Storage facility. He pointed out that other municipalities are fighting over tax dollars. By allowing businesses that don't do point of sale transactions, the city loses money. If the city starts bringing in more businesses that don't collect the sales tax that it needs to survive, the city will have to be put into the tax pool or rely on speed traps to make up that income.

Bob Muckler, 1020 Bedford Ln, a Ballwin resident, is in opposition of the Storage Unit and spoke to the board in concern with the loss of sales tax this use will cause. He shops locally to support the sales tax in the city.

Gary Carr, 304 Portwind Place, stated to the board that he was the one who brought the Old Towne Center to Ballwin which generates a lot of revenue for the city and would like to see that carry on. He is afraid that if Ballwin starts allowing uses that don't generate a tax revenue, it may be in trouble later on.

NEW BUSINESS

LEGISLATION

BILL # 3884 - AN ORDINANCE APPOINTING TOM AIKEN AND LINDA BRUER AS CO-INTERIM CITY ADMINISTRATORS .

A motion was made by Alderman Fleming and seconded by Alderman Terbrock for a first reading of Bill No. 3884. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No3884 was read for the first time.

Alderman Fleming asked Attorney Jones if a sunset provision was necessary for this bill. City Attorney Jones said it was not necessary for this bill since a new contract will be adopted for the new city administrator and that will need to be done by ordinance. In that ordinance there will be a repeal for this ordinance.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock for a second reading of Bill No. 3884. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3884 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3884 with the following results:
Ayes – Fleming, Terbrock, Kerlagon, Finley, Stallmann, Leahy, Roach, Bullington . Nays – None.
Bill No. 3884 was approved and became **Ordinance No. 15-25**.

BILL # 3885 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BALLWIN WITH REGARD TO INDOOR SELF STORAGE FACILITIES.

A motion was made by Alderman Leahy and seconded by Alderman Kerlagon for a first reading of Bill No. 3885. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3885 was read for the first time.

Attorney Robert Klahr, 7700 Forsyth Blvd #1800, Clayton, MO, spoke on behalf of Nolan Real Estate Interests (the petitioner). Mr. Klahr spoke about the proposal to develop at on 14918 Manchester Rd- a

fully enclosed drive thru self-storage facility and a Dunkin Donuts Drive thru restaurant. He pointed out Steve Nolan and Bill Bowman, from the Nolan Real Estate Interests, J.D. Howell from Sterling Engineering, Bryan Rensing from CBB – the Traffic Engineer, and Jeff Kaiser from TRI Architects who is working on behalf of Dunkin Brand. Mr. Klahr explained how Nolan Real Estate Interests has been working for over a year now on this project and has been working to stay within the high standards of Ballwin's requirements for this site. He stated that it is a challenging site in need of redevelopment. The layout of the land at this site creates a challenge for developers. This site has a narrow lot size and the curb cut onto Manchester Rd is too close to the traffic signal for proper entrance and exit. Without a use that would generate very little traffic, has minimal traffic needs and that would absorb the significant site development costs that would be necessary, this site cannot be redeveloped properly. Replacing and changing the current entrance and exit to the site and providing additional parking for the adjacent properties, these petitions have been recommended by the Planning and Zoning Commission and the required variance have been granted by the Board of Adjustments and asked that the Board approve Bill # 3885.

Alderman Finley feels that there is no demand from our citizens for a storage facility. He commented that the plan looks good but he has not heard any requests for storage from any of his constituents. He also agrees with what Councilman Harder mentioned in his comment, that the city is in a predicament of uncertainty in regards to sales tax and the city needs to increase its efforts in being good stewards of its commercial districts. Mr. Finley has a concern about the lack of sales tax in this proposal.

Alderman Fleming stated that the petitioner designed an attractive, safe looking facility but after having heard the comment from the owner of the U-Haul facility stating that he is happy to see that the city is allowing the storage facility and for allowing the facility built in such a way that it cannot be taken advantage of, Mr. Fleming is afraid other commercial owners will take advantage of building storage units instead of businesses that will draw in sales tax. He stated that he is hesitant to allow the rewrite of the Ordinance for this particular use. Mr. Fleming is closer to going along with this petition but does not feel that the wording of the Ordinance properly allows for how to handle this in the future.

Alderman Terbrock was concerned that if this Ordinance is passed, someone could tear down a plaza and build another storage facility and as a result the city would be full of car lots and storage facilities that don't generate any revenue.

Attorney Michael Izsak, 1505 S Big Bend Blvd, Richmond Heights, MO, is the son and nephew of the property owner of the proposed property. He stated that the family has had a difficult time trying to sell this property. They have hired four different real estate companies which have tried, without success, to find a user for the property. Mr. Izsak stated that the reality of the site is to either continue as it is – gaining no sales tax, or for the city to allow the site to be built into a storage facility which will in turn allow for the Duncan Donuts to be built, which would generate sales tax revenue.

Alderman Leahy was in agreement with Mr. Izsak. He commented that he had recently spoken to Mr. Kuntz in regards to this issue and Mr. Kuntz was in agreement that this building has been vacant for over ten years now and that it's time to move on this property and that we should let this bill go through. Mr. Leahy stated that he is afraid that if the Board votes this bill down, the building will be vacant for another ten years.

Mr. Terbrock commented that he is aware that the property has sat vacant for the last ten years but that within the past ten years the city has undergone a severe down turn in the economy and there wasn't a big push in Ballwin for new business development. He stated he is okay with the Duncan Donuts being built on the site but doesn't like the idea of the storage facility.

Attorney Jones, clarified Section E of the Bill for Mr. Fleming stating that the wording states that frontage property on Manchester Rd and Clayton Rd could not be used for storage facilities, but if a company like U-Haul wanted to subdivide their property and create a new parcel, the Bill would allow for them to build a storage facility on that property.

A motion was made by Alderman Leahy and seconded by Alderman Kerlagon for a second reading of Bill No. 3885. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3885 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3885 with the following results: Ayes –Roach, Leahy. Nays – Terbrock, Finley, Kerlagon, Stallmann, Fleming, Bullington. Bill No. 3885 Failed.

Mayor Pogue stated that without the passing of Bill # 3885, Bill # 3886 cannot be voted on.

City Attorney Jones said that Bill #3887 could be voted upon if the property owner wants to subdivide the property this Bill could pass.

The Petitioner did not wish to proceed with the subdivision of the lot.

BILL # 3888 - AN ORDINANCE APPROVING THE FINAL PSD DEVELOPMENT PLAN FOR ESSEN ESTATES SUBDIVISION.

A motion was made by Alderman Stallmann and seconded by Alderman Roach for a first reading of Bill No. 3888. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3888 was read for the first time.

A motion was made by Alderman Kerlagon and seconded by Alderman Fleming for a second reading of Bill No. 3888. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3888 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3888 with the following results: Ayes – Kerlagon, Bullington, Leahy, Roach, Fleming, Stallmann, Finley, Terbrock. Nays – None. Bill No. 3888 was approved and became **Ordinance No. 15-26**.

Schwent, Fleming, Terbrock, Stallmann, Leahy, Boland, Finley, Kerlagon

BILL # 3889 - AN ORDINANCE AUTHORIZING THE CONTINUED PARTICIPATION OF THE CITY OF BALLWIN, MISSOURI, IN THE MULTI-JURISDICTIONAL DRUG TASK FORCE ORGANIZED BY ST. LOUIS COUNTY.

A motion was made by Alderman Finley and seconded by Alderman Fleming for a first reading of Bill No. 3889. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3889 was read for the first time.

Alderman Finley asked Chief Steve Schicker to provide an update to the city's activity and involvement in the task force. Chief Schicker said this multi-jurisdictional task force has been very positive for Ballwin and allowed the processing of more drug related cases under the task force compared to the number the city was able to work prior to the joint task force with St. Louis County. Chief Schicker recommends continued participation in this task force.

A motion was made by Alderman Bullington and seconded by Alderman Fleming for a second reading of Bill No. 3889. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3889 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3889 with the following results: Ayes – Bullington, Fleming, Roach, Leahy, Stallmann, Kerlagon, Finley, Terbrock. Nays – None. Bill No. 3889 was approved and became **Ordinance No. 15-27**

BILL # 3890 - AN ORDINANCE GRANTING SPECIAL USE EXCEPTION TO JET'S PIZZA FOR OPERATION OF A RESTAURANT WITH LIQUOR BY THE DRINK FOR CONSUMPTION ON THE PREMISES WHERE SOLD.

A motion was made by Alderman Kerlagon and seconded by Alderman Bullington for a first reading of Bill No. 3890. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3890 was read for the first time.

Alderman Finley asked if the Petitioner was present at the meeting- No one representing the petitioner was present. Alderman Finley said he wished to ask the petitioner a couple of question.

There were no objections to holding Bill #3890 over to the next meeting in order to have the petitioner present.

RESOLUTION – PURCHASING CARD

Mr. Roach and Mr. Fleming discussed their concern that the \$315,000 credit limit was too high with the Finance Director. Finance Director Denise Keller stated that reason for the high limit is because the idea of this commercial card is that it can be used to pay large bills in order to accumulate reward points. In addition, each card user would have a limit on how much that they are allowed to spend. The reason the city was looking into getting a new Master Card was to get away from having to have a staff member hold the personal guarantee to the current Sam's Card. Sam's Club, where Ballwin Parks and Recreations conducts a lot of business, will only accept Master Card as payment. The rewards program associated with this card would create an opportunity for the City to build reward points that may help to purchase items that would otherwise need to be budgeted.

Alderman Stallmann had personal experience with a similar program and thought the rewards program was a good idea.

Alderman Terbrock expressed his concern with paying bills with the credit card.

Alderman Roach asked that the staff reconsider the credit limit and asked that this item be held over to the next meeting with findings and approval on lowering the credit limit.

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. Liquor License Renewals - Approved with the exception of Jet's Pizza
- B. Destruction of Records
- C. Leaf Vacuum Replacement – Awarded to Lawn Care Equipment who had the lowest bid of \$16,998.00 for the replacement of two leaf vacuums.

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

Reminder to the board – Gary Holland from SGR is talking to the three finalists. The weekend of July 17th and 18th will work for the interviews. Details and times will be sent out when it has been finalized.

STAFF REPORTS

Linda Bruer -- Parks and Recs department – Golf Course Environmental Monitoring:

Ms. Bruer stated that this is expense for a continued study at the request of the Department of Natural

Resources for a former underground fuel storage tank at the golf course. SCI Engineering has been the company working on this project and submitted a proposal to complete the required work in an amount that would not exceed \$18,531.00. Since this amount will be reimbursed 100%, by the Missouri Petroleum Storage Tank Insurance Fund because Ballwin had already reached the \$10,000 deductible, no other proposals were solicited. SCI has performed all of the other site work on the project and this work is considered a professional service.

The Department of Natural Resources wants to test a few more times to be sure no toxic residue has been left. Once these recommended tests have been completed, the City should receive a no further action letter or a final determination letter that the city may then appeal, from the Department of Natural Resources.

A motion was made by Alderman Fleming and seconded by Alderman Stallmann to accept the staff recommendation SCI contract. A voice vote was taken with a unanimous affirmative result and the motion passed.

Tom Aiken – City Planner, Assistant City Administrator – Discussion on Real Estate in closed session: Co-City Administrator Aiken recommended that the Board meet in closed session to discuss the possible acquisition at real estate.

CITY ATTORNEY’S REPORT

City Attorney Jones said that current City Ordinance Section 17-108 Failure to Return Rented Personal Property item ‘C’ states “This section shall not apply if the property involved has a value of \$500.00 or more” He stated that the City currently prosecutes for offense levels up to \$500 and anything above goes to state. The offense between \$500 and \$1000 sent to the state will only be prosecuted as a misdemeanor. He recommended that Ballwin raise its ordinance to \$1,000 for this issue. By raising this offense up to \$1000 can send such violations to our municipal court.

A motion was made by Alderman Finley and seconded by Alderman Stallmann to authorize City Attorney Jones to draft new Legislation Amending the Ordinance in Section 17-108 to raise the offense amount from \$500 to \$1000. A voice vote was taken with a unanimous affirmative result and the motion passed.

CLOSED SESSION

Mayor Pogue announced that Pursuant to Section 610.021 [13] RSMo, the board will meet in closed session to discuss real estate options.

Adjourn to Closed Session: ***A motion was made*** by Alderman Stallmann and seconded by Alderman Finley to adjourn to closed session to discuss Real Estate. A roll call vote was taken with the following results:

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

Nays: None. The motion passed to adjourn to closed session at 8:20 p.m.

Closed Session:

The Board convened in closed session at 8:24 p.m.

A motion was made by Alderman Kerlagon and seconded by Alderman Leahy to adjourn the closed session. A roll call vote was taken with a unanimous result, and the closed session was adjourned at 9:45 p.m.

The Board reconvened in open session at 9:48 p.m.

Mayor Pogue stated that the Board met in closed session to discuss real estate. A motion was made by Alderman Terbrock and seconded by Alderman Fleming. A vote was taken for how the board would pursue the real estate option. The board voted unanimously to pursue this option.

ALDERMANIC COMMENTS

Alderman Terbrock stated that he wants to support allowing chickens. He asked the Board to consider allowing chickens.

Alderman Roach stated that he appreciated Dominic Lloyd's presentation. He said eggs are getting expensive and that Ballwin should consider allowing chickens.

Alderman Stallman wants to look at allowing chickens and also wanted to congratulate the Ballwin Days Committee for a fine event.

Alderman Fleming asked Attorney Jones to share the chicken report.

Alderman Bullington thought the Ballwin Days Committee did a great job. He stated it was a well done event that reflects well on the city.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock to adjourn the open session. The motion passed unanimously and the meeting was adjourned at 9:50 p.m.

TIM POGUE, MAYOR

ATTEST:

THOMAS AIKEN, CITY CLERK

A Johnson

Updated: **June 30, 2015**