



MINUTES OF THE BOARD OF ALDERMEN MEETING
CITY OF BALLWIN – 300 Park Drive
July 27, 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 7:00 p.m.

PRESENT

ABSENT

Mayor Tim Pogue
Alderman Jimmy Terbrock
Alderman Michael Finley
Alderman Kevin Roach
Alderman Mark Stallmann
Alderman Frank Fleming
Alderman Jim Leahy
Alderman Ross Bullington
Alderman Kathy Kerlagon
Assistant City Administrator Thomas Aiken
City Attorney Robert E. Jones *Running Late*

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *June 22, 2015 Board of Aldermen meeting and closed sessions* were submitted for approval.

Alderman Roach wished to amend his comment under Aldermanic Comments. He stated he would like it to read “Alderman Roach stated that he appreciated Dominic Lloyd’s presentation regarding chickens. He thought Dominic’s presentation was articulate and particularly timely, considering the effect that the recent bird flu has had on the price of eggs. Eggs are an American staple and we should be looking at any way to make feeding your family more affordable.”

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

Alderman Fleming stated he would like to omit “instead of businesses that will draw in sales tax” from his comment in regards to Bill 3885, since he does not recall making this statement.

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

PRESENTATION

None

CITIZEN COMMENTS

John Henderson, owner of the new indoor shooting range in Ballwin, said they plan to open at the end of September or early October. He stated that he wants to keep his business in Ballwin but has encountered an issue with signage. The visibility of the building is very limited when driving west on Manchester Rd. He stated that he is hoping the city will amend the sign code to allow off-property signage in order to gain visibility from Manchester Rd.

Mayor Pogue stated this is something the Board will have to agree on and pursue with the City Attorney to look into options. He thinks something could be created using the MRD district for special signage.

Mr. Henderson stated he has been in contact with UGas and Wendy's about putting in signage and both businesses seem open to discussion.

A motion was made by Alderman Terbrock and seconded by Alderman Kerlagon to have the City Attorney look into options for signage. A voice vote was taken with a unanimous affirmative result and the motion passed.

City Attorney Jones stated he wanted to let the Board know that he has performed legal services for Mr. Henderson unrelated to this issues. Mr. Jones said he would look into the sign code and MRD and possible ways to focus on this particular property as opposed to a major amendment to the sign code. This is a unique situation with the property not having complete frontage on Manchester Rd.

PENDING ISSUES

LEGISLATION

Bill # 3890 14940 MANCHESTER RD JET'S PIZZA SUE

The owners of Jet's Pizza have petitioned for the issuance of a Special Use Exception (SUE) to allow the sale of alcoholic beverages by the drink for consumption on the premises. The Planning and Zoning Commission voted unanimously to recommend approval.

Drew Dowd, of Maryland Heights, Missouri and the General Manager of Jet's Pizza in Ballwin was present to answer any questions the Board may have in regards to getting a liquor license.

Alderman Finley asked what training his staff has gone through to make sure they are prepared to sell alcohol.

Mayor Pogue mentioned to Alderman Finley that this issue was discussed at the June 1st Planning and Zoning Meeting and was covered in the minutes.

Alderman Finley responded that he wanted to ask the petitioner in person.

Mr. Dowd stated that they have hit a few snags in the process of trying to sell alcohol so he has not yet trained his staff. This issue will be thoroughly addressed in training once the sale of alcoholic beverages is approved.

A motion was made by Alderman Fleming and seconded by Alderman Bullington for a second 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 second time.

A roll call vote was taken for passage and approval of Bill No. 3890 with the following results: Ayes – Kerlagon, Bullington, Leahy, Roach, Fleming, Stallmann, Finley, Terbrock. Nays – None. Bill No. 3890 was approved and became **Ordinance No. 15-28**.

NEW BUSINESS

LEGISLATION

BILL # 3891 ARBORS AT CHURCHILL PSD FINAL PLAN

A motion was made by Alderman Fleming and seconded by Alderman Stallman for a first reading of Bill No. 3891. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3891 was read for the first time.

Josh Peterman, Representing the builder McBride Homes was present to address any issue the Board may have in regards to this Bill.

Alderman Roach asked Mr. Peterman about the water detention basins and when they will be created.

Mr. Peterman stated the detention basin will be created when they grade the lots. The basin will be a traditional detention basin. That will also have a water quality feature called a fore bay that contains aquatic plants and allows suspended materials to settle out and rainwater to recharge the aquifer.

Alderman Roach said he was concerned about the surrounding residents. If we should get major storm during construction, where will that water end up? Alderman Roach stated that he is very appreciative of McBride building homes in the City of Ballwin.

A motion was made by Alderman Fleming and seconded by Alderman Leahy for a second reading of Bill No. 3891. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3891 was read for the second time.

A roll call vote was taken for passage and approval of Bill No. 3891 with the following results: Ayes –Fleming, Leahy, Roach, Stallmann, Terbrock, Kerlagon, Bullington, Finley Nays – None. Bill No. 3891 was approved and became **Ordinance No. 15-29**.

BILL # 3892 FAILURE TO RETURN LEASED PROPERTY

A motion was made by Alderman Stallmann and seconded by Alderman Terbrock for a first reading of Bill No. 3892. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3892 was read for the first time.

A motion was made by Alderman Fleming and seconded by Alderman Roach for a second reading of Bill No. 3892. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3892 was read for the second time.

A roll call vote was taken for passage and approval of Bill No. 3892 with the following results: Ayes – Fleming, Finley, Kerlagon, Stallmann, Leahy, Bullington, Terbrock, Roach. Nays – None. Bill No. 3892 was approved and became **Ordinance No. 15-30**.

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. Ballwin Arts Commission Craft Beer Festival Liquor License Renewal
- b. Holy Infant Picnic Liquor License Renewal
- c. Jet's Pizza Liquor License
- d. HVAC Repair/Replacement
- e. Semi Annual Finance Statement Publication

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

Robert Kuntz Recognition

Mayor Pogue stated this is regarding a gift from the City of Ballwin to Mr. Kuntz – He thanked fellow Board members for their contributions towards this gift to commemorate his 27 years of service to the City of Ballwin. The contribution he is proposing the City furnish would not exceed \$1613.00.

A motion was made by Alderman Stallman and seconded by Alderman Finley to spend \$1613.00 to go towards the bicycle for Mr. Kuntz . Alderman Roach asked that a roll call vote be done.

A roll call was taken for passage and approval of Mr. Kuntz's gift with the following results:
Ayes – Kerlagon, Bullington, Leahy, Fleming, Stallmann, Terbrock
Nays – Roach, Finley

The Motion carried and was approved.

Mayor Pogue announced that Pursuant to Section 610.021 [3] RSMo, the board will meet in closed session to discuss employee matters.

Adjourn to Closed Session: A motion was made by Alderman Stallmann and seconded by Alderman Bullington to adjourn to closed session to discuss employee matters. A roll call vote was taken with the following results:

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

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

Adjourn to Closed Session: A motion was made by Alderman Stallmann and seconded by Alderman Bullington to adjourn to closed session to discuss real estate matters. A roll call vote was taken with the following results:

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

Nays: None

The motion passed to adjourn to closed session at 7:20 p.m.

The Board reconvened in open session at 7:40 p.m.

Employment Announcement

Mayor Pogue stated that he is pleased to announce an employment agreement between the City of Ballwin and Eric Hanson, of Indianola, Iowa, as the new City Administrator. Mr. Hanson will start on August 31st of this year.

BILL # 3893 ORDINANCE APPOINTING A CITY ADMINISTRATOR AND APPROVING AN EMPLOYMENT AGREEMENT

A motion was made by Alderman Fleming and seconded by Alderman Stallmann for a first reading of Bill No. 3893. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3893 was read for the first time.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock for a second reading of Bill No. 3893. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3893 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3893 with the following results:

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

Bill No. 3893 was approved and became **Ordinance No. 15-31**.

National League of Cities

The National League of Cities Conference is coming up in November and it has been a few years since the City of Ballwin has had representation. Mayor Pogue will talk to Mr. Hanson about attending this event. Mr. Pogue is interested in attending and anyone else who may be interested may contact Mr. Pogue.

STAFF REPORTS

Police Chief Steve Schicker

Police Car Report – Chief Schicker stated that in 2009 the city purchased his current vehicle from Don Brown Chevrolet for \$14,700.00. The vehicle was a used 2008 Chevrolet Impala LT with 24,000 miles on it. In the 2014 Budget process, its replacement due to the excessive mileage was discussed, but it was in good mechanical working order so it was retained. In the 2015 Budget process its replacement was again discussed. The vehicle had minor repairs that were needed but with the \$5,100.00 difference from the Impala to the Taurus PPV and the upgrade of the in-car camera system currently being installed, it was decided to hold this item off until the 2016 budget.

He was recently advised by the city mechanic that the car should not be driven because the vehicle needs a new head gasket. The cost for this repair is estimated between \$1,500 and \$3,000. There are also issues with the engine that could run as high as \$7500 so he has researched options on a replacement vehicle.

Vehicle 326 was totaled in a non-fault accident. The insurance settlement with the insured driver's carrier valued Car 326 at \$9,094.00. The ancillary equipment portion of the settlement is still pending.

Chief Schicker asked the Board for authorization to purchase a new replacement vehicle. He will use the insurance settlement from Car 326 with the remaining balance being offset by Drug Asset Forfeiture Funds. He proposes to purchase an Impala off of state bid, under the MoDOT bid contract, which Don Brown Chevrolet currently holds for \$17,832.

Alderman Finley stated he appreciated Chief Schicker's extensive research.

Mr. Aiken commented that it has been a very tough year for police and city vehicles, stating that 7 vehicles had extensive hail damage, several vehicles have been involved in accidents and one was totaled.

Alderman Roach asked if the police will be down a car if the City doesn't replace it and the money goes to a new car for the Chief. Chief Schicker stated that car 326 was supposed to be going to auction so the city will not be short a vehicle.

A motion was made by Alderman Stallmann and seconded by Alderman Fleming to accept Chief Schicker's recommendation. A voice vote was taken with a unanimous affirmative result and the motion passed.

In addition, with the surplus of police vehicles, Chief Schicker said that the city would get more money out of auctioning their vehicles versus trading in the vehicles. He provided a list of vehicles in his memo for items to be sold at auction pending the Boards approval.

A motion was made by Alderman Fleming and seconded by Alderman Roach to accept Chief Schicker's recommendation to send these vehicles to auction. A voice vote was taken with a unanimous affirmative result and the motion passed.

Regional Mitigation Plan – Chief Schicker explained that Federal Statute requires the Hazard Mitigation Plan be updated and readopted every five years. SEMA has funded East-West Gateway to prepare an update to the regional plan. The city needs to agree to this plan in order to receive funding through FEMA in the event of a natural disaster.

Mr. Aiken commented that this is really a housekeeping item that needs to be reapproved every five years by federal law.

A motion was made by Alderman Bullintgon and seconded by Alderman Stallmann to have Attorney Jones create a Resolution to adopt this plan. A voice vote was taken with a unanimous affirmative result and the motion passed.

Finance Officer, Denise Keller

Purchasing Card Program- Ms. Keller explained the proposed MasterCard Program to the Board. She explained that a few of the companies the city does business with accepts MasterCard as payment. One such vendor is Ameren. If Ballwin paid its \$680,000 annual bill with the purchasing card the city would receive a rebate of about \$3,000.00. Other vendors the City uses that would accept Mastercard as payment are Simpson Asphalt and Valley Materials.

Alderman Stallmann asked Ms. Keller if the credit limits on individual cards would remain the same and whether either she or the City Administrator could increase the limit for a particular bill and if Ballwin's standard controls for expenditures would remain in place. Ms. Keller confirmed this and added that the current practice and restrictions for current card users would remain the same.

Mr. Aiken also added that the current control of all city expenditures would remain in place.

Alderman Stallmann reiterated from his comment from the last meeting that his experience using the credit card and rewards program in his business has been successful and he thinks this will benefit the city.

Alderman Fleming stated his concern in regards to how the payment for the charges would be taken out of the City's account. The contract states that an automatic withdrawal will be done seven days after the bill has been sent. Alderman Fleming is concerned that if there is an unauthorized charge on the card and the money has been taken out of the general account, that this could potentially cause a big issue for the city and suggests that the city create a separate account to handle the automatic withdrawals for the credit card payments.

Ms. Keller stated that the city can dispute unauthorized charges made on the credit card, but a special account could be established as an additional precaution. Attorney Jones looked into the contract and stated that the city has 60 days to dispute charges.

Alderman Roach stated his concern that when the city uses the credit card, the vendor pays a merchant fee. He is concerned that the added merchant fees will drive up the cost of materials in order to account for those added fees.

Alderman Terbrock also stated his concerns about using the credit card and in effect the vendor raising the costs for materials to offset the cost for the merchant fees. He stated that the rebates we are getting are coming from somewhere and these vendors are essentially paying for our rebates.

Alderman Stallmann made the statement that the use of the cards was the choice of the vendor not a condition of getting Ballwin's business and they do this because it allows them to receive their money sooner.

A motion was made by Alderman Stallmann and seconded by Alderman Fleming to accept the staff recommendation and approve the MasterCard Resolution with a credit limit of \$315,000.00. A voice vote was taken with Alderman Finley, Stallmann, Fleming, Leahy, Bullington and Kerlagon voting in the affirmative and Alderman Roach and Terbrock voting in the negative. The motion passed.

CITY ATTORNEY'S REPORTS

Chicken Legislation Report – Alderman Stallmann wanted to know if anyone had contacted other municipalities that currently allow chickens to see what problems they may have had. Attorney Jones stated that he has not checked and someone could be designated to do the research.

Alderman Terbrock stated he was in O’Fallon and heard a rooster crowing when they were at ballfield and thought it was pretty cool. The property the rooster was on was a small farm set between two developed subdivisions.

Mayor Pogue stated that we currently allow chickens on properties with two or more acres in the City of Ballwin. Mayor Pogue reiterated what he said a few years ago, he doesn’t think we should have chickens on these small lots and he wouldn’t be happy if his neighbor had them in their yard. Alderman Terbrock asked Mayor Pogue why. Mayor Pogue said he sees this as a regulation nightmare.

Alderman Terbrock disagreed with the Mayor Pogue’s comment about regulations. He stated there wouldn’t be any additional regulations in place for hens on your property than there would be for having more than your two allowed dogs.

Alderman Fleming stated that he had asked Attorney Jones for the report since there were some new Alderman and there were some interests in discussing the topic again. Since the board is discussing it now, Alderman Fleming has no interest in going forward with this report.

Alderman Kerlagon made the comment that allowing animals that the surrounding homeowners aren’t very excited about, but still have to deal with, isn’t a very good idea for the city.

Alderman Finley was in agreement with the Mayor and stated that he had recently spoken with a colleague from Illinois who has a background in farming and explained to him that chickens are smelly animals and the city shouldn’t allow them.

Senate Bill 5 Report – Attorney Jones informed the Board that this bill was signed by the Governor two weeks ago. This bill will prohibit a municipality from receiving an excess amount of revenue from traffic fines and court cost. This limitation was 30% but the Senate Bill 5 reduces it to 20% throughout most of the state of Missouri and about 12.5% for the municipalities within St. Louis County.

Ballwin derives about 5.6% of its annual operating revenues from traffic fines and costs. Attorney Jones does not see any problems with this limitation; however, there are other aspects to Senate Bill 5 that will cause some changes. Attorney Jones states some of these changes include:

1. Limitations on fines and costs that can be charged on minor traffic violations. Fines and costs cannot exceed \$300.
2. There is a prohibition on failure to appear warrants.
3. Incarceration for minor traffic offences requiring a certification from the judge.
4. Revenues from minor traffic violation have to be certified as part of the annual audit report.

This new legislation will require the City to instruct staff on what they need to do and how to comply with the new legislation. To come into compliance with this legislation, the bill also requires that the certification of police departments has to occur within six years and has to come from a nationwide organization or the Missouri Police Chief Association. Attorney Jones stated that the city of Ballwin is about halfway there due to the hard work of Chief Schicker and the rest of the staff.

This bill will become law on August 28, 2015.

Attorney Jones asked that the Board allow a change in the municipal court ordinances for the city of Ballwin that will bring the city into compliance with these changes that would affect the prosecution of minor traffic offences.

Mayor Pogue asked what is defined as a minor traffic offence. Attorney Jones stated that the Department of Revenue is supposed to promulgate rules which will define minor traffic offences.

A motion was made by Alderman Stallmann and seconded by Alderman Kerlagon to have Attorney Jones draft appropriate legislation. A voice vote was taken with a unanimous affirmative result and the motion passed.

ALDERMANIC COMMENTS

Alderman Terbrock – He made the comment that he is thankful to the Board for the search for the City Administrator. He was very pleased with the selection and pleased and surprised at how well they all worked together to come to a conclusion.

Mayor Pogue added that Gary Holland from the search firm SGR complimented the Board and the staff on how they were able to get all the information they needed and that it aided this process. Mayor Pogue agreed that the process did what it was supposed to do – pointing out the City’s needs, it was very evident when it came to its conclusion.

Alderman Roach – Stated that one positive aspect of having Dominic Lloyd come to the meeting last month was that it illustrated how the power of one individual can come to a Board meeting, make a presentation and have the entire Board and Mayor talking about a particular topic. He stated that it was really neat how young people can come to the Board meetings, provide input and guide the Boards discussion regardless of whether the result is in their favor. Alderman Roach did not realize it was so easy to bring ideas to the board. He wished to provide a few of his ideas and get the Boards input:

1. Staff Reports/Request to spend money: Alderman Roach would find it more helpful to be provided with a little bit more information about the expenses or when the work is scheduled to begin. If someone is coming to the Board for approval of an item, he stated it would be nice to know when they anticipate the work to begin and when is the work to be completed. He said he gets a lot of constituents asking about certain projects and their scheduled time frames.
2. The city of Ballwin has several different Boards and Commissions in the city and he would like to see the names of the individuals serving on these boards and commissions on the website. He stated there are people interested in attending the Planning and Zoning meetings or serving on these boards. There are individuals who would like to have their input on certain projects.
3. Since being sworn in, Alderman Roach has been impressed with the hard work of the City’s employees and all of the different departments. There are a lot of moving parts and the city does great work and the City depends on all of them on a day to day basis. Mr. Roach thought it would be a nice idea to establish an employee of the month program and get recommendations from department heads for individuals who have been doing a particularly good job and have them recognized at future Board meeting for their hard work.

4. Alderman Roach wanted to know if it were feasible for the City to have a Community Garden or Dog Park incorporated to an existing park. He stated he wasn't sure what requirements would be, or if it were even feasible. How big would such amenities need to be and what cost for the upkeep would be.
5. Alderman Roach read about a constituent of his, Richie Tienter, who is a 9 year old and will be a fifth grader at Westridge Elementary. Richie won first place in the 15th annual Braille Challenge. He went to Los Angeles, CA to compete. Alderman Roach stated that Westridge is having a half day on October 13th and are having room parties. Alderman Roach thought it would be really neat to honor Richie and his hard work and would like the city to recognize him by declaring Tuesday, October 13th as Richie Tienter Day and by inviting him to a Board meeting for additional recognition and an acknowledgment of his accomplishments.

Alderman Fleming commented that in regards to Staff Reports and employee of the month, we should let the new City Administrator settle in and make those changes or see what he would propose.

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 8:30 p.m.

TIM POGUE, MAYOR

ATTEST:

THOMAS AIKEN, CITY CLERK

A Johnson

Updated: **July 28, 2015**