



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

July 21, 2014

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

MAYOR TIM POGUE
ALDERMAN JIMMY TERBROCK
ALDERMAN MICHAEL FINLEY
ALDERMAN MARK HARDER
ALDERMAN SHAMED DOGAN
ALDERMAN FRANK FLEMING
ALDERMAN KATHY KERLAGON
ALDERMAN MIKE BOLAND
CITY ADMINISTRATOR ROBERT KUNTZ
CITY ATTORNEY ROBERT E. JONES

ABSENT

ALDERMAN JIM LEAHY

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *June 9, 2014 Work Session* were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Kerlagon to approve the Minutes as submitted. A voice vote was taken with a unanimous affirmative result and the motion passed.

The Minutes of the *June 16 Board of Aldermen meeting* were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Kerlagon 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

Walt Glanz, 283 Spring Oaks Drive: Mr. Glanz said that there is an ongoing speeding issue on Spring Oaks Drive. He asked that the speed limit be reduced and a sign that will give notification regarding children at play in the area. He said that most of the speeding is in the morning and evening. Mayor Pogue said that a speed survey can be done as a first step in solving the problem.

PUBLIC HEARINGS

None.

NEW BUSINESS

LEGISLATION

BILL # 3841 - AN ORDINANCE AMENDING SECTION 2-296 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN WITH RESPECT TO ELECTRONIC MESSAGES.

A motion was made by Alderman Fleming and seconded by Alderman Harder for a first reading of Bill No. 3841. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3841 was read for the first time.

Alderman Harder asked who is the custodian of records. City Administrator Kuntz said that City Clerk, Marie Clark is the primary custodian of records. The Deputy City Clerks are Tom Aiken and himself.

A motion was made by Alderman Fleming and seconded by Alderman Boland for a second reading of Bill No. 3841. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3841 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3841 with the following results:
Ayes – Fleming, Terbrock, Boland, Dogan, Harder, Finley, Kerlagon. Nays – None. Bill No. 3841 was approved and became **Ordinance No. 14-22**.

BILL # 3842 - AN ORDINANCE AMENDING SECTION 29-1 (2) OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN WITH RESPECT TO WEEDS AND DEBRIS.

A motion was made by Alderman Boland and seconded by Alderman Fleming for a first reading of Bill No. 3842. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3842 was read for the first time.

Alderman Finley asked that a second paragraph be added which deals with the situation if the items are within an enclosed building or area, and could be screened off. City Attorney Jones said that Assistant City Administrator Aiken proposed no longer limiting this to a lot that is less than 3 acres in size, etc. Mr. Aiken's other concern was that screening that would allow storage of these kinds of materials in the back yard would be an enforcement nightmare. Something that is reasonable and logical, but also allow enforcement, is the goal. There is no way to get into an enclosed area, such as a back yard, unless invited or allowed by the property owner to do this. A suitable enclosure is meant for a carport situation.

Alderman Harder asked about a garage that the door is left open or if the door is broken and isn't closed, which has the debris in the garage and is exposed to the street view. City Attorney Jones said this would be a violation. If it is visible from the outside from the rights-of-way, it needs to be screened 100% from view with the new language. Someone who crams the garage door full and leaves the garage door up would be subject to enforcement. Keep in mind that Code Enforcement is complaint driven by staff. The inspectors are not going to be looking for people who leave the garage doors up.

Alderman Boland said if other cities are using this type of enforcement. City Attorney Jones said that he and Mr. Aiken were unable to find similar restrictions regarding carports. The ones that were found were more restrictive than the proposed draft. He said we don't want to be unreasonable harsh because for some people, that's the only place they have to store items.

Alderman Fleming said that going all the way to require screening imposes more of an inconvenience on people with carports than the inconvenience of someone having to look at the stuff in the carport. He said he's not sure that the best answer to the situation has been found. If there are 100 carports and only 10 are messy, all of the people will have to make this adjustment. This will affect all of them rather than just the 10 who have the messy carports.

City Attorney Jones said the items being subject to the change are broken vehicles, parts of vehicles and machinery, concrete, rocks, bricks, construction machinery, non-useable and non-functional furniture, appliances and equipment, etc. If someone has a carport with an automobile, barbecue pit, trash cans, and lawnmower, it might look crowded, but those things are allowed. That's not going to be something that would be a violation of this section. Alderman Fleming said that a lawnmower is equipment. City Attorney Jones said it is equipment, but it's functional. If it was never moved and wasn't functional, that would be a judgment call. He said he doesn't think our Inspectors are going to pull the cord on lawnmowers to determine if it's useable.

Alderman Boland said he approves of the language as it is now. Alderman Harder agreed. He said asked about the maintenance condition of sheds and storage of debris. City Attorney Jones said that if debris is outside of the shed, it would be outside storage. If it's inside the shed, it's not visible and would not be in violation of the ordinance.

Alderman Terbrock said that he approves the language as it is now.

Alderman Finley said that the first two lines should read, "any parcel or contiguous parcels of land outside of an enclosed building, or areas visible within a carport, gazebo, porch or other structure (the interior of which is visible from the outside). He said that separates land from structures. City Attorney Jones said that this was the intent of the language and makes it more clear.

A motion was made by Alderman Finley and seconded by Alderman Harder to amend the language as follows: "any parcel or contiguous parcels of land outside of an enclosed building, or areas visible within a carport, gazebo, porch or other structure (the interior of which is visible from the outside).

A voice vote was taken with the following result: Aye: Finley, Terbrock, Dogan, Harder, Boland, Kerlagon. Nay: Fleming. The motion passed by a vote of 6-1

Alderman Dogan said he agrees with Alderman Fleming's hesitance about this. The language is similar to what we already have. He's not sure why the current language doesn't apply to carports. Eliminating the item about any lot composing 3 acres or less, those people are now being added to the mix. There's a concern about people who have large lots. Some people may put tarps around their carports and that will be considered ugly.

Mayor Pogue said that tarps are in violation of the ordinance. Permanent wood screening would be acceptable. Temporary flexible coverings are not included. City Attorney Jones said that if somebody makes a good-faith effort to comply with the ordinance, they are not going to be bothered by staff because their neighbor doesn't like the way it looks.

A motion was made by Alderman Boland and seconded by Alderman Terbrock for a second reading of Bill No. 3842. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3842 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3842 with the following results: Ayes – Boland, Harder, Kerlagon, Finley, Terbrock. Nays – Dogan, Fleming. Bill No. 3842 was approved by a vote of 5-2 and became **Ordinance No. 14-23**.

City Attorney Jones said that the accessory structure section is Section 7-256. It requires all accessory buildings and structures to be in a good state of repair. The same things that govern a house are going to apply to a shed.

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. Recycling Containers
- B. Banking Services
- C. Double Fine Zones
- D. Destruction of Records

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

MAYOR'S REPORT

Great Streets Initiative: Mayor Pogue said that construction will begin this Fall on the \$15.5 million project that was approved by the Missouri Highway Commission. \$5.4 million was designated for Great Streets enhancements. This shows that Ellisville, Wildwood and Ballwin continue to work together.

Missouri Municipal League: The annual meeting will be September 14-17 at the St. Charles Conference Center.

Commission Appointments: Mayor Pogue recommended the following appointments:

Planning & Zoning: Reappointments 4-year terms: **Lisa Zimmerman, Mike Utt, and Lynn Goetz.** *A motion was made* by Alderman Fleming and seconded by Alderman Finley to reappoint the Planning & Zoning Commissioners as recommended by Mayor Pogue. A voice vote was taken with a unanimous affirmative result and the motion passed.

Board of Adjustment: Since Lori Willis has retired as Chairman from the Board of Adjustment, he recommended that **Bob Komor** be moved from Alternate to a permanent position. *A motion was made* by Alderman Fleming and seconded by Alderman Boland to approve the appointment of Bob Komor to a permanent position with term expiration 5/24/2016. A voice vote was taken with a unanimous affirmative result and the motion passed.

Mayor Pogue recommended that **Phyllis Erwin** be appointed as an alternate on the Board of Adjustment with a term expiration of 5/24/2015. She was previously on the Planning & Zoning Commission. She said she is interested in being appointed as an alternate.

A motion was made by Alderman Boland and seconded by Alderman Kerlagon to approve the appointment of Phyllis Erwin as alternate to the Board of Adjustment. A voice vote was taken with a unanimous affirmative result and the motion passed.

Mayor Pogue recommended that **Frank Haffner** be appointed to an Alternate position on the Board of Adjustment with a term expiration of 5/24/2016.

A motion was made by Alderman Fleming and seconded by Alderman Harder to approve the appointment of Frank Haffner, as alternate to the Board of Adjustment. A voice vote was taken with a unanimous affirmative result and the motion passed.

Plaque Presentation: Mayor Pogue presented a plaque from the Back Stoppers organization to Police Chief Schicker and the Police Department.

Humana Foundation: Mayor Pogue said the Humana Foundation has designated the City of Ballwin as "A Playful City USA" and signs are being installed. Ballwin is one of three cities in Missouri to receive this recognition.

CITY ADMINISTRATOR'S REPORT

Coop Salt: City Administrator Kuntz said the Coop is the multi-city option for salt purchases. The other is a market purchase. The Coop bids are significantly higher than the quantity prices that were quoted last year. This is due to supply and demand. The recommendation is to start the winter storm season with a full salt dome. This recommendation with the bid award would give us a full dome, which is 5,000 tons. It will also be over budget for 2014 by \$183,238. At the time of re-appropriation, we will be coming to the Board to see from where the overage will be covered. The last resort is from reserves. It's best to start the winter season with a full dome of salt, and this will cost more money.

Alderman Harder asked why it's more expensive to purchase through a coop than from a sole supplier. City Engineer Gary Kramer said he could only speculate that by bidding in late June the coop was higher than our secondary source which was bid in early May. Requiring delivery before the end of August versus late 2014 may be another reason.

City Administrator Kuntz said that most of the other cities rely on the coop for their salt supply. It's beneficial to also have a relationship with a secondary supplier to order extra tons if needed.

Alderman Harder asked when is the salt delivered. City Engineer Kramer said the coop delivery is scheduled in November or December. The second delivery is in January or February. With our secondary supplier, we receive delivery by August 31, and the second delivery is by January 31. With the coop, the delivery has to be received without cancellation even if it's a mild winter.

Alderman Terbrock asked if there is a certain amount that must be ordered from the coop. City Engineer Kramer said that in May, the coop sends out a form to all of the cities and asks how much do they want to order. The number we give is what we have to take.

Alderman Boland asked why are we committed to ordering salt from the coop? Mayor Pogue said that the Board approved this in April. Alderman Fleming said we have been using this process for years in order to have a couple of options.

A motion was made by Alderman Fleming and seconded by Alderman Kerlagon to approve staff recommendation for the salt purchase. A voice vote was taken with the following result: Aye: Fleming, Kerlagon, Terbrock, Finley, Dogan, Boland. Nay: Harder. The motion passed by a vote of 6-1.

Special Events: City Administrator Kuntz said that special events are getting more frequent and more complicated. There have been parking issues due to extensive advertising. Adequate police manpower is essential for traffic control, street closures, etc. Police Chief Schicker and his staff have spent a considerable amount of time talking with other cities to see what their procedures are for the larger special events. He said the Board is being asked to consider if the requirements should be expanded or changed.

Alderman Harder asked if there has been an event that has resulted in a review of the special event procedures? City Administrator Kuntz said that there was an event on July 4 that was straddling adjacent properties with serious parking and crowd control issues. It was advertised and promoted prior to obtaining permits.

Police Chief Schicker said that a church had organized a 5k run without applying for a special event permit. This involves traffic issues, street closures, restrooms, etc. The St. Louis County application for special events contains many items that we haven't considered in the past and is not in our current legislation.

City Administrator Kuntz said that the 5k run was going to end up with a band and refreshments. The hours and noise of the band was going to be an issue. He said we want to promote these events, but it must be balanced with the neighborhood and traffic issues. The draft of suggestions is submitted for Board consideration.

Alderman Fleming said that City Attorney Jones should review the document before further action is taken. He said that a small special event, described in the draft, should not require a special event permit. He asked if "School Events" need a permit. Police Chief Schicker said that they would need a permit for an athletic event or most fund raisers. That would not include a picnic with amusement rides and a band similar to Ballwin Days. This type of event would require a special event permit. There are St. Louis County Health Code requirements.

Police Chief Schicker said that the church that was having the 5k run, it wasn't a school event. It was a men's club, which is part of the non-profit of the organization, but not related directly to the school. It was going well beyond school property. When an event is being held inside the building, a permit is not required.

Police Chief Schicker said that there was a wedding held at an address on Country Creek Ct. They put up a large 20-foot by 40-foot tent, an outdoor restroom, and going to shuttle parking back and forth from the City golf course and City pool parking lots. He said these are plans and issues that we need to discuss before invitations are sent out. Our Public Works personnel may have to drop off and then back to pick up traffic cones or barricades. He said we're not trying to make a profit for these services, just to recoup the cost of providing services.

Alderman Harder asked if St. Louis County provides a ratio of the number of portable toilets for an event. Police Chief Schicker said that decision is based on the size of the event. The July 4 event, the business was planning on an attendance of about 5,000. It turned out that about 1,200 attended. They had 3 or 4 outdoor restroom for this event. He said there isn't anything in the Ballwin code at this time to regulate the number of outdoor restroom that should be provided.

Alderman Harder asked if the amount of parking spaces should be addressed because this would overflow into a neighborhood. Police Chief Schicker said that if someone is going to have a large event and live on a cul-de-sac, this would be a problem. He said that these are issues that are being addressed in the draft provided to the Board.

Alderman Finley suggested adding in the definition section to take into consideration the First Amendment and add peaceable assemblies and peaceable events of the free exercise of religion. He said that he would like this specifically identified as an example. City Attorney Jones said that we have to be careful about attempting to regulate churches. There is a limited ability to make churches comply with the zoning regulations. Noise from an outside service with amplified instruments are addressed under our applicable noise ordinance. To specifically call out assemblies and religious events and include them in the definition, we will then have to start carving them out of a number of the requirements. It will be cumbersome to do this. Alderman Terbrock said that he is against carving out religious events.

Alderman Dogan asked how are we going to notify people that they need to come to the Police Department to make arrangements and a permit before holding the event? Police Chief Schicker said if legislation is passed, the Business Resource Officer will be in contact with all of the businesses, which is where most of the permits are issued. The police units will inform the subdivision trustees, churches and schools so that they are aware of the application procedures. The Ballwin website will also be used.

City Attorney Jones said that before the next Board meeting, he will review the suggestions, work with Police Chief Schicker and City Administrator Kuntz and present the topic at the next meeting.

Street Trees: City Administrator Kuntz said this is regarding trimming the City's street trees. He said that street trees are a big concern since the ash bore is invading Missouri. When ash trees are taken down because of the disease, there will be many areas that will no longer have trees. Trimming trees is now an issue for discussion because a resident trimmed a tree so severely that the tree had to be taken down. Tree removal is in the code but nothing about trimming street trees.

Alderman Boland asked if someone hits their head on a limb that's hanging over a sidewalk, how long does it take before the limb will be trimmed? Will Rein, Arborist, said that if someone hits their head on

a limb, it will be checked out that same day. Director of Parks & Recreation Bruer said that if the limb is a hazard, it will be trimmed that same day. If not, it will be put on the list for trimming later.

Mr. Rein said there are five people to take care of the five parks and 8,000 street trees. Usually trimming and pruning is done during the winter. There are a lot of hazardous removals that are prioritized higher than a low branch.

Mayor Pogue asked what should we tell a resident if they ask if they can trim a street tree? Director of Parks & Recreation Bruer said that we would explain to the resident how to trim the tree. A certified arborist could be hired to trim the tree. Mr. Rein said that when a healthy tree is trimmed, a resident could say that they only trimmed off 20%, but it could still be a hack job.

Alderman Harder asked what happened to cause this addition to the tree maintenance to be reviewed. Mr. Rein said a resident called him to look at a tree. There were two street trees in front of the resident's house. On the first tree, there were some low, within clearance, dead branches. The resident wanted those branches removed today. Mr. Rein said he told the resident that in order to do this, he would have to borrow the City of Manchester's bucket truck, and this would be done as soon as possible. The resident then showed Mr. Rein another tree that did need to be removed. Mr. Rein told the resident that when he comes back to remove the dead tree, he will do his best to remove all of the dead branches on the other tree. The next day, the Public Works Superintendent of Streets saw that the resident had topped the tree that he was wanting the small dead wood out of. On the uphill side of the resident's driveway, which is in front of his neighbor's house, there is another street tree. The resident butchered that tree. The neighbor thought that the tree belonged to him and got very upset. The tree that the resident had topped, Mr. Rein asked him to go ahead and remove it, causing the resident to bear the expense of removing the tree. The other tree is still on our removal list. He said that when he returns to take out the second tree, he will also do some work on the neighbor's street tree that the resident butchered.

City Administrator Kuntz said that we have a street tree inventory and needs to be updated. Mr. Rein said that there is an appraisal guide to give value to the trees. He said the updated inventory will have prices attached to each tree. Some of the trees are valued at over \$2,000.

Director of Parks & Recreation Bruer said that educating the residents is a big part of tree survival. Alderman Terbrock said that if a resident is told that they can trim and they hack it to pieces, we have to recourse because we told them they could trim the tree. He said until we have enough staff and the whole process in place, the resident should be told not to trim the tree and we will get to it as soon as possible. We have insurance on the trees and if the tree is severely damaged, the resident will have to pay for it.

City Attorney Jones asked what is a park tree. Director of Parks & Recreation Bruer said it is a tree that's located in a park. Definitions for street trees and park trees perhaps should be included in the revision. Mayor Pogue said that we need to have City Attorney Jones prepare something to protect the City from unauthorized tree trimming. Alderman Terbrock said that if we charge someone for running into a street tree with a car and we have to take the tree down, but not charge for someone trimming the tree, killing the tree, and we have to take it down, that's not acceptable.

Alderman Harder asked about trash trucks and UPS and Fedex trucks damaging trees. How is this handled? Director of Parks & Recreation Bruer said that if we know who did the damage, we send the company a bill. Someone has to see it happen. Alderman Terbrock said that it was determined that 14 feet is the height of trash trucks, and street trees should not be any lower than 14 feet.

Mayor Pogue said that City Attorney Jones will work with Staff and present a recommendation at a later date.

Great Streets – Bollards: City Administrator Kuntz said the contract has been awarded. The only overrun that will affect the bid award is the installation of the address bollards. The bollards are monument type of address indicators and identify the 100 blocks within Manchester Road. This will coordinate with the address of the businesses. The City of Ellisville will also invest in the extension of

the bollards. Everything else is covered under the grant, but the cost of the 15 bollards would be \$56,025. This is not a budgeted item because at the time, we didn't know how the bids were going to come in or approximately what the bollards would cost. Part of the cost would come from a contingency, and the balance would be absorbed through the budget.

Mayor Pogue said that Ellisville will be discussing this at their next Board meeting. He said that we agreed to do this if Ellisville also purchases and installs the bollards. This is part of the entire project.

Alderman Harder asked how did this project get separated from the overall bid? Mayor Pogue said the initial allotment for funding was \$5 million. The Commission exceeded this and agreed to \$5.4 million. To get to the \$5.4 million, this is one of the items that was cut. It was also cut in Ellisville, including one of the bus shelters. There was also some trail lighting in Wildwood that was cut to get the project down to \$5.4 million. Wildwood is going to do some of this on their own.

Alderman Fleming asked how tall are the bollards? Mayor Pogue said they are 4 feet 9 inches tall and 1 foot 6 inches wide. It will be at driver's eye level. Alderman Fleming said that is too short for use on Manchester Road. It is a lot of money to spend on this part of the project. If Ellisville is going to go forward with this, Ballwin will have to do the same because we are all in this project together.

Mayor Pogue said that \$15.5 million is the cost of the entire project, Great Streets and repaving Manchester Road. Repaving is part of the \$15 million. Alderman Terbrock said that we should all be doing the same thing and not opt out of certain parts of the project.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock to approve the expenditure for Great Streets as recommended by staff, with the contingency that the City of Ellisville also approves the expenditure. A voice vote was taken with a unanimous affirmative result and the motion passed.

Golf Course Remediation: City Administrator Kuntz said this is a requirement by the EPA and the Department of Natural Resources that we conduct further soil testing with respect to fuel storage that has been taken from this property in 2002. To get closure on this environmental issue, they are requiring Ballwin to do monitoring and testing, and install an additional ground water well. To accomplish this, we would need to award a contract to SCI Engineering, since they did the initial testing, in the amount of \$21,257.50.

Alderman Finley said that the Missouri Department of Natural Resources told us last year that we had to do this study. We did it, and everything checked out good. Now we have to do something else. Director of Parks & Recreation Bruer said yes, the Missouri Department of Natural Resources has requested that the City do further testing to include installation of an additional ground water sampling well with quarterly samplings to insure the chemical plume has stabilized and five soil borings in the area of the previous tank.

City Attorney Jones said usually when they make a determination, it's like any other administrative determination, there is a right to appeal. He said that if the Board is going to approve the expenditure, it should be contingent upon the opportunity to review an appeal.

A motion was made by Alderman Terbrock and seconded by Alderman Boland to approve the expenditure contingent upon looking first at the appeal. A voice vote was taken with a unanimous affirmative result and the motion passed.

National League of Cities: City Administrator Kuntz said the deadline for early registration to attend this meeting is approaching. He asked for responses from the Board as soon as possible.

Six-Month Financial Report: City Administrator Kuntz said that a footnote was added to the report which involves the transfer from the reserves, as previously discussed, to cover a portion of the expense for the capital project at The Pointe. This report will be published in accordance with the legal requirements.

A motion was made by Alderman Boland and seconded by Alderman Fleming to accept the 6-month financial report and for publication. A voice vote was taken with a unanimous affirmative result and the motion passed.

"NEWS YOU CAN USE"

City Administrator Kuntz said that with the help of Staff, "News You Can Use" is an overview summary of information that can be used when attending subdivision meetings or any type of meeting where there's questions about the City. It consists of information about frequently asked questions and is divided by departments.

Closed Session: City Administrator Kuntz said the closed session, at the conclusion of regular business, involves potential litigation, under State Statute 610.021 1.

STAFF REPORTS

None.

CITY ATTORNEY'S REPORT

Legal Issues:

Ameren Missouri: City Attorney Jones said Ballwin is currently involved in litigation before the Public Service Commission with Ameren Missouri, regarding an effort in trying to compel Ameren to sell to Ballwin its street light facilities so that we can acquire the lights and pay only for the electric power. Currently, we are involved in motion practice with Ameren, who has filed a motion to dismiss the action. Staff of the Public Service Commission has supported that motion, which was disappointing to see this happen. He said it's a standing argument, which is a technical argument that he doesn't think will be a problem for Ballwin.

City Attorney Jones said that Ameren has filed a big rate case. This involves a number of different tariffs. He said it's our recommendation that we intervene in the rate case so that we can follow the testimony and try to determine if it has any bearing on the street lights issue. The advantage to doing this is that the rate case has a May determination date. In May, 2015, the rate case will be decided one way or the other. He said that the action that O'Fallon and Ballwin filed against Ameren does not have a time limit. It could languish for years. It is hoped that this won't happen. In terms of intervening in the rate case, there may be some opportunities to use this to our advantage, which is his firm's recommendation to do this on behalf of both Ballwin and O'Fallon. The fees would be determined on the same pro-rata basis for the number of street lights that are involved. O'Fallon pays a larger percentage, which is about 75%.

Alderman Finley asked who has brought the action on the rate case. City Attorney Jones said that Ameren brought the action. They typically do this sometimes annually or at least once every couple of years to try to adjust the residential tariffs, commercial tariffs, and other items. As a part of this, they have a lot of different issues involved. One may involve our street lights.

City Attorney Jones said that interesting cases were found that the Public Service Commission has ruled on in the past, such as the sale of electric transformers to customers where leasehold interests were no longer cost effective. He looked at the PSC's decision when they caused the Bell entities to sell us the wiring in our house for our phones. In the past with land lines, people used to pay a monthly rate, much like we do for the city street lights, for the wiring that was inside houses. The Public Service Commission

ordered Bell to at least sell those or give them up because they were totally and completely amortized by payments over the years, which is effectively the argument that we have in this case.

Alderman Fleming asked if this will allow other cities to participate because this is obviously the rate increase that has everyone's attention. City Attorney Jones said yes. He that he and City Administrator Kuntz has continued to talk with the Missouri Municipal League and the St. Louis County Municipal League to try to encourage as much interest in this as possible.

Alderman Harder asked if there is a cost to join in this action. City Attorney Jones said there is no direct cost. It's additional attorneys' fees. He said we would have to file a pleading to intervene, but it's not a great deal of effort. He said he won't be participating in the testimony, just monitoring it. After becoming an intervening party, he said he will continue to get the pleadings directly online and won't have to do a special information request such as Freedom of Information or Sunshine Request. He said he will be able to determine if street lights have been considered as part of the testimony. In these cases, it's written direct testimony that is submitted, as opposed to oral testimony. It can be searched like any other pdf document. He said this will allow us to brief the issue and present testimony if we want to do this. If we have not intervened, we would not be a party of interest.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock to accept City Attorney Jones's recommendation to allow him to intervene in the rate case so that testimony monitoring can continue. A voice vote was taken with a unanimous affirmative result and the motion passed.

Short-Term Loan Establishments: City Attorney Jones said that at the June 9 Work Session, he was asked to look at zoning in the commercial business district with regard to short-term loan establishments. He said his conclusion is that an outright explicit ban on short-term establishments is not in the best interest of the City of Ballwin. He said that short-term loan establishments that are licensed by the State of Missouri are provided for by statute, and generally, we cannot prohibit something that the Legislature permits. Ballwin can regulate them in a way that emphasizes the public health and welfare. He said that it has been learned from the Police Department that there has been a higher than usual number of calls for service for this industry, as opposed to conventional financial institutions, and other businesses as a whole.

City Attorney Jones said that if we limit the number of short-term loan establishments within a particular radius and consider hours of operation, certain types of signage without outright prohibiting short-term loan establishments, this can be done, but the findings must be part of our legislation. He said that St. Louis County and the City of O'Fallon have that same kind of legislation. The Board asked him to look at the Manchester model, which would have required deposits, as well as withdrawals, in order to grant a conditional use permit or a special use exception to such a business. That may be considered a prohibition. He said he does not recommend that kind of ordinance.

Alderman Boland asked if the St. Louis County and O'Fallon ordinances been tested in court? City Attorney Jones said they have not been tested in court. He said the cases that he most recently found were the St. Ann case in 2002 and a City of St. Louis case in 2001. Alderman Boland said that St. Ann tried a prohibition which didn't stand.

Alderman Harder said that the short-term loan establishments that we currently have would stay in place, and the legislation would be used in the future. City Attorney Jones said that's correct. Alderman Harder asked if a location could be grandfathered for this use. City Attorney Jones said there is a process in our zoning ordinance for the transfer of a special use exception. They could qualify under that particular ordinance, it is possible for the same use in the same location. He said that if we adopt new regulations, some of them would apply even to businesses that have already been established.

Mayor Pogue recommended that City Attorney Jones continue to work with staff regarding further regulations and then the Board can recommend sending the legislation to Planning & Zoning for review.

Telecommunications and Rights-of-Way: City Attorney Jones said that last weekend, he attended the Missouri Municipal Attorney's Association Seminar. Among the topics were the five bills that were passed regarding telecommunications and rights-of-way. These bills curtailed to some extent local control over telecommunications facilities. He said his firm is in the process of representing the southwest consortium, which includes the cities of Des Peres, Frontenac, Webster Groves, Oakland, and Sunset Hills, in redrafting those ordinances which are very similar. Ballwin was part of a group of West County cities that have ordinances very similar to those five. He said he has been asked by the Municipal League to draft a sample ordinance. This is a good time to take advantage of an economy scale and divide those costs among the cities that should also include Ballwin. He said he will bring this back to the Board at the August meeting, so that it will be ready for the effective date of the new statutes which will become effective on August 28, 2014.

ALDERMANIC COMMENTS

None.

Adjourn to Closed Session: A motion was made by Alderman Harder and seconded by Alderman Fleming to adjourn to closed session to discuss potential litigation under Section 610.021 1. A roll call vote was taken with the following results: Ayes: Aldermen Boland, Kerlagon, Fleming, Dogan, Harder, Terbrock, Finley. Nays: None. The motion passed to adjourn to closed session at 9:35 p.m.

Closed Session:

The Board convened in closed session at 9:37 p.m.

A discussion was held concerning legal action, causes of action and litigation with respect to damage to City property. The discussion involved privileged communications with the City Attorney.

Adjourn to Open Session: A motion was made by Alderman Harder and seconded by Alderman Fleming to adjourn the closed session. A roll call vote was taken with a unanimous result, and the closed session was adjourned at 10:06 p.m.

The Board reconvened in open session at 10:08 p.m.

A motion was made by Alderman Fleming and seconded by Alderman Boland to adjourn the open session. The motion passed unanimously and the meeting was adjourned at 10:12 p.m.

TIM POGUE, MAYOR

ATTEST:

ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

July 21, 2014

MINUTES OF THE CLOSED SESSION – JULY 21, 2014
BALLWIN BOARD OF ALDERMEN

The Ballwin Board of Aldermen convened in closed session on July 21, 2014 at 9:37p.m. Present were Mayor Pogue and Aldermen Finley, Harder, Dogan, Fleming, Boland, Terbrock and Kerlagon, City Attorney Robert E. Jones and City Administrator Robert Kuntz.

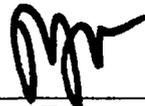
A discussion was held concerning legal action, causes of action and litigation with respect to damage to City property. The discussion involved privileged communications with the City Attorney.

A motion was made by Alderman Harder to adjourn the closed session and reconvene in open session. The motion was seconded by Alderman Boland.

The following vote was recorded:

Alderman Finley	aye
Alderman Harder	aye
Alderman Dogan	aye
Alderman Fleming	aye
Alderman Boland	aye
Alderman Kerlagon	aye
Alderman Terbrock	aye

The closed session adjourned at 10:06 p.m.



Robert E. Jones
Acting Secretary

MINUTES OF THE OPEN SESSION – JULY 21, 2014
BALLWIN BOARD OF ALDERMEN

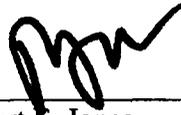
The Ballwin Board of Aldermen reconvened in open session on July 21, 2014 at 10:08 p.m. Present were Mayor Pogue, City Attorney Jones, City Administrator Kuntz and Aldermen Finley, Harder, Dogan, Fleming, Boland, Terbrock and Kerlagon.

A motion was made by Alderman Fleming and seconded by Alderman Kerlagon to reconvene. The motion was passed unanimously.

Alderman Boland commented for the record that his mother, Mary Boland celebrated her 85th birthday on July 21, 2014. She has been a resident of West St. Louis County for 40 years.

A motion was made by Alderman Fleming and seconded by Alderman Boland to adjourn. The motion passed unanimously.

The meeting was adjourned at 10:12 p.m.



Robert E. Jones
Acting Secretary