



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

January 13, 2014

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(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 JIM LEAHY  
ALDERMAN KATHY KERLAGON  
ALDERMAN MIKE BOLAND  
ASSISTANT CITY ADMINISTRATOR  
THOMAS AIKEN  
CITY ATTORNEY ROBERT E. JONES

ABSENT

CITY ADMINISTRATOR ROBERT KUNTZ

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *December 9, 2013 Board of Aldermen meeting* were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Harder to approve the Minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

PRESENTATION

None.

PENDING ISSUES

None.

CITIZEN COMMENTS

None.

PUBLIC HEARINGS

None.

## NEW BUSINESS

### LEGISLATION

#### **BILL # 3820 - AN ORDINANCE AMENDING PROVISIONS RELATING TO CERTAIN INFRACTIONS IN CHAPTERS 15 AND 17 OF THE CODE OF ORDINANCES.**

A motion was made by Alderman Boland and seconded by Alderman Fleming for a first reading of Bill No. 3820. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3820 was read for the first time.

A motion was made by Alderman Dogan and seconded by Alderman Fleming to amend the speed limit to 6 miles per hour. He noted a recent add for a toy electric vehicle that would go 6 miles per hour. A voice vote was taken and the motion passed unanimously.

A motion was made by Alderman Harder and seconded by Alderman Fleming for a second reading of Bill No. 3820, as amended. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3820 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3820 with the following results:  
Ayes – Terbrock, Kerlagon, Finley, Boland, Dogan, Fleming, Harder, Leahy. Nays – None. Bill No. 3820 was approved and became **Ordinance No. 14-01**.

#### **BILL # 3821 - AN ORDINANCE AMENDING SECTION 2-34 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN WITH RESPECT TO PERSONNEL SALARY RANGES.**

A motion was made by Alderman Kerlagon and seconded by Alderman Terbrock for a first reading of Bill No. 3822. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3822 was read for the first time.

A motion was made by Alderman Fleming and seconded by Alderman Boland for a second reading of Bill No. 3822. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3822 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3822 with the following results:  
Ayes – Boland, Kerlagon, Terbrock, Finley, Fleming, Leahy, Dogan, Harder. Nays – None. Bill No. 3822 was approved and became **Ordinance No. 14-02**.

**CONSENT ITEMS:** (Budgeted items which are low bid and do not exceed expenditure estimates and/or items which have been previously approved in concept.)

- A. Check Signatories
- B. Pointe Financing
- C. Easement Assignment

Alderman Boland requested that Item B (Pointe Financing) be removed for further discussion.

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

City Attorney Jones asked for clarification on Item C of the consent items (Easement Assignment). Since this will require an ordinance, a motion for the preparation of legislation is required.

*A motion was made* by Alderman Fleming and seconded by Alderman Finley to draft legislation to authorize the City Attorney to draft legislation for Item C. A voice vote was taken with a unanimous affirmative result and the motion passed.

### **MAYOR'S REPORT**

**Ballwin Days Committee:** Mayor Pogue said that the Ballwin Days Committee will meet at 7:00 p.m. , Jan. 16, at The Pointe.

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

**Retreat:** Mayor Pogue said that the Suburban Bow Hunters will give a report on deer control at the February 8 Retreat at 8:00 a.m. Alderman Finley said he has questions about zoning. Perhaps this should be covered at the Retreat or during an April meeting.

**Pointe Financing:** Alderman Boland asked if there is a risk that the bank could pull out when they finalize the deal. Finance Officer Keller said if the City is agreeable with all of the Bank's paperwork, she does not expect this to be a problem. She noted that City Attorney Jones had a couple of questions about some of the language.

City Attorney Jones said he does not expect there to be an issue.

Alderman Harder asked why is there a ½ point difference between the high and the low? Alderman Boland said that banks have lots of money and there are not many other investment options available. The rates they pay are so low that they can do 1% and still make money. It's also for only 3 years.

*A motion was made* by Alderman Boland and seconded by Alderman Fleming to accept the pointe financing proposal. A voice vote was taken with a unanimous affirmative result and the motion passed.

### **STAFF REPORTS**

None.

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

City Attorney Jones reported that the United States District Court ruled in favor of the Ballwin group in the Kimball Class Action Suit regarding AT&T that was turned over to the St. Louis County Municipal League for defense. They will not be able to refile in the State court.

#### **Sales tax on motor vehicles purchased outside of the taxing jurisdiction (Senate Bills 23 & 99):**

There is now a statute that requires municipalities to put an issue on the ballot between November, 2014 and November, 2016 that states shall we continue to collect sales tax on automobiles that are sold outside of this jurisdiction, outside of the State of Missouri. City Attorney Jones recommended that this be put on the November, 2014 ballot.

**House Bill 103, Collecting Revenue from Traffic Fines:** City Attorney Jones said this requires Ballwin to accurately report revenue from traffic fines. If Ballwin doesn't do so, it risks losing the jurisdiction of the Municipal Court to handle traffic offenses. This is known as the Max Creek legislation that states cities can't receive more than 30% of their revenues from traffic fines. Ballwin is not close to that, but it needs to be sure that it is accurately reporting these revenues in a way which is different than it was previously reported. That legislation has been stayed by a court decision.

**Senate Bill 170 – Amending the Sunshine Law:** City Attorney Jones said members of a local governmental body can now attend a meeting via video conferencing. The Missouri Municipal League has suggested a policy regarding video conferencing and attendance. He said his advice at this point is that Ballwin shouldn't take any action that is terribly important when it is depending on someone who is attending via video conferencing.

**Telecommunications Senate Bills 649, 650, 652 & 653:** Mayor Pogue said this is regarding towers and rights-of-way, municipal poles, and structures. This is being appealed to the Supreme Court. There is new legislation pending as well on these issues.

### **ALDERMANIC COMMENTS**

**Energy Efficiency:** Alderman Terbrock said Ballwin has been trying to get Ameren to transfer the City to a more energy efficient street lighting program, or to sell parts of the system. They don't find it economically feasible because there is still some depreciating life in the fixtures. Ballwin signed its first street light contract in 1955. The cost will continue to go up and the City needs to find a way to make the switch. He said all Ballwin is getting from Ameren is lip service on this issue. He asked about the possibility of filing a lawsuit against Ameren for this reason. City Attorney Jones said he believes a lawsuit is viable because Ameren now has a tariff for LED lights and won't give a cost to the customers of what it would take to purchase the facilities for a conversion. This is an area that could be brought before the Public Service Commission. We would not be able to file in the State Court.

**General Capital Projects Fund:** *A motion was made* by Alderman Fleming and seconded by Alderman Terbrock to accept the amended and capital projects, funds, revenue, expenses statement report for June 1, 2013 to December 31, 2013. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Text Messaging while driving:** Alderman Finley asked if there is any legislation in progress at the State level. City Attorney Jones said only regarding young drivers. He said he will be glad to review the City of Manchester ordinance and give a report at the next meeting. Alderman Boland said we should not be over reaching on issues such as this. We should only consider what the State is doing. He prefers this to be state-wide legislation, as opposed to city to city. Mayor Pogue said that about 16 months ago, he lost a cousin who was hit by a driver who was texting. He said he believes this should be promoted at the State level. Alderman Finley voiced his agreement. At the state level, this legislation only applies to drivers under the age of 21.

**Adjourn:** A motion was made by Alderman Fleming and seconded by Alderman Kerlagon to adjourn. The motion passed unanimously and the meeting was adjourned at 7:50 p.m.

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TIM POGUE, MAYOR

ATTEST:

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THOMAS AIKEN, ASSISTANT CITY ADMINISTRATOR

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January 13, 2014