



MINUTES - BALLWIN BOARD OF ALDERMEN
WORK SESSION
#1 Ballwin Commons Circle

June 9, 2014

THE MINUTES ARE PREPARED IN SUMMARY TO REFLECT THE OVERALL DISCUSSIONS,
NOT VERBATIM QUOTES.

The Retreat Session was called to order at 6:00 p.m. by Mayor Tim Pogue.

PRESENT

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

ABSENT

ALDERMAN JIM LEAHY

Also in attendance were Assistant City Administrator Tom Aiken, Finance Officer Denise Keller, Chief of Police Steve Schicker, Director of Parks and Recreation Linda Bruer, and City Engineer Gary Kramer, Human Resource Coordinator Haley Morrison, Deputy Director of Parks John Hoffman.

The Pointe Renovations: Director of Parks & Recreation Linda Bruer and Deputy Director of Parks John Hoffman briefly presented the status of the new HVAC and building insulation integrity improvements at The Pointe. She said that the improvements are very cost and energy efficient. The whole project will be completed on approximately June 20. Mr. Hoffman said that the building will be a lot cooler in the summer and more efficient to maintain. Some of the repairs were necessary due to age of the equipment. Rust and corrosion were some of the issues that required replacement. Mrs. Bruer said that the slide stair tower will be the next renovation project at The Pointe.

Commercial Zoning: Mayor Pogue said that Chesterfield, Ellisville and Manchester provided their code information for commercial zoning. He said that Ellisville's zoning classification C-1 along Manchester Road does not allow financial institutions, but the C-3 zoning along Clarkson does. They have additional regulations regarding pay-day loans.

Alderman Finley suggested that perhaps a petitioner for new commercial uses should come to the Board first, and then the Board could make a decision if this is the type of business it wants along Manchester Road or elsewhere. The Board could then make a recommendation to the Planning & Zoning Commission. After their analysis, the Board would give final approval.

Alderman Terbrock said that this Board would be the determining factor whether a business is viable in our city. Alderman Finley said the Board would be giving the recommendation to go to Planning &

Zoning. Mayor Pogue said that we would need ordinances that guide the Planning & Zoning Commission regarding what is allowed and what is not allowed in certain districts.

City Attorney Jones said we would have to radically change the format of the zoning ordinance if we wanted to have pre-screening for the uses. He said he would be very concerned about the arbitrariness of such a process. He does not recommend this kind of approach.

Alderman Finley asked if there are conflicts with State laws. City Attorney Jones said not conflicts with State laws, but with court decisions in terms of zoning. There would need to be legislation that supports this kind of process. At this time, when a business is considering locating in Ballwin, they can see what is allowed and required. Alderman Finley said an entity wanting to locate in Ballwin is obligated to look at what we have and then apply from that standpoint.

Alderman Harder said that if there are some businesses that we feel are objectionable to our business district, the zoning code may be the place to create limitations. Anybody applying could receive a copy and see if their business is allowed or not allowed in that district. He said that this is what surrounding communities have done regarding financial institutions, etc. If we have objections to pay day loans, massage parlors, etc., this could be designated in the code.

Alderman Fleming said when businesses are not allowed, we are denying property managers and owners the ability to rent the business space. He asked if there have been any problems with certain types of businesses. Police Chief Schicker said historically, there were a couple of robberies and fraud cases. Compared to the big stores, the volume of calls was higher to the pay day and title loan businesses. This has decreased.

Alderman Fleming said if we continue to say we don't like thrift shops or any other kind of business, we are taking away the ability of the owner to rent the space. He said he approves restricting financial institutions, but no further. Alderman Harder said there are 31 types of businesses that are allowed in Ballwin.

City Attorney Jones said he is not aware of any challenges to neighboring community's legislations. He said he likes the Ellisville legislation which creates two different commercial zoning districts. One allows certain uses and the other does not.

Alderman Boland said that certain businesses can make Ballwin look cheap. Pay day loan businesses are predatory lenders. He said he doesn't want these types of businesses at all in Ballwin.

Alderman Dogan said that these kinds of regulations can make Ballwin anti-business. Someone might feel that they don't like massage parlors or chain restaurants. The businesses aren't doing anything illegal. Alderman Boland said that lobbyists have persuaded legislators to allow them to have almost triple digit interest rates. Alderman Dogan said that people still use their product. Alderman Boland said he does not want them in Ballwin. He said there's a difference between most businesses and proven predatory lenders. Alderman Dogan said he feels that it's irresponsible for people to have a terrible diet, but he doesn't want the government dictating menus. This is a personal choice.

City Attorney Jones said that he recommends tightening up the definition of financial institution for the code.

Assistant City Administrator Aiken asked if a site is grandfathered for that use, and the new business is the same use, would they be allowed to rent that space? City Attorney Jones said he believes they would be able to do this. Another approach is to make the definition so that a certain type of business would not be allowed at all, and then see if there's a challenge.

Assistant City Administrator Aiken said he remembers when people felt there were too many gas stations and fast-food restaurants in Ballwin. There was a concern about massage parlors. Ballwin changed the regulation to require that only State licensed massage therapists be employed. We changed the pay day loan regulations to what it is now. There was case law supporting the argument that they are no different than any other registered controlled financial institution and should be subject to the same limitations and

regulations. To single them out as different from banks was viewed as inappropriate in that case. All financial institutions are regulated by the State. Manchester has thrown in an extra item regarding taking deposits. He said that Ellisville's definition is based primarily on Ballwin's definition with a few items from Wildwood. Their City Attorney felt that they were exposed to litigation. Chesterfield does this through the planned district approach.

Assistant City Administrator Aiken said the problem we have is that Ballwin has only one commercial zoning classification. We have a couple of overlay zones, but they work over the C-1 district which establishes the allowed uses. If you're going to try to create a C-2 or C-1A, how do you figure out what area is going to get the new zoning and how is that different from what is C-1 now? The only place Ballwin has commercial zoning is along Manchester Road, at the corner of Clayton Road and Kehrs Mill Road and at Henry and Clayton Road. How will you decide which businesses are suitable for this new district and which ones are not? Ellisville has several commercial districts that are spread around their city. It would be hard to do what Ellisville has done without putting ourselves in the position of being charged with manipulating the zoning to prohibit these uses in places where they are presently allowed. He said that he believes changing the definition is the best thing to do. He is concerned that someone could claim a right to non-conforming use for the site that would extend for a year after the business closes under the current regulation.

Assistant City Administrator Aiken said that we require a Special Use Exception, but the problem is that if a special use is going into a plaza that is already approved, has a special use for the site development plan, we don't redo that review of the site development plan. This would be a departure of what we are currently doing. The reason we do this is because there are big plazas that have open units. If you require every restaurant to get their own special use exception, which are frequent tenants, and redo the site development plan every time and then not change anything, we have wasted a lot of time. He said we have to be careful how this is structured.

City Attorney Jones said we took a cautious approach, even though other cities have been more aggressive. He said he's not aware of any landmark litigation in the St. Louis area.

Alderman Harder said on the list of businesses that generate a sales tax, there are 18. Since Ballwin is point-of-sale, should we only allow businesses or entities that are going to generate sales tax, or let any type of business use the space. Are we going to become a business district for non-tax generating business, even though Ballwin depends on sales tax for revenue? Insurance offices, pay-day loans, some thrift stores that are run by charities, are all non-taxable. Those spaces are not generating sales tax for Ballwin.

Assistant City Administrator Aiken said if you prohibit service uses that don't generate sales tax, there will be a lot of unhappy property owners. A substantial portion of our business spaces are occupied by service uses. If you eliminate them, there will be a lot of empty store fronts. This change to allowed uses won't encourage other types of businesses to open in Ballwin. It will just create more vacant store fronts.

Alderman Fleming said we should think about marketing Ballwin better to prospective retailers. We can't prohibit certain businesses just because they don't generate sales tax. Alderman Harder said that when there are many less than desirable retail businesses, others of the same type tend to gravitate to that area. Within a couple of years, more desirable businesses don't want to be part of that type of customer draw. We need to have a healthy mix of business so that it attracts the maximum amount of people to the area.

Alderman Fleming said that banks have additional regulation needs regarding safety. He asked if we could impose those regulations on pay day loan type of businesses. Police Chief Schicker said we implemented the regulations off of a study he had done under FDIC regulations regarding operation of financial institutions, banks, and credit unions. He said that there has been only one bank robbery in Ballwin since Ballwin has been in existence. In the short time frame that pay day loans have been in Ballwin, there have been 4 or 5 armed robberies, with a gun.

Mayor Pogue recommended that City Attorney Jones review the records to see if there have been any challenges to the Manchester and Ellisville procedures. The Board agreed.

Aging in Place: City Administrator Kuntz said that the St. Louis County Health Department has initiated a very aggressive outreach to expand its Aging in Place services. He said he attended a seminar regarding Aging in Place. Ballwin has the R-U-OK program which is a call service for those who are living independent and need to be checked on a regular basis. The Lafayette Older Adults program has been very successful.

Mayor Pogue said that Ginny Holleran and Peggy Duenke attended the Lafayette Area Mayors' meeting with representatives from the Washington Senior Center to talk about these kinds of facilities. There is a senior center on Manchester Road, but it is undersized and not user friendly. Peggy Duenke said that our area has a population of 162,000 in the six cities, and Washington has about 13,000. There is not enough space for all of our seniors to participate. Washington has a ballot initiative every seven years. Ginny Holleran said there was a petition at the Ballwin Days Festival for a better senior center. There were over 200 signatures.

Alderman Terbrock asked what are the activities at a senior center. Peggy Duenke said people come to senior centers for a meal, for transportation, to play bingo, games, cards, line dancing, etc. There's very little room at this location for activities that most senior centers have, such as exercise equipment and computer equipment. It's been proven that older people who have outside social contact are healthier and can stay in their homes longer. There are 14 level parking spaces. Ginny Holleran said the only way to enter the center is to walk down an inclined area. Four of the 14 spaces are for disabled parking, 2 are reserved for people that deliver Meals on Wheels. There are lots of steps going down to the entrance and a sloped driveway what doesn't have a sidewalk. If people have to walk with walkers or canes, it's very dangerous. She said there is Federal and State government funding. A lot of senior centers in Missouri are partially funded by municipalities. She said our senior center has no funding from any municipalities.

Alderman Harder asked if there is another store front that could be used for a senior center. Peggy Duenke said that if the neighboring communities would join together, this would be very desirable.

Alderman Fleming asked about live-in caregivers and extended family moving in with senior citizens. Assistant City Administrator Aiken said that live-in caregivers is probably alright under the current codes, but it relates to the definition of "family". This allows up to 3 unrelated individuals. The problem more often is separate "granny flat" apartments, how much is Ballwin willing to allow separate dwelling units to be built in a single-family residential district. What will happen when the senior citizen occupant passes away and the family decides to rent the apartment to students? This could be a negative issue in a single-family neighborhood. He said there are places where this is being done with some success; however, those areas are typically higher density neighborhoods.

Alderman Harder said that people are trying to retrofit their homes by installing ramps in a less than professional way. How is this being handled from a building inspection standpoint? Assistant City Administrator Aiken said he doesn't think a permit has ever been issued for this in Ballwin. We don't have a standard for this. There are prefabricated materials for this. Handrails don't apply unless the height of the structure is over 30 inches tall. Most ramps are not that tall.

Alderman Harder asked how many people are using the senior facility on Manchester Road on a daily basis. Peggy Duenke said 50, Monday – Friday, 9:00 a.m. – 3:00 p.m., with lunch each day. The space isn't big enough for these activities. Exercise equipment has been offered but had to be turned down because there's no space to put it and use it safely. The parking is totally inadequate and the driveway entry to the lower level is very steep.

Alderman Finley asked what would need to be done to set up a senior center. City Attorney Jones said a statutory cooperation agreement would have to be provided which would allow joint funding. Director of Parks and Recreation Linda Bruer said there are funds available to operate a senior center, but she's not sure if there are available funds to build one.

Communications: City Administrator Kuntz said communications with the public is on the Ballwin website, the Resident Newsletter via "West NewsMagazine" (for single family homes only), Nixel for Police Department news, Facebook, Twitter, electronic sign boards, and e-mail.

Alderman Harder asked how are we harvesting e-mail addresses of our residents? Human Resource Coordinator Haley Morrison said the residents have to submit their e-mails for whatever subject they are requesting regular information. Parks & Recreation gets resident e-mails from membership registrations.

Alderman Fleming said we shouldn't overdo the Twitter handles. The most we should have is one for each department.

Alderman Dogan said that people want to know when their street is scheduled for repairs. He said this information would be useful on Facebook or Twitter.

Alderman Harder asked if there is a plan to provide a Ballwin app to help with communications on smart phones. Police Chief Steve Schicker said that one of the unique aspects about Nixel is that there are a number of different platforms. The fact that you can get the information by text or e-mail is instantaneous. If it's tweeted or put on Facebook, the person would have to go to that source. If the phone is on, the message would be received if the individual has subscribed to it. Land line connections today is becoming non-existent. People are eliminating this out of their budget and have only cell phones. He said that code red was harvesting information off of public information. That information cannot be obtained with cell phones. It's not publicly available. He said that Nixel is the best application for providing information about a gas leak, water main break, etc. This is the pipeline that is needed to use to provide emergency information.

Alderman Harder said he would like to know more about crime and police issues. Police Chief Schicker said that he provides briefs to City Administrator Kuntz on this information. In the past, there has been more of a release of information on property crimes, than with crimes involving domestic issues, DWI arrests, etc. He said if we had an incident that affected public safety where it was stranger on stranger victim crime, this information would be provided. City Administrator Kuntz would be briefed prior to any release of information. When these incidents occur, Mr. Kuntz has relayed the information to the Board. Some information cannot be released prior to conclusion of the investigation. There is information that can only be discussed with the City Administrator and request that he keeps that information confidential.

Alderman Terbrock said that the Police Department should not have to provide crime and police issues to the Board. He said that the Board can't do anything with the information. The Police Department has been awarded for the job they do. It's not the Board's job to know exactly what's going on all the time with who, and to make judgments on what they are doing or what they should do. If the police feel the Board needs the information, they will give it to the Board. Mayor Pogue said that the Board could be subject to liability if e-mails of this nature are sent to the Board. Police Chief Schicker said that most of Ballwin's crime is usually property crime such as burglaries, car break ins, property damage. If the personal crime was a stranger on stranger incident, this would be provided as quickly as possible.

City Attorney Jones said that there are two problems with online discussions. It can be designated a meeting under the Sunshine Law. It wasn't posted nor an agenda provided. He said it's not a good idea to have these discussions by e-mail. Debating something via e-mail could become a topic at an open meeting. This should be avoided.

City Administrator Kuntz said that we should have an automatic purging system for e-mail retention. E-mails would be retained for 30 - 65 days. There's no indication that e-mails have to be stored for 5 or 10 years. He said a year is a reasonable timeframe. City Attorney Jones said that if this change is going to be made, the ordinance should be changed that contains the Sunshine policy. City Administrator Kuntz said that if the e-mails are kept for one year, that takes care of a full year of seasonal services that are provided to the Ballwin citizens.

Alderman Fleming asked what happens to the e-mails after they are removed from the exchange server. Assistant City Administrator Aiken said it depends on what the Board wants to do. Alderman Fleming asked if potential lawsuits could determine the length of time the e-mails are kept. Assistant City Administrator Aiken said we have a system that allows e-mails to be kept indefinitely. City Administrator Kuntz said that after a year, it would be taken off the active retrieval system.

Adjourn:

The meeting adjourned at 8:30 p.m.

Tim Pogue, Mayor

ATTEST:

Robert Kuntz, City Administrator

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