



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

February 9, 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 7:03 p.m.

PRESENT

MAYOR TIM POGUE
ALDERMAN JIMMY TERBROCK
ALDERMAN MICHAEL FINLEY
ALDERMAN MARK STALLMANN
ALDERMAN JOHN SCHWENT
ALDERMAN JIM LEAHY
ALDERMAN KATHY KERLAGON
ALDERMAN MIKE BOLAND
CITY ADMINISTRATOR ROBERT KUNTZ
CITY ATTORNEY ROBERT E. JONES

ABSENT

ALDERMAN FRANK FLEMING

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *January 26, 2015 Board of Aldermen meeting* were submitted for approval. A motion was made by Alderman Terbrock and seconded by Alderman Boland to approve the Minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

The Minutes of the *January 26, 2015 Closed Session* were submitted for approval. A motion was made by Alderman Terbrock and seconded by Alderman Finley to approve the Closed Session Minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

PRESENTATION

None.

PENDING ISSUES

BILL # 3866 - AN ORDINANCE AMENDING THE NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT APPROVED PER ORDINANCE 13-28 FOR CERTAIN LAND AT CLAYTON ROAD AND HENRY AVENUE IN THE CITY OF BALLWIN, COMMONLY KNOWN AS THE BALLWIN GROVE PLAZA.

Mayor Pogue said that Bill 3866 will be held over until the next Board of Aldermen meeting on February 23, 2015.

CITIZEN COMMENTS

None.

PUBLIC HEARINGS

None.

NEW BUSINESS

LEGISLATION

BILL # 3867 - AN ORDINANCE AMENDING THE CURRENT EMPLOYMENT CONTRACT WITH THE CITY ADMINISTRATOR.

A motion was made by Alderman Boland and seconded by Alderman Terbrock for a first reading of Bill No. 3867. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3867 was read for the first time.

A motion was made by Alderman Boland and seconded by Alderman Finley to amend Bill 3867 to insert the word “annual” in the Compensation paragraph regarding salary. A voice vote was taken with a unanimous affirmative result and the motion passed, as amended.

A motion was made by Alderman Kerlagon and seconded by Alderman Finley for a second reading of Bill No. 3867, as amended. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3867 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3867 with the following results: Ayes – Kerlagon, Stallmann, Finley, Leahy, Boland, Terbrock, Schwent. Nays – None. Bill No. 3867 was approved and became **Ordinance No. 15-08**.

BILL # 3868 - AN ORDINANCE SETTING THE REAL ESTATE TAX RATE OF ZERO (0%) PERCENT IN THE CITY OF BALLWIN FOR THE FISCAL PERIOD BEGINNING JANUARY 1, 2015 AND ENDING DECEMBER 31, 2015.

A motion was made by Alderman Finley and seconded by Alderman Boland for a first reading of Bill No. 3868. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3868 was read for the first time.

City Administrator Kuntz said that the 0% tax rate is annual legislation regarding Ballwin’s annual municipal real estate tax rate. It was rolled back to 0% in 1987 and has continued to be set at 0% on an annual basis by the Board. Ballwin is one of fourteen municipalities in St. Louis County with a 0% local property tax.

A motion was made by Alderman Kerlagon and seconded by Alderman Terbrock for a second reading of Bill No. 3868. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3868 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3868 with the following results: Ayes – Kerlagon, Terbrock, Stallmann, Boland, Schwent, Leahy, Finley. Nays – None. Bill No. 3868 was approved and became **Ordinance No. 15-09**.

BILL # 3869 - AN ORDINANCE IN THE CITY OF BALLWIN, MISSOURI, READOPTING AND AMENDING IN PART CHAPTER 2, ARTICLE II, DIVISION 2 OF THE CODE OF ORDINANCES WHICH ESTABLISHED A PROCEDURE TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST AND SUBSTANTIAL INTEREST FOR CERTAIN MUNICIPAL OFFICIALS.

A motion was made by Alderman Leahy and seconded by Alderman Boland for a first reading of Bill No. 3869. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3869 was read for the first time.

City Attorney Jones said that this conforms with State Statutes. When this ordinance is adopted at each 2-year period, Ballwin officials don’t have the annual reporting requirement that is the alternative way to comply.

A motion was made by Alderman Finley and seconded by Alderman Boland for a second reading of Bill No. 3869. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3869 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3869 with the following results:
Ayes – Finley, Boland, Terbrock, Stallmann, Schwent, Kerlagon, Leahy. Nays – None. Bill No. 3869 was approved and became **Ordinance No. 15-10**.

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. Asphalt Overlays
- B. Asphalt (Hot Mix)
- C. Slab and Sidewalks
- D. Crushed Rock
- E. 2015 Merit Raises
- F. Swim Passes
- G. Ferris Park Pavilion Renovation
- H. Double Fine Zones
- I. Grant Funding

Alderman Boland requested that **Item A** be removed for further discussion.

Alderman Finley requested that **Items G and H** be removed for further discussion.

Mayor Pogue requested that **Item E** be removed for further discussion.

A motion was made by Alderman Leahy and seconded by Alderman Boland to accept Consent Items B, C, D, F and I, as recommended by staff.. A voice vote was taken with a unanimous affirmative result and the motion passed.

MAYOR'S REPORT

Board Retreat: Mayor Pogue said a draft of the RFP (Request For Proposal) was sent to the Board. This will be used to select a search firm that will be used regarding the City Administrator position. The RFPs will be sent out via regular mail and electronically on Wednesday, and due back by February 27. He said that the first week in March, he, a staff representative and Alderman Fleming will review the proposals. A recommendation will be presented to the Board on March 9. The Board retreat will be held in late March or early April, and will include a meeting with the search firm that is chosen to do the profile development.

Culvert & Water issue: Mayor Pogue said that he and Aldermen Boland and Kerlagon had a discussion with the Governor Court subdivision trustees regarding a culvert and storm water issue. This is located in the subdivision common ground. He said that MSD doesn't have any funding to help with the problems. Ballwin crews have removed logs that have been caught in the culvert. He said they will continue to consult with MSD for assistance.

CITY ADMINISTRATOR'S REPORT

Consent Item A: Asphalt Overlays: Alderman Boland asked if the same company should provide Asphalt Overlays and Asphalt Hot Mix or any other street projects? City Administrator Kuntz said that the low bidder on the pavement was non-responsive on the hot mix. City Engineer Gary Kramer explained that hot mix is asphalt that Public Works uses for asphalt repair work, such as filling potholes.

Asphalt overlay is contract work using paving machines, rollers, etc. to apply hot mix on streets, curb to curb and end to end. These are two completely different uses.

A motion was made by Alderman Boland and seconded by Alderman Kerlagon to accept Asphalt Overlays as recommended by staff. A voice vote was taken with a unanimous affirmative result and the motion passed.

Consent Item E: 2015 Merit Raises: Mayor Pogue asked about the timeline. Are the sales reports available from December? City Administrator Kuntz said the sales results are available. He said 2014 revenues from sales tax are approximately 2.7% above budget projections. The sales tax was projected to be slightly higher in the 2015 budget. A balanced budget for 2015 was presented that included a 3% salary adjustment. The merit raises will be effective on April 1. The Board agreed to hold this matter over until the next meeting to allow the final 2014 revenues to be submitted and 2015 revenue projections to be reviewed accordingly.

Consent Item G: Ferris Park Pavilion Renovation: City Administrator Kuntz said this is a pavilion that the Ballwin staff built when the park was first acquired. The pavilion is now in unsafe condition. The components are deteriorated. This is a maintenance project which is adjacent to a children's playground area. It is not part of the phases of development for this park.

Alderman Boland said it makes good sense to spend the money to update the pavilion.

A motion was made by Alderman Terbrock and seconded by Alderman Boland to accept staff recommendation. A voice vote was taken with a unanimous affirmative result and the motion passed.

Consent Item H: Double Fine Zones: City Administrator Kuntz said this is legislation that when adopted, called for an annual review and report by the Police Department to reconfirm and reestablish the double fine zones along certain streets within the City of Ballwin. Police Chief Schicker provided a revised report regarding the activity and enforcement.

A motion was made by Alderman Terbrock and seconded by Alderman Boland to accept staff recommendation. A voice vote was taken with a unanimous affirmative result and the motion passed.

Pavement Assessment: City Administrator Kuntz said this is a specialized service. This is a useful tool to accurately assess future priorities. It's technical analysis of pavement conditions done with measurement by a trained professional. City Engineer Kramer is recommending that this be awarded to the Lochmueller Group, which is a St. Louis firm, for a lump sum fee of \$26,870. He said that \$30,000 was budgeted for the project.

A motion was made by Alderman Terbrock and seconded by Alderman Kerlagon to accept the recommendation by staff for Pavement Assessment. A voice vote was taken with a unanimous affirmative result and the motion passed.

Salt Brine Production: City Administrator Kuntz said that this equipment will enable Ballwin to use salt brine as a pre-treatment, similar to what MoDOT and St. Louis County are using. This enables the use of less salt in fighting snow storms. This allows pre-treatment during more regular hours as opposed to overtime call in. It is applied in a liquid form and stays on the pavement longer than rock salt. As precipitation is coming down, it continues the melting action. It's much more efficient and cost effective. City Engineer Kramer recommended the contract be awarded to Kranz Automotive Body Co.

A motion was made by Alderman Kerlagon and seconded by Alderman Boland to accept the recommendation by staff. A voice vote was taken with a unanimous affirmative result and the motion passed.

Salt Brine Application: City Administrator Kuntz said that the application equipment includes sprayers.

A motion was made by Alderman Terbrock and seconded by Alderman Schwent to accept the recommendation by staff for Salt Brine Application. A voice vote was taken with a unanimous affirmative result and the motion passed.

Ready-Mix Concrete: City Administrator Kuntz said that it is recommended that the contract be awarded to Landvatter Ready Mix, to purchase concrete for slabs and sidewalks repaired by city crews, for a total of \$100,650.

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

Street Sweeping: City Administrator Kuntz said it is recommended to renew the contract with Crowns & Curbs. There are not a lot of companies who do street sweeping on a contractual basis. We have had good service in the past. Their low bid is \$25,916 for 4 times per year.

Alderman Terbrock asked if the street sweeping company requires a dumpster for debris. City Engineer Kramer said that Republic Services provides a dumpster at the Public Works facility for this, which is usually 16 dumpsters per year.

City Administrator Kuntz said that street sweeping results in debris that cannot be co-mingled with other waste and cannot go into a landfill. It requires disposal in a hazardous materials landfill. This was previously bid out as a disposal item. The last time we did this before it was rolled into the trash contract, the cost was about \$12,000 for sweeping debris. This is included in the trash collection contract.

Alderman Terbrock asked what is the bulk of the street sweeping debris? City Engineer Kramer said it consists of sand, like grit and dirt.

A motion was made by Alderman Finley and seconded by Alderman Terbrock to accept the recommendation by staff for Street Sweeping. A voice vote was taken with a unanimous affirmative result and the motion passed.

Two-Ton Truck Replacements: City Administrator Kuntz said that it is recommended that the purchase be awarded under the State Bid, to the Navistar Truck Group, who submitted the low bid on the State bid specs. With all-inclusive plows, etc., the bid is \$257,417.42, with no trade for two trucks.

City Administrator Kuntz said that we have had good success using GovDeals and other surplus opportunities to get a good return on equipment when it becomes surplus. He said the problem with State bid is that they won't take trades; therefore, an alternative method is used.

Alderman Terbrock when the trucks are sold, where does the money go. City Administrator Kuntz said it goes into the General Fund under miscellaneous revenue. The same thing is done when Police cars are sold.

A motion was made by Alderman Boland and seconded by Alderman Schwent to accept the recommendation by staff to purchase two trucks from the State bid. A voice vote was taken with a unanimous affirmative result and the motion passed.

A motion was made by Alderman Terbrock and seconded by Alderman Kerlagon to declare the two older trucks surplus property and authorize Staff to sell them on GovDeals. A voice vote was taken with a unanimous affirmative result and the motion passed.

Mosquito Control: City Administrator Kuntz said this is the annual contract with St. Louis County. Last year we resumed mosquito fogging with our own crew. This contract with St. Louis County will strictly be for the application of the larvicide, which is dealing with standing water on public properties. This does not involve their proposal for fogging. We determined through experience that St. Louis County's fogging is a different approach than ours. He said we provide fogging on a scheduled weekly basis. It is recommended that we authorize the limited contract with St. Louis County for their larvicide application, and we will continue to do mosquito fogging in-house.

Alderman Terbrock said he is in favor of using St. Louis County for the limited service of larviciding, and we do the fogging.

A motion was made by Alderman Terbrock and seconded by Alderman Boland to authorize drafting legislation for this limited service. A voice vote was taken with a unanimous affirmative result and the motion passed.

Commemorative Sign: City Administrator Kuntz thanked Alderman Kerlagon for participating with the Historical Commission for the erection of a sign commemorating John Ball's original homestead, the founder of this city. He said the sign is in front of Regions Bank, and a photograph will be published in the "West Newsmagazine".

STAFF REPORTS

None.

CITY ATTORNEY'S REPORT

Legal Issues: City Attorney Jones said that when Ballwin adopted the new revisions to the weapons ordinances, a prohibition on carrying a knife, which had a blade that was 2½ inches in length or more was repealed. This was repealed when the new sections were adopted. This has created some confusion because State law adopts a definition where it's not a knife unless it has a blade in excess of 4 inches. It has been proposed that we add a section to our new ordinance that defines knife and specifically says that it doesn't include any ordinary pocket knife with a blade less than 4 inches in length. He said if this is acceptable to the Board, he will prepare an ordinance at the next meeting for this purpose.

A motion was made by Alderman Finley and seconded by Alderman Boland to draft appropriate legislation. A voice vote was taken with a unanimous affirmative result and the motion passed.

Grass Cutting: City Attorney Jones said it has been suggested that legislation be drafted that would limit the scope of the program just to grass cutting, weeds and grass, as opposed to a more general type of procedure. If acceptable, he will draft legislation for Board consideration at the next meeting.

Alderman Finley said he would be in favor of limiting the scope to something that could be detrimental to public health and safety. Our Staff shouldn't be going onto people's property just for grass violations.

City Attorney Jones said that entering upon occupied property has potential hazards, more so than unoccupied. He said a grass public health and safety threshold can be added due to mosquitos, vermin, etc. It should be broad enough to include grass cutting.

City Attorney Jones said that in 2013, we cut grass at 24 properties; 6 were vacant. In 2014, we cut 29 properties and 7 were vacant. We are cutting more occupied properties than unoccupied. City Administrator Kuntz said that many are repeat offenders and are complaint driven.

A motion was made by Alderman Terbrock and seconded by Alderman Kerlagon to authorize City Attorney Jones to draft appropriate legislation for Board consideration. A voice vote was taken with a unanimous affirmative result and the motion passed.

Chesterfield Tax Lawsuit: City Attorney Jones said that Finance Officer Keller checked on the issues that were discussed at the previous Board meeting regarding the revenue impact on the City of this pending lawsuit. The Ballwin Grove development is the only commercial district in Ballwin with a “Pool” designation. Adding that to the point-of-sales sales tax calculation as an “A” city would be even more of a loss for the City of Ballwin. He said if Chesterfield was successful with all of the legal arguments, the potential loss in sales tax to the City of Ballwin could be \$1.8 million. He said it is his recommendation that Ballwin intervene in the lawsuit and that the Board consider retaining special Council. John Hessel is already doing this for two other interveners. He suggested this even though the County is primarily going to be drafting the legal arguments in this case, because it is the largest loser. He said that John estimated the cost of legal services between the cities that he will be representing to be shared would be between \$20,000 - \$30,000.

City Attorney Jones said the motion to intervene for two of his cities was filed along with the County last week. In the meantime, the City of Chesterfield disqualified the judge. The case now has to be re-assigned to one of the two other judges in Cole County. There will be some delay before that happens. There is time to draft an ordinance for the next Board meeting, if approved. An ordinance is needed to retain special council.

Mayor Pogue recommended that this action be taken. This small investment is worth what the potential loss could be.

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

Emergency Communications Commission: City Attorney Jones said this is regarding the second phase of the ECC implementation. Previously, Ballwin adopted an ordinance that approved an agreement with the ECC to replace the radios. The second phase is to replace the furniture in the dispatch center in our facilities. There have been a couple of issues in the contract. He said he is waiting for 2 updated exhibits that need to be attached before he can recommend resigning the contract. Assuming this will happen at or near the meeting that is scheduled with Captain Boswell on February 17, he said he would like to present an ordinance at the next Board meeting to authorize Mayor Pogue to sign the agreement with the ECC for the dispatch center and the furniture conversions. He said that everything is going to be provided by the ECC. We may have some costs related to removing wiring and putting it back in after finishing with the Motorola contractor who is going to be doing the work.

A motion was made by Alderman Boland and seconded by Alderman Kerlagon to authorize City Attorney Jones to draft legislation authorizing a contract with the ECC. A voice vote was taken with a unanimous affirmative result and the motion passed.

Plumbing and Mechanical Licenses: City Attorney Jones said this is regarding licensing of plumbing and mechanical contractors, similar to the licenses that St. Louis County uses. He said that two years ago, we adopted the 2009 ICC codes here at the Board level. After some discussion and a presentation from the Home Builders Association, we repealed the adoption of the 2009 codes and readopted the 2006 codes.

City Attorney Jones said that in speaking with staff, he asked if we could simply adopt the County codes, and then we wouldn't have to adopt special sections with regard to Mechanical and Plumbing Licenses. The County has piecemealed so many alternatives and revisions that the County Code does not resemble any of the ICC codes. He said that it was recommended that we don't adopt the County codes. Instead, we should either stay where we are or consider going to the next cycle of ICC codes, and simply add the paragraphs from the County licensing provisions. If we stay with 2006, we would add those paragraphs. If we decide to go to 2009, or even the 2012 codes, we would add those paragraphs from the County with regard to Mechanical and Plumbing licensing.

Mayor Pogue said that we usually run two series behind. Essentially, by now, we would be using the 2012 code. Since the 2015 code is about to come out, we would historically now be adopting the 2012 code.

City Attorney Jones said that if we are going to prepare the legislation to do this, and add the Plumbing and Mechanical licensing provisions, this would also be an appropriate time to look at a new version of the ICC codes, perhaps 2009.

Alderman Stallmann said that regarding the 2015 code, there are a lot of people in the construction trade that are concerned about the requirements that are being recommended and the cost. He said this should be carefully reviewed.

Mayor Pogue said the recommendation would be to update to either the 2009 or 2012 code. Alderman Terbrock said that when we were considering updating to the 2009 or 2012 code, we were met with serious resistance from home builders and the construction trade. He does not recommend updating to the 2012 code because of past resistance and confrontation. If things have moved in that direction, perhaps this can be done. Mayor Pogue said that the difference between the 2009 and the 2012 code was the addition of the energy efficiency section, which raised a lot of concern by the home builders. Alderman Terbrock asked for an analysis to see what is the difference between the 2012 code and the 2015 code.

A motion was made by Alderman Kerlagon and seconded by Alderman Schwent to authorize City Attorney Jones to continue to work on looking into a possible adoption of the 2012 ICC with the inclusion of the mechanical license and plumbing requirements. A voice vote was taken with a unanimous affirmative result and the motion passed.

ALDERMANIC COMMENTS

Alderman Terbrock received a complaint from a resident about U-Haul regarding the parking issue. Assistant City Administrator Aiken said the complaint was about U-Haul not parking vehicles where the Special Use Exception specified. This is a common problem if there is a change in managers. Staff will review and send out appropriate notices. .

Adjourn: A motion was made by Alderman Terbrock and seconded by Alderman Kerlagon to adjourn. The motion passed unanimously and the meeting was adjourned at 8:19 p.m.

TIM POGUE, MAYOR

ATTEST:

ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

February 9, 2015