



MINUTES OF THE BOARD OF ALDERMEN MEETING  
CITY OF BALLWIN – 300 PARK DRIVE

February 28, 2011

The meeting was called to order by Mayor Pogue at 7:01 p.m.

PRESENT

MAYOR TIM POGUE  
ALDERMAN JIMMY TERBROCK  
ALDERMAN MICHAEL FINLEY  
ALDERMAN RON MARKLAND  
ALDERMAN PAT McDERMOTT  
ALDERMAN JIM LEAHY  
ALDERMAN RICHARD BOERNER  
ALDERMAN KEN MELLOW  
CITY ADMINISTRATOR ROBERT KUNTZ  
CITY ATTORNEY ROBERT E. JONES

ABSENT

ALDERMAN FRANK FLEMING (WORK OBLIGATION)

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *February 14, 2011 Board of Aldermen meeting and closed session* were submitted for approval.

- 1) Mayor Pogue made the following amendment: Page 1, Show that he was in protest of the amendment to delete his statements regarding attendance.
- 2) Alderman Finley made the following amendments: Page 6, first full paragraph. There is another candidate who prepared a resume and “updated it” not altered it. The final paragraph first line, the quote should be with a period not a question mark.
- 3) Alderman Boerner made the following amendments: Aldermanic Comments: Page 13, First paragraph, 3<sup>rd</sup> and 4<sup>th</sup> line from the bottom, the number should be 2066 and the other number should be 1097. The policy should be 4.2 instead of 2.4 . The third line in the last paragraph third line up, change paydays to months.
- 4) Alderman Terbrock amended for Alderman Fleming’s changes. Page 10, first sentence, “speaker” should be “projector”.

*A motion was made* by Alderman Finley and seconded by Alderman Leahy to approve the Minutes as amended. A voice vote was taken with a unanimous affirmative result and the motion passed.

PRESENTATION

None.

PENDING ISSUES

None.

CITIZEN COMMENTS

*Jim Randall, Co-Owner of Mr. Harry’s Carnival Foods at 15581 Manchester Road:* Mr. Randall requested variances regarding the mobile kitchen. Mr. Randall said this restaurant was near closure in October, 2010. He is a barbecue professional and has become partners with Mr. Harry, in an attempt to create a destination restaurant where people drive miles to come to the restaurant. So far, this has been successful. This generates revenues and employment for the City of Ballwin. The mobile kitchen is considered a trailer. It is a brand new unit, custom built by his barbecue team and MTI Trailers, in full compliance with all St. Louis County Health Code requirements for mobile food operation. It is currently

parked in front of the restaurant and takes a single parking space. Numerous trips from the restaurant to the mobile kitchen are made daily. He said the St. Louis County Health Dept. does not have any problem with the fact that product is cooked in the trailer and served in the restaurant. He is asking for a variance from the regulations that prohibit parking the trailer in front of the restaurant, as well as the ordinance that prohibits operation from more than a single permanent location within the City of Ballwin.

Alderman Leahy asked if there is a way to park the trailer in the back of the building? Mr. Randall said that there is enough space in the back of the building, however, this will be a safety hazard for the employees since they will have to use stairs when carrying product that could have grease. Mr. Randall provided a photograph of the trailer. It is vinyl image wrapped, brand new, white, with graphics that are very appealing.

Mr. Randall said that people are driving to Ballwin to this restaurant from Cape Girardeau, Hazelwood, Florissant, DeSoto, Washington, and Pacific. They are also shopping in Ballwin.

**Mary Randall, Co-Owner of Mr. Harry's Carnival Foods:** Mrs. Randall said customers are coming to the restaurant from outside the Ballwin area. They are shopping in Ballwin as a result of coming to dine at Mr. Harry's Carnival Foods. She said on a daily basis, hundreds of pounds of supplies are moved to and from the mobile kitchen and the restaurant. She believes that this business will grow if they are allowed to continue using the smoker in the mobile kitchen at the restaurant. She supports the request for the variances.

**James Robinson, 203 Wildbrier Drive:** Mr. Robinson spoke about the hiring of a Prosecuting Attorney. He said that diversity in key leadership positions is important and asked the Board to renew and maintain the commitment that the Board of Aldermen made in the past to be pro-active in the efforts to attract minority candidates. He asked that the minority community be contacted through the Minority Bar Association. He commended Alderman Markland in his efforts to utilize transparent processes in hiring and conducting business. Because of the diversity process, Ballwin has a female Municipal Judge. The process is successful and asked that the Board continue the good work that has been done.

**Patrick Chavez, 777 Whispering Forest Drive:** Mr. Chavez said that he is a co-chairman with Jim Robinson for Minorities in the legal profession, which is a committee of the Bar Association of Metropolitan St. Louis. He urged the Board to conduct a transparent hiring process for the Prosecuting Attorney position.

**Kathleen Schultz, 322 Quinmore Drive:** Ms. Schultz asked the Board to consider a diverse population when filling Ballwin's positions for the good of all Ballwin residents.

**Tom Burke,** Lawyer, past president of Missouri Bar, and past president of the Bar Association of Metropolitan St. Louis: He asked that the Board recommit to diversity, particularly in leadership positions. He commended the Board for using this process in the past and asked that it continue in the future.

**Alex Lee,** President of the Missouri Asian American Bar Association: Mr. Lee spoke in favor of diversity and transparency in the hiring of minorities and filling positions of leadership.

**Mavis Thompson, Esq., 3510 Dodier Street, St. Louis, MO 63107:** Ms. Thompson said that she is the immediate past president of the National Bar Association, past president of the Mound City Bar Association, serves on the American Bar Association, and former elected official in the City of St. Louis as former Circuit Clerk. She commended the Board for their commitment to diversity and encouraged continuing that commitment. St. Louis is rich with a large variety of legal practitioners of color. Diversity is an essential business practice. She said many times, people say that they cannot find qualified candidates of color. She submitted her resume as a qualified candidate for any position available.

**Bruce Major:** Mr. Major asked that the practices of the city always be open, inclusive, and transparent.

***Carmen Jacob, 222 Wildbrier Drive:*** Ms. Jacob said that she is the owner of a consulting company and member of the Minority Business Council. She supports the process to hire minorities.

***Nauman Wadalawak, 1216 Maymont Drive:*** Mr. Wadalawak said that his parents are from Pakistan and he was born and raised in the City of Ballwin. He supports hiring individuals with diverse backgrounds. With the growing number of businesses, there is a boutique selling Muslim women's attire, there is a Hindu temple, a Muslim mosque and a church all on Weidman Road. He asked that the City hire someone with a diverse background.

***Lynn Goetz, 504 Kenilworth:*** Mr. Goetz said that the Board took an oath to support the Constitution of the United States. It states that no man or woman shall be discriminated against on the basis of race, creed, or color. If the best qualified person for the Prosecuting Attorney position is white, if the Board does not hire that candidate because he/she is not a person of color, the Board will have violated their oath to uphold the Constitution. If a qualified candidate is not hired because he is not white, the Board will have ill-served this community.

***Robert Klein, 2452 Capitol Landing:*** Mr. Klein said that Ron Markland was elected to serve as alderman to keep transparency in Ballwin and to be a watch dog for good government against waste, excessive costs, corruption, conflict of interest, and to be responsive to the voters who have placed him in office. Regardless of where he is, he always responds to e-mail communications and phone calls. Missing a meeting or two does not make him a lesser alderman. He said he sent a couple of e-mails to the other alderman who was appointed in Ward 2, and has not had a response.

***Walt Young, 634 Lemonwood Drive:*** Mr. Young spoke regarding the Seven Trails easement. He suggested waiting until all of the plans for 14799 Manchester are presented to make sure there are no infringements of signs. Regarding snow plowing, he said that there isn't a plan for consistency when to plow curb-to-curb. Regarding diversity in hiring, Mr. Young said this is important, however, each person should be considered as a candidate, regardless of race, creed or color. The best candidate should then be chosen. He said that for anyone to criticize this Board regarding hiring practices is wrong. The Board does a good job, takes time to look for the best candidate, and there is no doubt that this is happening now.

## **PUBLIC HEARINGS**

None.

## **NEW BUSINESS**

### **LEGISLATION**

#### **BILL # 3665 - AN ORDINANCE AMENDING PROVISIONS RELATING TO SOLICITING, PEDDLING OR HAWKING IN THE CITY OF BALLWIN.**

A motion was made by Alderman Mellow and seconded by Alderman Boerner for a first reading of Bill No. 3665. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3665 was read for the first time.

*A motion was made* by Alderman Finley and seconded by Alderman Terbrock to amend Section 14-6B, sub-paragraphs A and B, to change the word "person" to "solicitor". 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 Mellow for a second reading of Bill No. 3665. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3665 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3665 with the following results:  
Ayes – Terbrock, McDermott, Mellow, Markland, Finley, Boerner. Nays – Leahy. Bill No. 3665 was approved by a vote of 6 – 1 and became **Ordinance No. 11-09**.

**BILL # 3666 - AN ORDINANCE REPEALING ORDINANCE 04-48, WHICH ESTABLISHED A REVISED INVESTMENT POLICY FOR THE CITY OF BALLWIN.**

A motion was made by Alderman Terbrock and seconded by Alderman Boerner for a first reading of Bill No. 3666. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3666 was read for the first time.

A motion was made by Alderman Boerner and seconded by Alderman Terbrock for a second reading of Bill No. 3666. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3666 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3666 with the following results: Ayes – Boerner, Markland, Leahy, Terbrock, McDermott, Mellow, Finley. Nays – None. Bill No. 3666 was approved and became **Ordinance No. 11-10**.

**BILL # 3667 - AN ORDINANCE APPOINTING DAVID PORTA AS INTERIM PROSECUTING ATTORNEY FOR THE CITY OF BALLWIN.**

A motion was made by Alderman Boerner and seconded by Alderman Mellow for a first reading of Bill No. 3667. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3667 was read for the first time.

Alderman Finley asked what the reason is for this ordinance, since Mr. Porta has been appointed as Interim Prosecuting Attorney, and the compensation was set at the last meeting? Mayor Pogue said that State Statute requires that compensation must be set by ordinance.

Alderman Boerner said that at the last meeting, five of the eight aldermen did not want to appoint David Porta as the permanent prosecuting attorney, strictly due to the lack of a selection process. Section 1 of this ordinance states that Mr. Porta is appointed interim prosecuting attorney until a permanent prosecuting attorney is appointed and sworn in. He believes that this is too open ended. He said there has been no explanation of how Mayor Pogue decided to appoint Mr. Porta. Alderman Boerner said he has prepared a process for consideration, wherein the Board will get to interview a candidate prior to approval, narrowing the number of candidates, and then the appointment. The following is Alderman Boerner's suggested process:

Section 1. The Board of Aldermen hereby authorizes the Mayor to appoint David Porta as interim prosecuting attorney for the City of Ballwin, effective February 14, 2011, until a permanent prosecuting attorney is appointed and sworn in. A permanent prosecuting attorney shall be appointed and submitted for approval at the April 11, 2011 Board of Aldermen meeting. The Mayor shall narrow the applicants to three candidates by the March 28, 2011 meeting. During this meeting, the candidates shall be allowed five minutes before the Board to introduce themselves and to provide arguments as to his or her qualifications for the position. Each presentation will be followed by a question and answer period for the benefit of the Board.

From among the three candidates, the Mayor shall appoint a Prosecuting Attorney and a Provisional Prosecuting Attorney, subject to the approval of the Board at its meeting on April 11, 2011. If the Mayor's appointment for Prosecuting Attorney is not approved by the Board, the Provisional Prosecuting Attorney shall serve until a permanent Prosecuting Attorney can be appointed. If neither the Prosecuting Attorney nor the Provisional Prosecuting Attorney is approved by the Board, the Interim Prosecuting Attorney shall continue to serve.

The same process shall be repeated at the first Board of Aldermen meeting of each month until such time as a permanent Prosecuting Attorney and a Provisional Prosecuting Attorney are appointed and approved by the Board.

The City Attorney is hereby directed to draft legislation that would provide for the appointment of a Provisional Prosecuting Attorney; and draft legislation that shall define procedures for future appointments and approvals of both the Prosecuting Attorney and Provisional Prosecuting Attorney similar to those procedures outlined above.

Alderman Boerner said it's important that the Board be transparent in its actions. He said he has not yet met Mr. Porta and does not know if he is or is not the best candidate. There are at least 4 other people who have expressed interest in becoming Ballwin's Prosecuting Attorney. He would like to see the candidates appear before the Board. This will not take any power away from the Mayor in terms of his ability to appoint the Prosecuting Attorney. This will provide the Board with knowledge of who is being appointed to the position.

Mayor Pogue said that he is in favor of Alderman Boerner's suggested process and he would be in favor of following this process.

Alderman McDermott agreed that cultural diversity in the selection process is desirable. He asked if it would be acceptable to allow someone from that community to work with the Mayor to sort through the candidates that have some legal experience? City Attorney Jones said this would be up to the Mayor. The Board cannot compel him to do this. It is the Mayor's appointment. Mayor Pogue said that the best candidate should be selected.

Alderman Terbrock said he has concern about the timeframe. City Administrator Kuntz said that if there are new Board members after the election, they will be sworn in on April 25. Alderman Terbrock said that the position will have to be advertised, time given for the applicants to submit their resumes, and time provided for the selection of the candidates to be interviewed. All of this cannot be accomplished in this short timeframe. Alderman Leahy said that it's the Mayor's job to pick the candidates to be interviewed by the Board.

Alderman Markland asked if the dates are flexible enough to accomplish the task? Should this be done before new aldermen are on the Board? He said it would be better to have the new aldermen approve the selection. Alderman Boerner said it would be best to appoint someone as soon as possible. The suggested process can be used in the future to appoint a city attorney, city judge, and city administrator, whenever it becomes necessary to do this.

Alderman Leahy said this suggested process should be tried one time to see if it is effective before finalizing it as a policy for multiple positions.

Alderman Boerner said that all of the other sections of this ordinance could remain as it is written. The recommended Section 1 would replace the Section 1 that is currently in Bill 3667. The other sections would remain unchanged.

Alderman Finley said the verb in Section 1 should be switched to match the statutory language which is consent. It should read, "The Board of Aldermen hereby consents to the Mayor's appointment of David Porta." City Attorney Jones said it means the same thing.

Alderman Finley said that in Alderman Boerner's suggested Section 1, second paragraph, he is proposing a procedure for selection of a prosecuting attorney and a provisional prosecuting attorney. There should be a matching sentence if the provisional prosecuting attorney is not approved. City Attorney Jones said that there is still a problem with the compensation language in Section 2. If a provisional prosecuting attorney is selected who is not somehow related to the prosecuting attorney, like an associate attorney was

previously, another section will have to be prepared to state how they will be compensated if one attorney attends one session of court, and another attends another session, what will happen with the certified cases, the hourly time, etc.

Mayor Pogue asked would it be appropriate to accept this ordinance regarding the interim prosecuting attorney's compensation, and use the Minutes as the direction of the Board to basically follow this policy or procedure in selecting the prosecuting attorney? This will give time to work on appropriate ordinance language for the selection of city officers. City Attorney Jones said this can be done, however, it is the Mayor's appointment. If the Mayor and Board are willing to follow this process without an ordinance, the ordinance may not be necessary at this time. It can be put into a new ordinance that will be approved when the permanent prosecuting attorney and provisional are selected. City Administrator Kuntz said that this can be authorized by motion with the compensation by ordinance. That will allow the process to start without waiting two weeks to begin. Mayor Pogue will reflect the direction of the Board to follow this procedure, and drafting of the ordinances. The current bill has had a first reading and can be clarified at this point. Another motion can then be made for the direction of the procedure. City Attorney said this can be done in this manner.

Alderman Terbrock said he is not comfortable with this. He prefers to see the ordinance instead of relying strictly on the Minutes. The timeframe should be adjusted to accept all of the possible candidates and to do thorough research on each candidate.

***A motion was made*** by Alderman Boerner and seconded by Alderman Markland that the proposed Section 1 be used to replace the Section 1 in Bill 3667. A voice vote was taken with the following result: Aye: Markland, McDermott, Leahy, Boerner, Mellow. Nay: Terbrock, Finley. The motion passed by a vote of 5-2.

City Attorney Jones said that amending only Section 1 isn't going to position the Board where they want to be. Section 2 and Section 4 need to also be amended. He said he can take the direction that has been discussed, revise Bill 3667, and present it at the next meeting with the change that has been approved by motion and new language for Sections 2 and 4. The bill can then be read a second time, as amended, at the next meeting. The Board agreed.

City Attorney Jones said that he suggests revising Bill 3667 as directed by motion, with the Section 1 language that Alderman Boerner has provided, and also revise Section 2 for compensation of the provisional and the permanent prosecutor, and revise Section 4 so that this won't automatically sunset upon adoption of the new ordinance. He said he will prepare all of this for the next meeting. The bill has had a first reading. At the next meeting, it will be read a second time, as revised, and then voted upon.

Alderman Finley said that a sentence should be included about what if the provisional prosecuting attorney is not approved. Alderman Boerner said this is included. If the permanent prosecutor is approved and the provisional is not, the next section applies.

Mayor Pogue said that Bill 3667 will be held over until the next meeting.

**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. Golf Course Mower
- B. Tennis Court Repair

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

## **MAYOR'S REPORT**

**Ballwin Days Co-Chairman:** Mayor Pogue said a letter of resignation has been received from Ballwin Days Co-Chairman Tim Vincent. Mayor Pogue thanked Mr. Vincent for the good service he has provided in this position. He said Tim has served on the Ballwin Days Committee for 15 years.

Mayor Pogue recommended the appointment of Darryl Holman to be Co-Chairman of the Ballwin Days Committee. Darryl has conducted the Ballwin Days run for 8 years and an active member of the Ballwin Days Committee. *A motion was made* by Alderman McDermott and seconded by Alderman Terbrock to confirm the appointment of Darryl Holman to Co-Chairman of the Ballwin Days Committee. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **CITY ADMINISTRATOR'S REPORT**

**Seven Trails Issues:** City Administrator Kuntz said the sign that is proposed for relocation is on the west side of Seven Trails Drive. It is adjacent and almost connected to the City's sign that the developer will be relocating to accommodate the additional turn lanes. This will be done in coordination. Mr. Kuntz said, "This issue has been dragging on for a long time. The issue with the Seven Trails Apartment signs began several years ago when Seven Trails Drive was relocated. The roadway ended up with a sliver of property that is owned and deeded to Seven Trails Apartments, which includes an entrance to the lower ball field parking lot. These issues were discussed. They also requested a couple of years ago, that Ballwin replace the deteriorated railroad tie wall across from the Vlais Park ballfield parking lot. We got estimates and it was a \$32,000 project. The management and ownership of Seven Trails Apartments changed. Assistant City Administrator Aiken and I met with the regional person out of Philadelphia. The three issues together were tied into a package. When the request was made for the tie wall to be replaced, the Board authorized that the City would cost-share on that, if they would do the work. Ballwin agreed to spend up to \$15,000, reimbursable, subject to actual receipts from their contractor. It would be their responsibility, not a city future maintenance issue. The Board at that time, which was about 3 or 4 years ago, gave conceptual approval to negotiate this. It has come to a situation that they would like to proceed, subject to Board approval. You have their letter, which was sent to us a couple of weeks ago. We have reviewed the letter. Any authorization should be subject to our City Attorney's review. This solves three problems. We're getting rid of a sign at the top of Seven Trails Drive, it's going to be a monument sign that would be tied into the design, probably by the same company as the City's sign. It will be a stand-alone, but similar panels so that it will look like one monument sign. That wall is deteriorated and will fall onto the road if something is not done soon. They will get the bids, do the work, supervise the work. We will issue the permit but wouldn't charge for the permit, and we will conduct the inspections. This will eliminate the problem, plus we will also eliminate an access issue, because they agree in turn to deed to us that sliver of ground, in front of the parking lot."

City Administrator Kuntz said, "I think the agreement essentially is back to about what we proposed to the Board and what the Board was in concurrence with. The only suggestion that I have is that we don't need to incur the legal fee. They could do that if we are doing the other things. I don't think it's a deal breaker, but I recommend all of the terms, with the exception of not making our maximum exposure \$18,000, but \$15,000. If they get the wall done at \$12,000, the City's maximum out of pocket cost is \$6,000. We packaged them so that we wouldn't be dealing with this incrementally."

Alderman Markland said the commentary says that we are capping it at \$15,000. The agreement shows it might be \$18,000. City Administrator Kuntz said, "That's what I'm not recommending. I'm recommending \$15,000 total. They have asked for \$15,000 plus \$3,000. Since our cap is \$15,000, this would be a better deal for the City."

Assistant City Administrator Aiken said, "They also asked for us to prepare a legal description and exhibit of that piece of property that can be presented to their lender. They don't have a proposal on it yet, but there will probably be a \$1,000 or \$1,500 cost if we have to hire a surveyor to prepare that

document.” City Attorney Jones said, “If the City is going to prepare a metes and bounds description, it would be easy enough to provide a survey also. If I recall the discussion from almost four years ago, we were going to do a survey.” Mr. Aiken said he copied their survey of their whole property. It will be easy to prepare a survey and metes and bounds description off of that document. They also want a surveyor’s seal on the document. That will require hiring a surveyor.

City Attorney Jones said that he has concerns about two phrases in the first paragraph; “that none of the actions will impair or modify any land use approvals currently affecting that property.” He said we’ve had two proposals that went through either the Board of Adjustment or Planning & Zoning, neither of which has been acted upon. He said we should be sure this is not interpreted to extend anything that has expired in terms of approvals. City Administrator Kuntz said, if the Board approves this, it will be with the recommendation that a new draft is prepared and submitted by the City Attorney that includes all the terms and conditions that the Board authorized, as well as any legal precautionary measures that are deemed appropriate. City Attorney Jones said, and whether or not it renders any part of the property owned by Seven Trails a non-conforming use, we would probably have to look at this to make sure. Assistant City Administrator Aiken said he doesn’t think it does. City Administrator Kuntz said if the language needs to be changed, it should be if the Board approves going forward. The tie wall is in Ballwin’s right-of-way, right up against the gutter of the roadway. He said this is the best deal we are going to get to solve three problems.

**A motion was made** by Alderman Terbrock and seconded by Alderman Mellow to allow staff to enter a counter proposal, with the understanding that if they agree to the legal costs, we will do the survey and the cap of the cost of just the replacement of the wall at \$15,000. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Street Sweeping:** City Administrator Kuntz said the low bidder has indicated in discussions with City Engineer Kramer that they would charge a higher unit price for two sweepings, due to this being a slower operation, more debris, and use more fuel than if they swept at least three times to keep it current. He said sweeping in May is a cleanup from winter storms and spring accumulation. September is the end of the summer, and December is at the end of the leaf season. These would be the most efficient schedule. City Administrator Kuntz recommended that in 2011, sweep 3 times instead of 4, but not just 2 sweepings.

Alderman Boerner asked if one of the sweepings could be a floater. City Engineer Kramer said this contractor would probably want to schedule in advance so that there would not be conflict with their other schedules. They also have equipment limitations. City Administrator Kuntz said that residents could be notified about moving their cars off the streets.

Alderman Terbrock suggested sweeping in April instead of May to remove the salt from the streets. City Administrator Kuntz said sweeping was changed to May because it is just before Ballwin Days and the Ballwin Days parade and run, since this is the first week in June this year. Alderman McDermott agreed that sweeping picks up any glass on the streets and is helpful for the Ballwin Days run.

Alderman Markland said Alderman Fleming stated in his e-mail regarding street sweeping, that the Minutes of February 25, 2008 stated the following: “Alderman Fleming asked about the requirements for sweeping. City engineer Kramer said that the State Storm Water requires street sweeping quarterly.” City Engineer Kramer said, “Several years ago when we started contracting, we had been doing quarterly sweeping when we owned our own sweeper, and we carried that over into the contract. When the question came up, do we have to do four, I did some research and it doesn’t say we have to do four. It says it’s our responsibility to keep the streets clean. There’s nothing in the permit that says we have to do four or three. Almost every year there are different requirements. The current requirement is to keep the streets clean.” Alderman Markland asked if two sweepings will work. City Engineer Kramer said we could do two, but the unit cost will go up. City Administrator Kuntz said at the last meeting, the Board

said to find out if the price will be the same price for two sweepings and report back to the Board. This is the result of that research.

Alderman Markland asked, "Are you saying that in 2011, we only need to do two, we're not going to do three?" City Engineer Kramer said, "I'm not saying that." Alderman Markland said, "That's the question. If we're going to do three or four, it's not very sensible to...." City Engineer Kramer said, "Right now all of the streets need to be cleaned." Alderman Markland asked, "So, what's your answer?" City Engineer Kramer said, "My answer is to take the big step from four to two, but do it gradually and see how the streets look with three, and monitor the quantity of materials with three versus four. The debris will either be picked up by the sweeper or go into the sewers. The State doesn't want it going into the sewers. Maybe next year we could go to two." City Administrator Kuntz said the recommendation is three for this year.

Alderman Finley said that May is his selection for the first sweeping. Alderman Terbrock said that we should sweep four times because he doesn't want anything going into the sewers and streams. He asked, do we still have the street sweeper. City Engineer Kramer said that it was disassembled and used for other purposes.

Alderman Markland said, "It sounds like we're deciding we don't want to do it four times, which we need to do, because we didn't put enough money in the budget to do it four times. We only put in enough to do it three times. Are we really fooling ourselves and next December we pay whatever the going rate is at that time? If we need to do it four times, then that's how many times we need to do it. The cost is \$5,000 more than budgeted." City Engineer Kramer said, "They increased it 25% over last year's price. If it wasn't increased, I would be recommending four. The bid was April, June, September, December." Alderman Markland said, "If I'm reading this right, four sweepings, you go to the total anticipated cost which is \$38,042.67. The budget is \$37,373, so there's roughly a \$700 difference if we do it four times using these numbers." City Engineer Kramer said, "These are separate budget items. Sweeping is \$21,373." Alderman Markland said, "Why can't we do it four times and find someplace else you can save \$700 and make it even? I would rather spend \$700 now than in December we play Russian Roulette as to what the charge will be. It might be \$2,000 - \$5,000 more."

Alderman Boerner asked how much does a street sweeper cost? City Engineer Kramer said sweepers are in the range of \$100,000 to \$150,000.

***A motion was made*** by Alderman Markland and seconded by Alderman Terbrock to accept the street sweeping contract for four sweepings at a cost of \$26,250. A voice vote was taken with the following result: Aye: Terbrock, Markland, Leahy, Boerner, Mellow. Nay: Finley, McDermott. The motion passed by a vote of 5-2.

Alderman McDermott asked, "Since the difference is \$700, will we have to amend the budget?" City Administrator Kuntz said, "No. There is a contingency and we have to do budget re-appropriation from time to time. It will be captured from an internal adjustment as opposed to an additional expenditure. There are items that come in under budget. 25% is difficult to anticipate. I definitely think we will be faced with similar shock as it accumulates on fuel. I didn't budget for \$4.00 or \$5.00 per gallon in October. There are other things that offset this."

**Street Sweeping Debris Disposal:** City Administrator Kuntz said the recommendation from City Engineer Kramer is that we accept the IESI Missouri bid of \$45 per ton. This is based on a quantity of 230 tons, which is the same as last year.

***A motion was made*** by Alderman Markland and seconded by Alderman Terbrock to accept the bid from IESI Missouri of \$45 per ton, for the removal and disposal of street sweeping debris. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Construction Debris Disposal:** City Administrator Kuntz said there are not a lot of options for construction debris disposal.

Alderman Markland asked for clarification of the bids submitted, since the information provided is somewhat confusing. City Engineer Kramer said, "Crown and Weber are owned by IESI. IESI bought them out. Weber sold their landfill to IESI. Last year, we paid Veolia \$35 per truck load. The year before, we had someone close by that took it free. They lost their permit. Veolia's permit expires about a month from now. That's why they didn't bid."

Alderman Markland said, "The first sentence reads, 'In the past, disposal of broken slab concrete and asphalt from pavement repairs was taken to landfills at no cost.'" City Engineer Kramer said that option is not available anymore. Alderman Markland said, "If it was at no cost, how could it have been \$35?" City Engineer Kramer said, "The year before there was no cost. The first part of last year was no cost. They shut down and wouldn't take it anymore, and we found Veolia sometime last year at \$35."

Alderman Markland asked, "Does anybody read these things and proof read, because this makes absolutely no sense at all?" City Engineer Kramer said, "In my mind it did make sense, but maybe it didn't make sense in someone else's mind." Alderman Markland said, "It's gone through many levels from you to get to here, and it makes no sense at all. Even after you explained it, you said that what it says is not what it meant. You said it was no cost last year, and then you said it was \$35. I'm confused." Mayor Pogue said, "It's my interpretation that last year, Veolia charged \$35 if we went there. We were using a landfill that was not charging us and they stopped." City Engineer Kramer said, "Yes, then we started going to Veolia and had to pay. We used two locations last year. The free one was used in the first part of the year, and then Veolia at the end where they were charging \$35."

Alderman Markland asked, "How does this affect the budget?" City Engineer Kramer said, "I don't have the budget at this meeting. Typically, I would add 5% of what was paid before, and 3% - 5% for the next year. We didn't get any bids. This was an unsolicited one. We tried to find out why no one bid. This has happened before where a notice or request gets in the wrong hands, and they didn't bid, but they'll tell you how much I'll charge, how much I would have bid. It would have been \$40 per truck load. Actually, we had no bids at all." Alderman Markland said, "That's not what you say." City Engineer Kramer said, "In the first paragraph, second to the last sentence, I state, 'On February 11, 2011, no bids were received.'" Alderman Markland said, "Then you go on to say who the low bidders are." City Engineer Kramer said, "It shouldn't have said that. We sent the notice for the sweeper debris and construction debris to the same bidders." Alderman Markland asked, "Can this be corrected?" City Engineer Kramer said, "Yes, the budget amount will be put in."

Alderman Markland asked, "If you look at the prices, single axle \$40, tandem axle \$42, does one tandem equal two singles?" City Engineer Kramer said, "We couldn't get that price because we don't have a tandem to take it. We use our own trucks."

Alderman McDermott said, "I agree with Alderman Markland's last comment. I think we need to look at a tandem. The fuel costs will be more, however, taking two guys and two trucks back and forth to a landfill farther away, which will happen in a couple of years, as we look at equipment replacement in the near future, we need to look at a piece of equipment that will allow flexibility to be a dump truck, to be another type of vehicle, street sweeper in some cases, that would allow taking less manpower. This may save money, especially with the fuel costs going up."

City Administrator Kuntz said this will be brought back at the next meeting.

**Snow Plowing Policy:** City Administrator Kuntz said, "We have been experimenting with light accumulation, of not plowing curb-to-curb. It's frustrating for residents to have cleared their driveway and then find that the critical section is plowed back in. We are trying to avoid curb-to-curb as a policy. We have a policy that says we will plow curb-to-curb, and I'm asking you to eliminate this requirement to give flexibility. The problem is, when we finish plowing, and another storm is coming 2 days later with accumulations and continued cold temperatures, if we don't plow curb-to-curb, there's no place to put the

new snow. Then the roads, instead of one lane, gets even further decreased. We don't salt before or during every storm. There are certain factors that require common sense and flexibility to be effective. That's the reason this elaborate policy is being recommended to be streamlined and geared more toward common sense so that we have consistency. I thought the Board was giving Mr. Kramer the direction to be more cost conscious, which means you get the job done and keep the hours down, and regarding salt usage. I'm requesting that we take away the restrictive language and substitute with goal oriented statements that give flexibility."

Alderman Finley suggested that the word "reasonably" be added to "plowing until all streets are reasonably cleared curb-to-curb." City Attorney Jones said the Policy Manual does not have the same enforcement of laws as an ordinance does. Alderman Markland said that inserting "reasonably" makes sense because it gives flexibility.

**A motion was made** by Alderman Finley and seconded by Alderman Leahy to amend the policy to state the following: "Salting will continue simultaneously with plowing until all streets are reasonably cleared." A voice vote was taken with a unanimous affirmative vote and the motion passed.

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

**Mr. Harry's Carnival Foods Variance:** City Administrator Kuntz asked for clarification on this issue for Mr. and Mrs. Randall, owners of this restaurant. City Attorney Jones said, "This Board can't grant the legislative variance of that requirement. It would have to be a repeal or revision of the existing ordinance. It would be two different ordinances – the one that prohibits parking the trailer in front of the building, and the ordinance that does not allow two current operations of the same business licensee. This Board of Aldermen cannot vary the application of these ordinances, as requested."

Alderman Terbrock asked, "What course would they take otherwise." City Attorney Jones said, "It would be up to one of the members of the Board of Aldermen to propose legislation. If the other members are so inclined to support the motion, two ordinances would be prepared. There are different standards that apply in residential areas and commercial areas, and even broken down within the different sub-categories of the residential areas, such as the size of the trailer that can be parked outside of a fully enclosed structure. The larger the lot, the larger the trailer."

City Administrator Kuntz said, "The concept of portable lunch wagons is an emerging growth industry. Bridgeton is looking at legislation, and some of the others are looking for a model that accommodates 'portable kitchens' or food trucks." City Attorney Jones said, "Perhaps we could look into licensing the mobile kitchen separately. As long as it's not the same business licensee, you wouldn't have the problem with two permanent locations."

**A motion was made** by Alderman Terbrock and seconded by Alderman McDermott to direct staff to research the implications and alternatives to this issue and report back to the Board. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **STAFF REPORTS**

**Police Uniforms:** Captain Boswell said Chief Schicker is requesting that this is an aggregate purchase through a sole source, which is Leon Uniform Company. There has been outstanding service from Leon and they supply a superior product. When we switched from brown to blue uniforms, we tested several different uniform companies for durability, quality, and comfort. Leon Uniform Company's supplier offered the best product.

Alderman Terbrock asked, "Is the Chief asking us to waive the process and to consider this a sole source?" City Attorney Jones said that Chief Schicker is asking that this be recognized as a sole source,

even though there are a number of different items, which individually may not rise to the level that they would need to be bid separately. He would like to acquire them all from the same vendor and recognize this as a sole source, even the individual purchases may be smaller.” Captain Boswell said, “There isn’t just one purchase made per year. When pants or shirts wear out, they get a new shirt or pants. We prefer to buy a high quality uniform for several reasons, also so that they don’t wear out to quickly.”

Alderman Markland said, “I read the narrative and it leads me to the conclusion that the Ballwin Police force uniforms are so special that we can only buy from one manufacturer shirts, trousers, rainwear and boots. I looked at the other supplier, vendor and found that they provide uniforms for many of the municipalities in the area. The other Police Departments found it acceptable, some of the items are acceptable. I can’t see where we should be expected to approve this type of purchase as a sole source. You are wearing a white shirt. I can go to Brooks Brothers at the mall and spend \$150 for a shirt, or go to Macey’s and spend \$20 for a shirt. They look pretty much the same, but the price is different. I don’t understand why the Police Department cannot find a shirt from more than just one company. There are two vendors that have multiple manufacturers working for them. Captain Boswell said, “When the military puts out a bid for a uniform or a weapon, it has to meet their specifications. We can’t tell the manufacturers what specifications to make the shirts.” Alderman Markland said, “It has to be white and short sleeves. Surely a white shirt and black pants could be found. To say we have to buy it from this particular vendor, it’s not a sole source item. The Glock pistol wasn’t a sole source item because you had Glock, Smith & Weston, and a third brand. A shirt, pants, and boots are not a sole source. You want to buy it from a particular guy, that’s probably illegal.” Captain Boswell said, “It has nothing to do with who we want to buy it from, it has to do with the quality of the uniform.”

Alderman Markland said, “I cannot believe that of the seven, eight, ten different manufacturers they list, that there’s not something that’s uniform, and that the other Police Departments in our area are buying items that are inferior. I understand the City of St. Louis might buy from three or four different suppliers to come up with their uniforms.” Captain Boswell said, “We also have a pretty high uniform standard. We want our uniforms to look the same. There are a lot of departments that don’t care if one guy’s shirt is blue and one is faded purple. We are at a higher standard. The brand we have chosen have been proven to last, all be uniform, the measurements are the same, the sleeve are the same length, we don’t have inferior material. We found brands that through wear testing and use and years of wear have proven to be a superior product, the product that looks the best day after day, that holds creases when ironed so that we look professional.”

Alderman Markland asked, “What are you paying premium wise for that? You don’t know, do you? We have no idea if you don’t get competitive prices as to what the value is of your shirt versus one that’s similar to it.” Captain Boswell said, “We have vendors from a whole bunch of different companies that bring us product to wear test and look at, but these are the products that have proven to last and look professional.” Alderman Markland asked, “But only that one vendor’s product seems to work? That’s hard to believe.” Captain Boswell said, “This vendor has the products that we chose. If the other vendor had the superior product, that would be the vendor that we would want to use.”

Alderman Markland said, “I do not believe that this is a sole source item. If I read it correctly, it says that we have \$31,500 in the budget and we can meet that and buy all the stuff we want for \$31,500. What if you could go to the other vendor and buy it for \$21,500? We don’t know that answer. You’re telling me that Leon has the best stuff and that’s what we’re going to buy. That’s not going out and getting competitive prices.” Captain Boswell said, “This has a lot more to do with a base price. There’s also service to consider, customization of the uniforms, tailoring, all the added expenses, and that we can drive there, be fitted, tailored, and walk out the door with a pair of pants in five minutes. Some companies cannot even get us the pants for three or four weeks, depending on what pants they have in stock. A lot of these companies are not established like the brand that we wear. These brands have been around for a long long time. They’ve proven to be a superior product. They carry the superior product and have great service. We can drive there, get our uniforms, or take a new officer to Leon’s, have him outfitted with a uniform, and have him on the street. Another company has to mail order their product and doesn’t have on-site tailoring, doesn’t have our sizes available, and it might take two or three weeks.” Alderman

Markland asked, "The other supplier has none of those features?" Captain Boswell said, "The other supplier has not proven to supply this kind of service." Alderman Markland asked, "You're saying that they have none of those features?" Captain Boswell said, "What I'm saying is that their service hasn't proven to be the service that we receive from Leon. I've personally ordered items from both companies, and I waited a long time. We don't buy everything from Leon's." Alderman Markland said, "That's what this is asking for, to approve them as a sole source vendor." Captain Boswell said, "For uniforms. We have all kinds of other items that we buy from other people, such as equipment, leather holsters that we go out to bid on."

Alderman Markland said, "It just seems to me that it's not a sole source and I can't support it because I don't think we are effectively trying to manage our costs. We're just finding the least line of resistance and we're going to go there. We don't know what it might cost. It's not a sole source. A sole source is one vendor." Captain Boswell said, "We're trying to be as efficient as possible, and to be as professional as possible. We do not want to project an image with officers wearing uniforms that are inferior, such as material that you can see through, doesn't last, ripped seams. This is the most efficient way for us to get our uniforms and to get officers back on the street looking professional." Alderman Markland said, "But you're not going to openly bid it is what you're saying. I can't support this. I understand what you're saying and why you're saying it." Captain Boswell said, "We have two players in the game. One has proven to be reliable and efficient with a superior product, and one who is very new in the game who carries an inferior product to what we wear and has proven not to be as efficient with service." Alderman Markland said, "So all the people that are buying his uniforms are buying inferior product. It's difficult to accept." Captain Boswell said, "I'm not going to mention any names, but most of the departments in this area buy their uniforms from Leon. When you compare the number of departments that do, to the number of departments that don't, it's a majority." Alderman Markland said, "You have my opinion."

Mayor Pogue said, "I have a cousin who is a police officer in another department that is 2½ hours away, and I had a discussion with him regarding this. They drive here to go to Leon's for a lot of the reasons that Captain Boswell mentioned, that they can have those uniforms there, the officer gets them and they are gone, they don't have to wait and the officer can be on the street. They don't have to wait three weeks after driving 2½ hours. They know they can get the uniforms right away. I've done some background on this, and they spoke very highly regarding Leon."

Alderman McDermott said, "Alderman Markland is correct and I would like to see this bid out, and if that's what the Board wants to do, I would concur with that. I know for a fact that I've been through this process seventeen years in a row as a fire fighter. We are forced to buy from Leon because that is where we end up because of the same reasons that Captain Boswell gave you. We tried mail order, and the shipping cost and tailoring costs surpassed what we save by going to Leon. You bring up a good point, but we found out the hard way. If this is bid out, I think you'll find out that you'll be back at Leon's."

Alderman Markland said, "When they did the replacement of the weapons, it was done beautifully. You had three prices, you said I don't have to buy new holsters if I use this one, if I go to model B, then I have to buy new holsters, here's the cost. If you had something that said if I buy a white shirt, black pants, boots, or whatever it is, here's the cost from A and B, then we have something to compare. But to say that you can only buy it from one vendor, gives him an opportunity to charge a little bit more than if he knew he had competition. What you are asking us right now is to tell that vendor that there is no competition. He can sell it to you at the retail price and you are willing to pay that. When you have competition, somebody might find a manufacturer's discount to get you a better price. That's what I'm concerned about. It doesn't seem like we locally have any concerns over cost control. It's within the budget so we can spend it. I'm looking at cost control, not just within the budget. We already spent \$5,000 that wasn't in the budget for removal of road debris. We have to find that someplace. When we did our street sweeping and removal, that's going to be over budget. If one's over, we've got to find someplace to be under budget."

Alderman Finley asked, "I like the fact that we have someone who is uniquely qualified to give an opinion, which is Alderman McDermott. Alderman Markland brings up some good points, and we have this budgeted for this year. The Police Department has an expectation of doing this this year."

Mayor Pogue asked, "Do we want our officers uniform or do we want them with multiple styles of shirts and pants? Our police officers look very professional and uniform. The way to do that is to keep along the same line."

Alderman McDermott said, "For next year, a bid specification could be prepared for each piece of the uniform that is bought from Leon's. I suggest doing the boots separate. Boots are easier to deal with buying from a couple of different vendors and cost savings. Shirts and pants and some of the badges are bought through Leon's because of the exact reasons you said. If you could go back and give us a list of shirts and styles with the caveat that you expect the tailoring, maybe we will find someone local that can do it. You have to put in the bid specification timeliness and the ability to serve in a certain amount of time. We don't get any bids, except Leon's. This would be just for next year."

Alderman Boerner said, "Because of the nature of your job and the business you're in, you have a need to have things fit trimmer. When you're reaching for your side arm, you don't want to be pushing against a shirt that may be in the way." Captain Boswell said, "Police officers are expected to do athletic things in business clothes. When you try to do that in an inferior product, a product that isn't stitched as well, it doesn't work. And the cheaper, less quality uniforms fade quicker." Alderman Boerner said, "If I buy a shirt that is a better quality, it seems to fit better. A less expensive shirt may be cut differently. I agree with Alderman Markland that this does not qualify as a sole source, but on the other hand, it qualifies for other things. If this city decides to do business with a specific company or supplier, we can do that if there are compelling reasons for doing so. It may be beneficial to look at multiple suppliers, but at the same time, you've made a very compelling argument to stay with Leon. I'm satisfied based on your explanation as to why you've been doing business all this time."

*A motion was made* by Alderman Boerner and seconded by Alderman Mellow to accept the recommendation of staff regarding the purchase of police uniforms. A voice vote was taken with the following result: Aye: Terbrock, Finley, McDermott, Leahy, Boerner, Mellow. Nay: Markland. The motion passed by a vote of 6-1.

## **CITY ATTORNEY'S REPORT**

**Legal Issues and Updates:** City Attorney Jones said, "Today we received the reply brief of the appellants in the Adams vs. Vergonza sewer lateral case. The oral argument is scheduled for April 12, 2011 at 9:30 a.m. in the Missouri East District Court of Appeals. You are welcome to attend. The consolidated brief, which was filed by the municipalities as part of our pooling of resources has also resulted in a process where John Hessel, who is the current City Attorney in Kirkwood, is going to present the argument of the consolidated municipalities."

Alderman Boerner asked about the Greenburg case. City Attorney Jones said, "On February 14, we filed suggestions in opposition to a motion which was filed by Greenburg's attorneys to file a late appeal. A motion was already denied by the Court of Appeals two different times. Based upon some of the issues that we discussed surrounding the prosecuting attorney's resignation, they have attempted to use that to file a late appeal."

## **ALDERMANIC COMMENTS**

**Sewer Lateral Program:** Alderman Terbrock referred to the National League of Cities Service Line Warranty Program for the sewer lateral program. He said, "the advertising card states 'full warranty coverage up to \$4,000 on every water or sewer line repair – and no restrictions on the number of repairs performed.' Maybe we can pick up some insurance to cover what we reduced our amount trying to keep up with what's going on. I think it would be worth looking into." City Administrator Kuntz said he will look into this matter.

**New Sign Ordinance:** Alderman Terbrock asked for a report on the conforming and non-conforming signs. He said there are warnings ready to be sent out for non-conforming, and the majority of the signs are non-conforming. Assistant City Administrator Aiken said, "Every business that had an existing dynamic sign was sent a letter in February indicating to them that the new regulations had been passed, and explained that the physical location and sizes of their signs were grandfathered if they were in violation of the new regulations. They wouldn't have to move their sign to a new location or make them smaller. The operational elements, the frequency of the changes, the message, height of letters, would, however, have to be brought into compliance. We received a question from one of the business's attorney, asking for additional information as to the basis for the city's regulations and interpretation what could be considered grandfathered and what would not be. City Attorney Jones responded to this question. On the basis of this, the business that challenged is now the only one that is in compliance with the regulation. The others have not complied and are currently non-conforming as of this morning. One of the businesses did not get the letter and it will be given the notification. If we allow those not in compliance to continue, the one business that is currently in compliance will become non-compliant. It's only a matter of re-programming the signs. There are 5 dynamic signs at this time. The Business Resource Officer may be able to assist in this notification."

**Prosecuting Attorney:** Alderman Finley said, "Regarding Alderman Boerner's amendment, once I became satisfied with the provision about the Provisional Attorney, I was then satisfied with the whole thing, but that did not come until later. I support it now, but that came after my vote."

**Meeting Attendance:** Alderman Finley said, "At the last meeting, there was a motion made and approved that in the future, the Minutes show if an alderman misses a meeting, it simply be marked as absent with no further statement. I think we acted too quickly on that."

*A motion was made* by Alderman Finley and seconded by Alderman Leahy that if an Alderman is absent, his/her name will be placed in the absent column, and the option is available of informing staff ahead of time as to whether they want to include a reason, and the reason will be included in the Minutes at the discretion of that Alderman. A voice vote was taken with the following result: Aye: Terbrock, Finley, McDermott, Leahy, Boerner, Mellow. Nay: Markland. The motion passed by a vote of 6-1.

**National Day of Prayer:** Alderman Finley said, "May 5 is the National Day of Prayer. I looked into what we as a city had traditionally done. It doesn't seem like much has been done in previous years. I would like to encourage our city and the citizens to get together and come up with something to have a Ballwin type of event to coincide with the National Day of Prayer. The designated area for a public display is in front of the Police Department building. I would like to see something good come out of this on May 5. I'm encouraging everyone to recognize and participate and get a message to our churches to perhaps work together on this."

**Snow Removal on Sidewalks:** Alderman Markland said, "At the last meeting Lynn Goetz made comments about snow on the sidewalks. At the Public Works Committee meeting this was discussed in relation to the ordinance and the \$1,000 fine. I have these photographs of city property, taken on February 11, long after the last snow. It shows that as of that date, city property had not had snow removed from its sidewalks. One of the set of photos is along the Ballwin Golf Course, and photos of The Pointe, the stairs and sidewalks at The Pointe. It's treacherous. I'm wondering how can the city advise the citizens via TV that there's a \$1,000 fine if they don't remove the snow while we are guilty of the same violations. Can't you see an 85-year old couple sitting in front of their television set, on a fixed income, and they hear that they are going to get fined \$1,000. They get out their snow shovel and start shoveling because they can't afford a \$1,000 fine. He has a heart attack and she falls and breaks her hip because they are concerned about a \$1,000 fine. Also, we're talking about redoing Kehrs Mill Road. Right now one side has no sidewalk. If we build a sidewalk for them that they probably don't want, and then when it snows, we're going to expect them to shovel snow off the sidewalk that they didn't want that we put in, or pay a \$1,000 fine. This whole thing is crazy. Also from what I read, there doesn't seem to be any community in St. Louis County that has a \$1,000 fine, there seems to be, depending where you are, it goes from zero to Ballwin having a high of \$1,000." Mayor Pogue said, "I believe the fine would

be up to the discretion of the Judge, so it's not automatically \$1,000." Alderman Markland said, "It could be, but it says up to \$1,000. I would like to see that we remove the \$1,000 fine because I don't want any of my residents to feel that they have to shovel or else pay a \$1,000 fine, or at least go to court. The negative impact of that is a lot more than we can ever imagine."

City Administrator Kuntz asked, "Would you like to put this on the agenda for the next meeting when everyone is here, have a discussion, and see about maybe repealing the whole section?" Mayor Pogue said, "A motion could be made to draft legislation to repeal the ordinance." Alderman Markland said, "I would like to make a motion that we repeal the ordinance."

*A motion was made* by Alderman Markland and seconded by Alderman Leahy to draft legislation to repeal this ordinance. A voice vote was taken with a unanimous affirmative result and the motion passed.

**ADJOURN:** A motion was made by Alderman Terbrock and seconded by Alderman Leahy to adjourn. The motion passed unanimously and the meeting was adjourned at 9:50 p.m.

ATTEST:

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TIM POGUE, MAYOR

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ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

*Approved on March 14, 2011*

**February 28, 2011**