



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

April 27, 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 7:01 p.m.

PRESENT

MAYOR TIM POGUE  
ALDERMAN JIMMY TERBROCK  
ALDERMAN MICHAEL FINLEY  
ALDERMAN MARK STALLMANN  
ALDERMAN FRANK FLEMING  
ALDERMAN JIM LEAHY  
ALDERMAN KATHY KERLAGON  
CITY ADMINISTRATOR ROBERT KUNTZ  
CITY ATTORNEY ROBERT E. JONES

ABSENT

ALDERMAN JOHN SCHWENT  
ALDERMAN MIKE BOLAND

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *April 13, 2015 Board of Aldermen meeting and closed session* were submitted for approval.

Alderman Finley amended page 6, paragraph 4 to include: “Alderman Finley agreed with Alderman Terbrock’s assessment that this would be more government intrusion to take care of dead trees on private property.” *A motion was made* by Alderman Finley and seconded by Alderman Stallmann to approve the amendment. A voice vote was taken with a unanimous affirmative result and the motion passed.

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

OATH OF OFFICE

The Oath of Office was administered to Mayor Tim Pogue, Ward 1 Alderman Jimmy Terbrock, Ward 2 Aldermen Mark Stallmann, Ward 2 Alderman Kevin Roach, Ward 3 Alderman Jim Leahy and Ward 4 Alderman Ross Bullington.

SECOND ROLL CALL

PRESENT

MAYOR TIM POGUE  
ALDERMAN JIMMY TERBROCK  
ALDERMAN MICHAEL FINLEY  
ALDERMAN MARK STALLMANN  
ALDERMAN KEVIN ROACH  
ALDERMAN FRANK FLEMING  
ALDERMAN JIM LEAHY  
ALDERMAN KATHY KERLAGON  
ALDERMAN ROSS BULLINGTON  
CITY ADMINISTRATOR ROBERT KUNTZ  
CITY ATTORNEY ROBERT E. JONES

ABSENT

## **PRESENTATION**

**Street Tree Inventory Update:** Ballwin Arborist Wil Rein presented s report of the street tree inventory. There are five types of trees that make up 80% of the Ballwin street trees. Those are Ash, Maple, Pinoak, Sweetgum and Pear. He said there are 12% Maple and 12% is Red Maple. Trees have an estimated replacement value of \$9.4 million.

Mr. Rein said if we lost all of our street trees, more money would have to be put into storm water. Every tree that becomes saturated in a rain event, it holds approximately 200 gallons of water and preventing water from going onto the sewer. If the trees are lost, there would be more flooding. More trees reduce flooding, and less trees cause flooding.

Mr. Rein said that 4% of the trees are recommended for removal, which equals 334 trees. 200 are high risk, 131 are moderate risk, and there are 5 low risk trees. High risk pruning includes broken branches that are usually 4 inches or greater. He said that 2.6% of the trees are recommended for high priority pruning. There's a lot of dead wood in trees that need to be removed. A lot of the Pinoaks are becoming overly mature, which means they are big trees. Young tree pruning consists of 15%, which is 1,500 trees. The young trees are less than 20 feet tall. If the young trees are pruned now, this will save money in the future.

The Emerald Ash Borer is in St. Charles County. He said that 25% of the Ballwin street trees in the right-of-way are Ash trees, which is 2,060 trees. The Ash trees in Ballwin have not been negatively affected at this time. Of the 2,060 Ash trees, 1,038 should be taken down before the Ash Borer arrives. 772 are rated either poor, critical or dead and in poor condition. 266 are less than 7 inches and are young Ash trees. It would be better to cut the tree down now and replace it with a type of tree that's not susceptible to the Ash Borer. Trees between 7-12 inches rated as fair are on the low end of the condition scale, and not worth saving. The goal is to pro-actively remove 1,038 Ash trees over the next 10 years from our urban forest to get ready. Mr. Rein said the way the Emerald Ash Borer work is it comes in and its affect isn't noticed until year 4 or 5. Years 7 or 8, there may be 50 dead Ash trees going into winter, and then when Spring arrives, there may be 400 dead Ash trees. This has been overwhelming communities where this is happening.

Mr. Rein said that treatment of Ash trees is a tool to defer removal cost. There are another 729 Ash trees that will probably need to be taken down at a later date. The goal is to treat them for 6-8 years so that the Ash removal process can be spaced over 20 years. This is an injection method that would be contracted out. It prevents infestation by the Emerald Ash Borer for several years.

He said that 179 Ballwin Ash trees are in fantastic shape and are worth saving and would be given the long-term treatment, which is an injection every 3 – 5 years. On Parkrose Ct., there are 2 of the best looking Ash trees that he has ever seen. The trees are very large and beautiful and can be compared to the poor-conditioned Ash trees in Ballwin. He said that when the street trees are taken down, there will be enough subdivision support to replace the trees.

Mr. Rein said that efforts will be made to use diversity in tree planting and more resilient. Pruning will help with weather events. We have a lot of Silver Maple trees, which are fast growing and short lived. There are no pest outbreaks affecting the Silver Maple trees.

Alderman Fleming asked if he and Parks Director Bruer are actively working on a new list of what trees are acceptable to plant? If a 50-foot tree and a 25-foot tree both have a 20-year lifespan, he would prefer planting the 25-foot tree that will cost less to take down in the future. Mr. Rein said a list has been prepared and is currently in process. The Red Maple trees will be removed from the inventory and no longer planted. Ballwin is typically White Oak Hickory and we should trend to what is already growing and doing well. Any fast-growing tree usually dies young. He said we try to balance people's wants and needs along with what's best for the city.

City Administrator Kuntz said that the implementation plan is going to be a work in progress. There are several options, including the best species, what would be the most acceptable. If the residents aren't going to take care of the trees, the planting was done for nothing. It's a combination effort. This topic can be taken to subdivision meetings for discussion and interest to move in the same direction.

Alderman Leahy asked how are the 432 tree stumps being handled. Mr. Rein said that 68 stumps will be removed this week at a cost of \$4,120. The stump remover is an outside contractor. Our crews will pick up the chips if this has not been done.

### **CITIZEN COMMENTS**

*Lynn Goetz, 504 Kenilworth*, said that fiber cement siding on houses is unacceptable for use on buildings. There are 14 fiber boards that are cracked on buildings in Wildwood that he has observed. He asked that fiber boards should never be used on houses in Ballwin.

*Shaun Taylor, 619 Dennison Drive*, his neighbor to the north of his property has a sump pump and the outlet comes within 5 feet of his property line. In the rains, there is an area in his yard that is 40 feet long and 20 feet wide to remain saturated with storm water that has been collected by the sump pump. It is then pumped out onto his property. Mr. Taylor said this makes it impossible to grow anything, other than grass in that area. He said that other plants have all died from rotting in the super saturated soil. He can't mow the grass with his riding lawn mower because the mower is heavy and will sink into the mud. He said there is no code addressing this, and asked that Ballwin consider amending the current ordinance or creating a new ordinance that will specify how water that's collected be discharged either in relation to a neighbor's property or into the street.

### **PENDING ISSUES**

None.

### **PUBLIC HEARINGS**

None.

## **NEW BUSINESS**

### **LEGISLATION**

#### **BILL # 3880 - AN ORDINANCE ADOPTING A MANCHESTER ROAD REVITALIZATION OVERLAY DISTRICT FOR CERTAIN LAND COMMONLY KNOWN AS 15505 MANCHESTER ROAD IN THE CITY OF BALLWIN, AND CURRENTLY ZONED C-1 COMMERCIAL.**

A motion was made by Alderman Roach and seconded by Alderman Fleming for a first reading of Bill No. 3880. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3880 was read for the first time.

Alderman Fleming said he is in favor of Andy's Frozen Custard coming to this location, however, he believes that he needs to see the variance from the Board of Adjustment for the parking, additional parking spaces on the north side of the detention basin, revision of the curb cut, approval by MoDOT, and a revised traffic on the impact on Highview Drive. He asked if all of these things have been obtained.

Mayor Pogue said that he has not seen these items. Assistant City Administrator Aiken said that he hasn't seen a revised site traffic study or plan.

City Attorney Jones said that it is referred to in Section 1 of Bill 3880, to the amended development plan that is attached. The six spaces are six that are shown on the amended development plan. Mayor Pogue said the items yet to be received are the changes on the curb cut and the traffic study.

Brandon Harp, Civil Engineer, on behalf of Andy's Frozen Custard and the ownership of Gordon Plaza, said approval by the Planning & Zoning Commission and the variance from the Board of Adjustment for the excess of 50% front-yard parking that is required in the Manchester Road Overlay District have been granted. MoDOT approval was received for the curb cut onto Manchester Road to widen from 1 in and 1 out to 1 in and 2 out. The additional 6 spaces were approved on a previous plan. The plans were not re-submitted with these revisions for this meeting.

Lee Cannon, CBB Traffic Engineer, explained the traffic study that was revised on February 2, 2015 and reflected the closing of the Hillsdale curb cut. The last recommendation was that the entrance could be widened with a permit from MoDOT. He said there will be a noticeable difference in traffic volumes at this curb cut when Andy's is busy.

Alderman Fleming said that he is concerned that it will be difficult for traffic to negotiate in this area. He expressed parking concerns for employees and customers, and other businesses in the plaza. He said he wants to see the requested traffic study update before voting on this issue. He said there are also building height requirements that is not being done in the proposal.

Alderman Stallmann said that he is also in favor of Andy's Frozen Custard coming into Ballwin, but he would also like to see the traffic study and the other elements that were requested by the Planning & Zoning Commission.

Alderman Terbrock doesn't think the two-story frontage on this building is necessary and believes that the requirements are being met.

Mayor Pogue said that he would like to see the traffic study to see what the traffic impact will be with the removal of the curb cut, and the revised site plan. He asked that the Board not take action until the recommendations have been met. Alderman Fleming said he is in favor of the business, and he wants to be sure that the procedures are being followed and in the right way.

*A motion was made* by Alderman Stallmann and seconded by Alderman Leahy to hold over this legislation for further consideration. A voice vote was taken with the following result: Aye: Finley, Stallmann, Roach, Fleming, Leahy, Kerlagon, Bullington. Nay: Terbrock. The motion to hold over Bill 3880 passed by a vote of 7-1.

#### **BILL # 3881 - AN ORDINANCE APPROVING A ZONING CHANGE FROM COUNTY R-2 SINGLE FAMILY TO PSD FOR ARBORS AT CHURCHILL**

A motion was made by Alderman Stallmann and seconded by Alderman Leahy for a first reading of Bill No. 3881. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3881 was read for the first time.

Alderman Roach said the thickness of the pavement on the street is a concern to the residents. City Administrator Kuntz said that we are not aware of any structural problems at this time on Churchill. Through the inspection process, if there's a construction related deterioration, we will deal directly with the contractor prior to releasing any approvals.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock for a second reading of Bill No. 3881. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3881 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3881 with the following results:  
Ayes – Fleming, Terbrock, Roach, Bullington, Leahy, Stallmann, Finley, Kerlagon. Nays – None. Bill No. 3881 was approved and became **Ordinance No. 15-21**

**BILL # 3882 - AN ORDINANCE PROVIDING FOR THE APPROVAL OF A SUBDIVISION PLAT FOR ARBORS AT CHURCHILL SUBDIVISION AS PROVIDED IN CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN, MISSOURI.**

A motion was made by Alderman Terbrock and seconded by Alderman Stallmann for a first reading of Bill No. 3882. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3882 was read for the first time.

City Attorney Jones said that in the original submitted Bill 3882, in Section 3B, he made reference to the petition review report for the rezoning application as March 10. The reference should have been to petition review report forth subdivision dated March 18, and has been changed.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock for a second reading of Bill No. 3882. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3882 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3882 with the following results:  
Ayes – Fleming, Terbrock, Kerlagon, Stallmann, Finley, Leahy, Bullington, Roach. Nays – None. Bill No. 3882 was approved and became **Ordinance No. 15-22**.

**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. Liquor License for Ballwin Days – Bonhomme Lions Club
- B. Pointe Locker Replacements
- C. Health Insurance

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

**MAYOR'S REPORT**

**Committee Assignments:** Mayor Pogue asked the Board to consider the Aldermanic committee assignments. He asked for their preferences, and if someone is interested in being the aldermanic representative on the Planning & Zoning Commission.

**President of the Board:** *A motion was made* by Alderman Leahy and seconded by Alderman Kerlagon to re-appoint Alderman Fleming as President of the Board of Aldermen. A voice vote was taken with a unanimous affirmative result and the motion passed.

**Great Streets Initiative in cooperation with Ballwin, Ellisville & Wildwood:** Mayor Pogue said these cities have been chosen to receive a Muni-Award from the St. Louis County Municipal League. The award ceremony will be on May 27, 2015. He said he would like to invite Frank Karr as the second

city representative. Mr. Karr has served in setting up the executive committee with all of the businesses on the Great Streets corridor. He has been active in participation in this project for many years.

**Senate Bill 221 Pool Tax:** Mayor Pogue said that this bill addresses pool tax reallocations. He recommended that the Board authorize a Resolution to send to our Senator Schmidt, and ask for his opposition to Senate Bill 221, as long as it contains the amendment that was added by the House of Representatives containing the change of pool sales tax allocation.

*A motion was made* by Alderman Stallmann and seconded by Alderman Terbrock to proceed as requested by Mayor Pogue. A voice vote was taken with a unanimous affirmative result and the motion passed.

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

**Golf Course Truck:** City Administrator Kuntz said this is recommending purchase of the substitute equipment on the golf course with a 2015 pickup truck under State contract with no trade. He said that other options were reviewed and discussed. This is a work truck on the golf course, and there is no other suitable truck in our fleet that can be used for this purpose.

*A motion was made* by Alderman Stallmann and seconded by Alderman Kerlagon to accept the purchase of a pick-up truck for the golf course under State contract. A voice vote was taken with a unanimously affirmative result and the motion passed.

**Pointe Slide Tower:** City Administrator Kuntz said it is recommended that the contract be awarded to Capri Pools for replacement of the Pointe slide tower in the amount of \$126,181. The tower has required almost constant maintenance. It is an integral part of the pool and has to be maintained.

*A motion was made* by Alderman Fleming and seconded by Alderman Terbrock to purchase the Pointe slide pool from Capri Pools in the amount of \$126,181. A voice vote was taken with a unanimously affirmative result and the motion passed.

**Health Insurance:** City Administrator Kuntz said the Health Insurance is part of a self-insurance pool for the City. This is the third year and prior to being in the pool, we were subject to market conditions. Every year, our rates were unpredictable. Since Ballwin joined the pool, there is better buying power as a larger group. We have a very aggressive wellness program. This year, there is a 0% health insurance increase for the City of Ballwin. Last year, the increase was 4%. In the market, some increases are 20%. This is a partnership now more than in the past between the employees that are insured and the insurance company that's providing the insurance. We are moving in the right direction.

### **STAFF REPORTS**

None.

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

None.

### **ALDERMANIC COMMENTS**

**Sales Tax:** Alderman Stallmann said that he attended the St. Louis County Municipal League meeting. The two items discussed were sales tax and municipal court bill that Senator Schmidt introduced that will cap municipal court receipts. He said the resulted drain on St. Louis County revenue could have an

indirect effect on Ballwin. He agrees with Mayor Pogue for everyone to contact Senator Schmidt and their Representatives because this bill is bad news for the City of Ballwin and many other cities.

Alderman Terbrock said that today on KMOX radio, the discussion said that this bill could be considered a gang-up on all of the cities in north county. Cities could be put out of business. They said that this could play into the hands of the "Better Together" supporters. Alderman Terbrock said that most people don't understand the sales tax pool. It would be easy for this bill to be approved and it will not be good for the cities like Ballwin. Mayor Pogue said that Representatives Shamed Dogan and Andrew Koenig cast negative votes on this bill, which is very much appreciated, even though the bill was approved in the House of Representatives.

**Legislation re Elected Officials gifts:** Alderman Fleming asked about legislation at the State level that restricted how much an elected official can receive. He said the free passes we're receiving to the Municipal League dinner might be over the limit, which may mean we couldn't accept them. He asked City Attorney Jones to review the legislation and inform the Board what the current restriction is. City Attorney Jones said he will research this item.

**Tree Stump Removal:** Alderman Fleming asked Parks Director Bruer to check into having our own crews deal with tree stumps to reduce cost.

**Adjourn:** *A motion was made* by Alderman Fleming and seconded by Alderman Leahy to adjourn. The motion passed unanimously and the meeting was adjourned at 8:26 p.m.

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TIM POGUE, MAYOR

ATTEST:

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ROBERT A. KUNTZ, CITY ADMINISTRATOR

MClark  
AJohnson

**April 27, 2015**