



UNOFFICIAL DRAFT
MINUTES OF THE BOARD OF ALDERMEN MEETING
CITY OF BALLWIN – 300 Park Drive
August 24, 2015

STATEMENTS ATTRIBUTED TO INDIVIDUALS IN THIS “DRAFT” ARE NOT VERBATIM QUOTES. THE MINUTES OF THIS MEETING ARE REPORTED IN SUMMARY. THIS IS AN “UNOFFICIAL DRAFT VERSION” OF THE MEETING MINUTES. DRAFT VERSIONS OF MINUTES ARE SUBJECT TO REVIEW, MODIFICATION, AND APPROVAL OF THE BOARD OF ALDERMEN.

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

Call to Order

The meeting was called to order by Mayor Pogue at 7:00 p.m.

Roll Call

PRESENT

ABSENT

Mayor Tim Pogue
Alderman Jimmy Terbrock
Alderman Michael Finley
Alderman Kevin Roach
Alderman Mark Stallmann
Alderman Frank Fleming
Alderman Ross Bullington
Alderman Kathy Kerlagon
Assistant City Administrator Thomas Aiken
City Attorney Robert E. Jones

Alderman Jim Leahy

The Pledge of Allegiance was given.

MINUTES

The Minutes of the **July 27, 2015 Board of Aldermen meeting and closed sessions** were submitted for approval.

Alderman Finley stated someone else seconded the motion made by Alderman Stallmann under the Mayor’s Report in regards to Robert Kuntz’s Recognition, Alderman Terbrock stated he seconded that motion.

A motion was made by Alderman Finley and seconded by Alderman Fleming to approve the amendment to replace Alderman Finley with Alderman Terbrock in the motion made by Alderman Stallmann. A voice vote was taken with a unanimous affirmative result and the motion passed.

Alderman Fleming asked Attorney Jones if a copy of Ordinance 15-31 approving the employment for Mr. Hanson as the new City Administrator should be included in the minutes since the ordinance was read fully at the 7/27/15 Board Meeting and was not provided prior to then. Attorney Jones said that it could be included in the minutes. Alderman Fleming asked that Ordinance be included into the Minutes as an Exhibit.

A motion was made by Alderman Fleming and seconded by Alderman Finley to approve the amendment to include a Copy of Ordinance 15-31, as an exhibit, into the minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

Alderman Roach stated that under New Business Bill #3891, in paragraph five, he would like it to be amended to read “Alderman Roach stated he was concerned about the negative impact of potential water runoff / storm water runoff and its effect on residents.”

A motion was made by Alderman Roach and seconded by Alderman Fleming to approve the amendment to change his comment under Bill #3891. A voice vote was taken with a unanimous affirmative result and the motion passed.

A motion was made by Alderman Stallmann and seconded by Alderman Fleming to approve the amended minutes. 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 Closed Session minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

CITIZEN COMMENTS

None

NEW BUSINESS

LEGISLATION

RESOLUTION HAZARD PLAN ADOPTION RESOLUTION: A RESOLUTION OF THE CITY OF BALLWIN ADOPTING THE ST. LOUIS REGIONAL ALL-HAZARD MITIGATION PLAN 2015-2020

A motion was made by Alderman Fleming and seconded by Alderman Terbrock to approve this Resolution. A voice vote was taken with a unanimous affirmative result and the motion passed.

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. Schnucks Liquor Licenses

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

MAYOR’S REPORT

Mayor Pogue stated he wanted to thank all of those who came out to the Ballwin Athletic Association’s 75th Anniversary on the weekend of August 7th. Eric Hanson, the new City Administrator, and his family were in town that weekend and were in attendance. Mr. Hanson was introduced to the public at that time

and received a very warm welcome. He was very pleased with the residents who introduced themselves and welcomed him to the community. The Ballwin Athletic Association gave the City of Ballwin a plaque of recognition.

Mayor Pogue stated the Board will go into Closed Session before Aldermanic Comments.

CITY ADMINISTRATOR'S REPORT

Salt Purchase: Mr. Aiken stated the proposal from City Engineer Gary Kramer, recommends that Ballwin purchase 300 tons of salt in late 2015 and an additional 300 tons in early 2016. This will get Ballwin through the current year and through the winter period of next year. Mr. Aiken also stated that purchasing salt can be a guessing game but this purchase will more than fill up the 5,000 ton capacity of the salt dome and if we don't use it this season, we can use it for the next season.

Mr. Aiken recommends that the board approve Mr. Kramer's recommendation for the purchase of salt.

A motion was made by Alderman Terbrock and seconded by Alderman Stallmann to approve the staff recommendation of salt purchase. A voice vote was taken with a unanimous affirmative result and the motion passed.

Crack Sealing: Mr. Aiken stated that Ballwin attempts to seal approximately 1/8 of the city streets every year and the crack sealing lasts approximately eight years. The city only received two bids to do the job – which in recent years, has commonly been the case. Mr. Aiken agrees with Mr. Kramer with the recommendation of awarding the bid to Parking Lot Maintenance, which has served Ballwin well in the past.

Alderman Roach wanted to get clarification on the Edges Only street list that included Romine Circle.

Mr. Kramer stated that it is not cost effective to have the overlay contractors do edge sealing on new overlays and the City wants to make sure the edges get sealed correctly, so the streets that they overlay this year are on the edges-only list.

A motion was made by Alderman Fleming and seconded by Alderman Kerlagon to approve the staff recommendation of crack sealing. A voice vote was taken with a unanimous affirmative result and the motion passed.

Communications Decommissioning: Mr. Aiken explained that in February, the Board authorized the mayor to execute an agreement for the emergency communications system. This is the region-wide communications system for the Police Department and Public Works. At the time funding for the new system did not include the decommissioning of the old radio system which includes removing the repeater antennas from several locations and the back-up tower at public works. It has now been determined that the cost of the removal will be approximately \$20,000. Mr. Aiken stated that Chief Schicker has identified approximately \$15,000 in expenditures that will not have to be made, which will partially offset this unbudgeted expense. The staff requests the Board's authorization to dispose of the decommissioned equipment and scrap via Gov Deals and scrap metal dealers and that the city adjust the budget at the year-end re-appropriation to address the additional expenditure that was not anticipated when the budget was approved.

Mayor Pogue asked the Chief what kind of timeline he expected this project to take. Chief Schicker responded that Ballwin will work in conjunction with St. Louis County. The repeaters the city has are on locations where the county also has repeaters. The decommissioning has been discussed as a cooperative effort and the cost will be shared. Chief Schicker stated that he would anticipate once the project begins, the equipment removal should be completed and cleaned up within a week and that there may be a need for bringing in additional equipment to remove the 40+ ft tower in the Public Works yard. This contract

includes delivery of decommissioned equipment to our warehouse where we can sell the radio equipment on Gov Deals. The scrap metal would be sold to scrap metal dealers along with other accumulated scrap metal.

A motion was made by Alderman Fleming and seconded by Alderman Bullington to approve the staff recommendation for the decommissioning of the old radio system. A voice vote was taken with a unanimous affirmative result and the motion passed.

Detective Car Replacement: Mr. Aiken stated that as was discussed at the last board meeting, the damaged Police Car #308 was thought to be repairable. Upon commencement of repair, it was found that the damage was more extensive and the vehicle is damaged beyond repair. As a result, it has been totaled. Mr. Aiken stated that in the memo prepared by Chief Schicker, he asks that the Board approve his recommendation to take the \$16,125.00 that was paid for the totaled vehicle, with a \$2,500 deductible that the city will have to pay, and to use additional money from the drug forfeiture funds in order to provide a replacement vehicle. Mr. Aiken stated that this vehicle was a detective car and is not a standard patrol car and would not have the police equipment package.

Alderman Terbrock suggested and asked City Attorney Jones that rather than use the drug forfeiture to make up the difference to replace the vehicle, to have the City put restitution on the individual who was driving while intoxicated when he struck the vehicle.

Mr. Jones stated that the city can recoup the cost of processing the DWI case including the hourly rate of the officers for blood test, breathalyzer, and apprehension but, for the physical property that was damaged he does not believe there is an ordinance or an enabling state statute that permits this.

Chief Schicker stated that this accident happened in unincorporated St. Louis County and it was a hit and run accident. The person was followed and was arrested by the Ladue Police Department for the DWI. So trying to coordinated peer efforts because the accident occurred outside of Ballwin's jurisdiction would be difficult.

Mr. Jones stated that since it occurred out of Ballwin's jurisdiction the City would have no recoupment rights so it would have to be some kind of a Civil Case. He said he thought Ballwin's insurance company would pursue that under their subrogation rights that they have in their policy.

Alderman Fleming asked how the officer that was driving the vehicle was doing. Chief Schicker responded that he is still out on medical leave. His injuries so far are covered by worker's compensation insurance. Chief Schicker explained that when the vehicle was hit, it was at a complete stop. He said the rear impact of the collision caused the connection where the seat belt connects by the door post to be ripped off completely.

Alderman Fleming was in agreement with Alderman Terbrock that if there is anything the City or Board could do to ensure prosecution of the individual, as opposed to cutting a deal, especially since one of Ballwin's officer's was injured, that would be his preference.

A motion was made by Alderman Fleming and seconded by Alderman Terbrock to approve the staff recommendation for the replacement of the totaled detective vehicle. A voice vote was taken with a unanimous affirmative result and the motion passed.

CITY ATTORNEY'S REPORTS

Chesterfield Pool Tax Litigation- City Attorney Jones stated that a copy of the renewed motion to intervene that was filed on behalf of Ballwin and the other intervening cities was emailed to the Board. The argument was well received and the Judge promised to rule more quickly than on the previous

attempts to intervene in the case. Attorney Jones said that Chesterfield intervened in a previous law suit that was filed in Cole County in 1996 to try and defend the pool scenario and their argument was that the State of Missouri and St. Louis County did not properly represent the interest of all the cities. This is the identical argument that the cities of Ballwin, Florissant and Webster Groves are making as interveners in this case, although these cities are on the other side. Attorney Jones said the litigation from the mid-nineties will most likely be the basis for this case in denying Chesterfield's request for relief.

Attorney Jones said he would keep the Board posted as soon a ruling was made on this case.

Senate Bill 5 Update (Max Creek Statute)- City Attorney Jones explained to the Board that his firm held a meeting on August 6th for their clients. Chief Schicker and Captain Boswell were in attendance as well as Chris Northcutt, Mikki Spangler and Judge Nye from our court. The firm handed out specimen court orders, certifications for auditors, finance director and City Clerk, with regards to the best practices that are required by Senate Bill 5. After this meeting, Judge Nye has ordered a recall of all municipal court warrants and failure to appear suspensions. This is being done with the idea that the prosecuting attorney will go through these cases that have been segregated by the court administrators and will determine which cases are worthy of prosecution, which cases are too old, which cases no longer have a pedigree for the defendants that is capable of being effective as a warrant. He stated that they are moving through this legislation and believes the City will have everything that needs to be in place by August 28th, will be in place by that date. The city has 3 years before the Twelve Best Practices, and 6 years for the Certification of the Police Department. Attorney Jones stated everything will be done in a timely fashion.

Attorney Jones said he had planned to have legislation for the Board that evening but when reviewing the current ordinance section for municipal court, he realized it is very bareboned and he was not sure how much of this should be included into the ordinances. Attorney Jones stated he would prefer to work with the Chief through the general orders and standard operating procedures to be sure that the City has everything they need. He said he would have something by the next Board meeting and will let the Board know.

CLOSED SESSION

Mayor Pogue announced that Pursuant to Section 610.021 [1] RSMo and Section 610.021 [2] RSMo, the board will meet in closed session to discuss real estate and legal matters.

Adjourn to Closed Session

A motion was made by Alderman Fleming and seconded by Alderman Finley to adjourn to closed session to discuss real estate matters and legal matters. A roll call vote was taken with the following results:

Ayes: Aldermen Terbrock, Finley, Roach, Stallmann, Fleming, Bullington, Kerlagon

Nays: None

The motion passed to adjourn to closed session at 7:21 p.m.

The Board reconvened in open session at 7:47 p.m.

A motion was made by Alderman Fleming and seconded by Alderman Finley to reassemble in open session. A voice vote was taken with a unanimous affirmative result and the motion passed.

Mayor Pogue stated that no decisions were reached and no votes were taken in the closed session discussion of legal and real estate matters.

ALDERMANIC COMMENTS

Alderman Bullington: Alderman Bullington wanted to congratulate Ballwin Resident Tyler Downs. Tyler has been named to the Junior Pan American Championship Team for 1M Diving in the 12-13 Boys individual Event. He will be flying to Cuba for the competition. Tyler received his promotion to the Pan American Game from a Gold Medal performance in the AT&T USA Diving National Championship, held on August 1-13 in Orlando, Florida. Alderman Bullington mentioned that Tyler started out as a Ballwin Blue Dolphin.

Alderman Terbrock: Alderman Terbrock stated that his comment is in reference an email he received about an article on Ellisville's Deer Control. He said he was taken aback by the whole set up and wasn't sure how he felt about trusting someone using a high powered rifle in the neighboring city park when Ballwin has houses backing up to it. He stated that when Ballwin created the Bow Hunting Ordinance, the city sat down with Ellisville, went over the plan and made them aware of the ordinance and what Ballwin was doing. Alderman Terbrock thought Ballwin was caught blind-sided by this and that Ballwin should have been included or made aware of this plan prior to the article in the newspaper.

Alderman Terbrock asked Attorney Jones if, from a legal stand point, the city could do anything. Alderman Terbrock wanted to get the Boards feeling on this issue. He also stated how Ballwin has a strict Bow Hunting Ordinance to eliminate any liability the City may have.

Attorney Jones stated that he could not think of anything that would give Ballwin the right to object just simply because of Ballwin's proximity to Ellisville. He stated that it could be dangerous and hopes nothing happens and if it does, the party that is harmed will have to pursue that. Attorney Jones stated that Ballwin could make sure they have all the proper permitting requirements from the Missouri Department of Conservation and Ellisville would have to change their own ordinances to allow the use of a firearm within city limits.

Mayor Pogue stated that he reached out to the Mayor of Ellisville and has not received a response.

Alderman Fleming stated that maybe Ballwin could approach Ellisville and explain that the City doesn't want to interfere but has some concerns about this and to get it on record.

Alderman Terbrock stated that he heard Mayor Paul on the radio and he said they had gotten away from the Bow Hunting because of wounded deer running off and dying slowly from infection and that a kid had stepped on an arrow left by a hunter. He stated that if it were one of Ballwin's hunters, the arrow would be traceable since Ballwin requires each arrow to have their Missouri Department of Conservation identification number permanently marked on it.

Alderman Bullington stated that on Ellisville's website, under Deer Control, it states that in Bluebird Park and Roger Klamberg Woods, there will be a controlled hunt consisting of 5 hunters and certain areas of the park will be closed during that time.

Mayor Pogue stated the hunt Alderman Bullington mentioned is a managed hunt in conjunction with the Department of Conservation and is an archery hunt.

Alderman Bullington stated Ellisville's Chief said that they are looking to taking over 200 deer from this managed hunt to control their deer population.

Alderman Stallmann commented that he too shares the concerns of his fellow aldermen. He said he was surprised they were using high powered rifles within the city limits. He stated that he had not thought about the connecting properties, but that there is a real danger in doing this.

Alderman Fleming wanted to mention that his subdivision recently discussed and voted on whether or not to allow bow hunting in its common ground areas. It prevailed with a vote of 23 to 21. He voted to allow bow hunting for the City of Ballwin, but on a personal level, he voted against allowing bow hunting in his subdivision. He stated that with a 40lb bow, an arrow could potentially fly 80 yards. Alderman Fleming said he is starting to rethink the part of Ballwin's ordinance that says contiguous properties must be notified but not approved. He stated that if you are doing something that has the capacity to leave the area you are doing it in then he would think that the contiguous properties might need to approve this rather than just being notified. He said the ordinance has worked so far, but that this is something he has been thinking about.

Mayor Pogue stated that if he hears anything from Ellisville's Mayor, he will forward it on to the Board and to the Chief.

A motion was made by Alderman Fleming and seconded by Alderman Finley to adjourn the open session. A roll call vote was taken with a unanimous result, and the meeting was adjourned at 7:58 p.m.

TIM POGUE, MAYOR

ATTEST:

THOMAS AIKEN, CITY CLERK

A Johnson

Updated: **August 24, 2015**