



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

December 9, 2013

(The Minutes are prepared in summary to reflect the overall discussions – not verbatim quotes.)

The meeting was called to order by Mayor Pogue at 7:02 p.m.

PRESENT

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

ABSENT

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *November 25, 2013 Board of Aldermen meeting* were submitted for approval. Alderman Harder amended page 4, paragraph 6, changing “to” to “do”. Alderman Finley amended page 5, paragraph 2, changing “the number one concern” to “the number one unsolicited concern”. *A motion was made* by Alderman Finley and seconded by Alderman Harder to amend the Minutes with the two requests.

A motion was made by Alderman Fleming and seconded by Alderman Boland 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

Lynn Goetz, 504 Kenilworth Lane, asked if the Ballwin smoking ban ordinance applies to e-cigarettes. City Attorney Jones said it does not include e-cigarettes and does not restrict e-cigarettes.

PUBLIC HEARINGS

2014 Capital and Operating Budgets: Mayor Pogue said in 2013, Ballwin began to refocus on addressing deferred maintenance issues such as resealing parking lots, remodeling the Board room, replacing carpet in the Police Department, adding landscape and digital signage to the Government Center, and refurbishing the lobby area of The Pointe at Ballwin Commons.

Mayor Pogue said the 2014 budget calls for efficiency enhancements at The Pointe community center, which will involve a comprehensive upgrade of the entire mechanical systems. This project will be a

further demonstration of Ballwin's commitment to energy efficiency. It will include conversion to geothermal heating/cooling, as well as a white roof to compliment the solar panels which were installed in 2012.

The other noteworthy aspect of the Operating budget plan is that it will bring back the Arborist position, which has been vacant for the past 5 years. This will enable the placement of renewed emphasis on landscaping, park and street tree maintenance. Other than that, all programs and services will continue with no additional manpower commitment.

He said as far as street improvements are concerned, \$1,396,541 was pledged to address this priority. This is slightly higher than the funding commitment of \$1,264,850 in 2013.

Mayor Pogue stated that with the exception of a small supplemental contribution to the Olde Towne TIF bond service fund, Ballwin is now completely debt free. The new year will begin with an unrestricted reserve fund balance of over \$8 million. This equates to 46.5% of the projected Operating budget.

Mayor Pogue said that overall, he and the Board of Aldermen are pleased to report that they have chartered a conservative fiscal course that will protect the comprehensive infrastructure while helping to ensure that the residents will continue to enjoy all of the top quality programs and services that they expect and deserve in this fine community.

Mayor Pogue asked if anyone would like to speak in opposition to the acceptance of the budgets. There were none. Mayor Pogue asked if anyone would like to speak in favor of acceptance of the Capital and Operating budgets. There were none.

Mayor Pogue declared the Public Hearing closed.

NEW BUSINESS

LEGISLATION

BILL # 3817 - AN ORDINANCE APPROVING AND ADOPTING A BUDGET OF ANTICIPATED CASH REVENUE AND CASH DISBURSEMENTS FOR THE CAPITAL IMPROVEMENT PROGRAM OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2014, AND ENDING DECEMBER 31, 2014, PROVIDING FOR EXPENDITURES IN ACCORDANCE WITH SAID BUDGET AND MAKING APPROPRIATIONS THEREOF.

A motion was made by Alderman Fleming and seconded by Alderman Boland for a first reading of Bill No. 3817. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3817 was read for the first time.

Alderman Harder said that in the published Capital budget was \$3,409,000. Last month, the amount was \$3,481,923. The difference is in Parks & Recreation. Finance Officer Keller explained the difference was related to the use of dedicated reserves, which are the result of fees paid as a part of the approval of new residential subdivisions. This utilization of dedicated reserves had not been identified in the preliminary budget submittal. Alderman Harder verified that the budget being approved is \$3,409,000.

Alderman Fleming stated that the Capital Budget has been approved by the Planning & Zoning Commission.

A motion was made by Alderman Fleming and seconded by Alderman Boland for a second reading of Bill No. 3817. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3817 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3817 with the following results:
Ayes – Fleming, Terbrock, Finley, Boland, Harder, Leahy, Dogan, Kerlagon. Nays – None. Bill No. 3817 was approved and became **Ordinance No. 13-46**.

BILL # 3818 - AN ORDINANCE APPROVING AND ADOPTING AN OPERATIONS BUDGET OF ANTICIPATED CASH REVENUE AND CASH DISBURSEMENTS FOR THE GENERAL REVENUE FUND OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2014, AND ENDING DECEMBER 31, 2014, PROVIDING FOR EXPENDITURES IN ACCORDANCE WITH SAID BUDGET AND MAKING APPROPRIATIONS THEREOF.

A motion was made by Alderman Finley and seconded by Alderman Fleming for a first reading of Bill No. 3818. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3818 was read for the first time.

Alderman Finley said that after much consideration, he does not believe that Ballwin should resume mosquito fogging. He is in favor of removing this item from the budget. Mayor Pogue said this will be an item for discussion at the retreat. City Administrator Kuntz said that St. Louis County has to be notified in March. If this program is done in-house, we still have the equipment and is included in the budget.

Alderman Finley said that staff has done a good job in preparing the budget. He is not aware of any negative comments from the citizens regarding the budget, and no negative statements were made during the Public Hearing.

A motion was made by Alderman Finley and seconded by Alderman Fleming for a second reading of Bill No. 3818. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3818 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3818 with the following results: Ayes – Finley, Fleming, Harder, Kerlagon, Dogan, Boland, Terbrock, Leahy. Nays – None. Bill No. 3818 was approved and became **Ordinance No. 13-47**.

BILL # 3819 - AN ORDINANCE AMENDING THE CODE OF ORDINANCES WITH RESPECT TO QUALIFICATIONS OF ALDERMEN.

A motion was made by Alderman Kerlagon and seconded by Alderman Boland for a first reading of Bill No. 3819. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3819 was read for the first time.

Alderman Finley asked what is the history of this being approved by the State? City Attorney Jones said he does not know. This legislation brings Ballwin's code into compliance with State law.

A motion was made by Alderman Boland and seconded by Alderman Fleming for a second reading of Bill No. 3819. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3819 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3819 with the following results: Ayes – Boland, Fleming, Terbrock, Leahy, Kerlagon, Harder, Finley, Dogan. Nays – None. Bill No. 3819 was approved and became **Ordinance No. 13-48**.

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. None.

MAYOR'S REPORT

Historical Commission Appointments: Mayor Pogue said recommended re-appointment of Loretta Irwin, Mary Ellen Heldmann, and Hazel Makowski to the Historical Commission, whose terms expire on December 31, 2013. He said all three commission members have expressed interest to remain on the commission for another 3-year term.

A motion was made by Alderman Terbrock and seconded by Alderman Kerlagon to approve the recommended re-appointments. A voice vote was taken with a unanimous affirmative result, and the motion passed.

Future Meetings: Mayor Pogue recommended that the December 23 Board of Aldermen meeting be cancelled. *A motion was made* by Alderman Terbrock and seconded by Alderman Boland to cancel the December 23 Board meeting. A voice vote was taken with a unanimous affirmative result, and the motion passed.

Ameren: Mayor Pogue said that Ameren will be doing tree trimming in Ballwin.

Great Streets Design: Mayor Pogue said that last Friday, he attended a meeting with City Planner Aiken, City Administrator Kuntz, the Great Streets Steering Committee, and representatives from MoDOT to finalize design criteria for the 2014 – 2015 resurfacing of Manchester Road. The final plan review will be presented during the week of Feb. 24. It will go out to bid in mid-May.

Retreat/Work Session: The Board agreed to meet on February 8 from 8:00 a.m. – 12:00 noon. Since there are many items for discussion, it was suggested that a second retreat be held in April.

CITY ADMINISTRATOR'S REPORT

Code Changes: City Administrator Kuntz said draft legislation was provided to the Board for discussion. The changes are regarding financial responsibilities, use of toy vehicles, alcoholic beverages in motor vehicles, driving with excessive blood alcohol content, passing within intersections, traffic control signals, leaving children in vehicles, stop intersections and locations, prohibited parking locations, speed limit in parks and recreational areas, pedestrian crosswalks, special enforcement areas, prostitution prohibited, sexual misconduct prohibited, stalking, domestic assault, assault of a law enforcement officer, harassment, deceptive business practice, and attempting to commit an offense.

City Attorney Jones said that hunter harassment can be discussed for further inclusion in the draft legislation, since there have been 2 complaints received by the Police Department.

Alderman Dogan asked if the section to prohibit motorized toy vehicles on sidewalks will include a child on a power wheels, motorized skateboards, etc. He said he doesn't understand why the code is broadened to include any motorized vehicle. He disagrees with expanding powers of government in this manner. Alderman Finley said that this could also include a motorized wheel chair.

Alderman Boland said that a basketball hoop in the street is illegal. This situation exists in his neighborhood, but he hasn't had any reason to complain about it. Rather than being examples of overreaching government, these laws are in place to take care of situations where it becomes exaggerated by misuse. If there isn't a law on the books at that point, nothing can be done to address a situation of exaggerated and aggressive misuse.

Alderman Fleming said that if this is on the books, a mean neighbor can report a situation, and the police officer is then in a position to address it. This gives temptation to an easily aggravated neighbor to call in a complaint. Mayor Pogue said that in such situations, the question should be asked, is it creating a health and safety issue. Alderman Fleming said that this should be looked at more closely so that toys on

sidewalks are not prohibited, and neighbors are not encouraged to report a motorized tricycle on the sidewalk.

Police Chief Schicker said the he and City Attorney Jones will discuss proper wording and for this section.

Alderman Harder asked if the stop signs and no parking locations have been updated in the code. Police Chief Schicker said yes.

A motion was made by Alderman Boland and seconded by Alderman Fleming to draft legislation, taking into consideration the comments and concerns of the Board. A voice vote was taken with a unanimous affirmative result, and the motion passed.

CTS Agreement: City Administrator Kuntz said this is the contract with CTS Group of Ellisville, Mo. To provide a guaranteed energy savings retrofit for The Pointe including new mechanical systems, lighting, and roof in the amount of \$3,975,326. The contract has been reviewed by City Attorney Jones and Director of Parks & Recreation Bruer. With Board approval, the work can begin immediately with installation of most of the systems by early Spring.

Mayor Pogue said that this is very critical to the life of The Pointe, which is 18 years old. The first payment will take place in the 2014 budget.

A motion was made by Alderman Fleming and seconded by Kerlagon Boland to accept the contract with CTS. A voice vote was taken with a unanimous affirmative result, and the motion passed.

STAFF REPORTS

None.

CITY ATTORNEY'S REPORT

None.

ALDERMANIC COMMENTS

Alderman Finley asked, in Section 15-345, why is the change limited only to motorcycles or bicycles, as opposed to bicycle or any motor vehicle? City Attorney Jones said that this language is directly out of State law and was requested by the Police Department to acknowledge that a motorcycle handles at an intersection differently than an automobile. They can still be charged for violating the red light, but if they can raise these defenses, the court can at least consider whether or not their action was excused. Motorcycles may not be heavy enough to trip in-pavement magnetic sensor. City Administrator Kuntz said that on a bicycle, it's impossible to get through a light because there's not enough weight to trip the sensor.

Adjourn: A motion was made by Alderman Fleming and seconded by Alderman Boland to adjourn. The motion passed unanimously and the meeting was adjourned at 7:56 p.m.

TIM POGUE, MAYOR

ATTEST:

ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

December 9, 2013