



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

June 16, 2014

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

The meeting was called to order by Mayor Pogue at 7:00 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  
CITY ADMINISTRATOR ROBERT KUNTZ  
CITY ATTORNEY ROBERT E. JONES

ABSENT

ALDERMAN MIKE BOLAND

The Pledge of Allegiance was given.

MINUTES

The Minutes of the *May 12, 2014 Board of Aldermen meeting* were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Leahy to approve the Minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

PRESENTATION

None.

OLD BUSINESS

*Tim Baker, with Cole & Associates, and Tom Casey, Senior Geotechnical Engineer with SCI Engineering* spoke to the Board regarding the soil concerns and the development of the two lots. Mr. Casey said their approach is to obtain the grading plan, evaluate everything, and come up with a proper geotechnical investigation. Anytime a structure is close to a slope, a detailed analysis is done to evaluate the slope's stability. The entire grading plan, house, loads will be considered and make recommendations to the builder in terms of how to build a stable structure. He said he does slope stability analysis all the time.

Alderman Terbrock asked if there will be someone on the site the entire time to verify the work is being done accordingly. Mr. Casey said a technician will be on the site that will do soil compaction monitoring throughout the placement of the fill watching every lift go in. Alderman Terbrock asked how is the compaction tested. Mr. Casey said it is a nuclear density gauge.

Alderman Harder asked what type of fill will be used and from where will it be obtained? Mr. Casey said it will most likely be a CLO plastic clay type material that is locally sourced. It is usually based on the contractor. Mr. Baker said that all of the geo tech work will be required as part of the building permit that St. Louis County and Ballwin requires. Two lots are proposed for this property.

**BILL # 3835 - AN ORDINANCE APPROVING AN AMENDED SITE DEVELOPMENT PLAN FOR 905 QUAIL TERRACE DRIVE.**

A motion was made by Alderman Terbrock and seconded by Alderman Fleming to reconsider Bill 3835. 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 Fleming for a first reading of Bill No. 3835. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3835 was read for the first time.

A motion was made by Alderman Leahy and seconded by Alderman Fleming for a second reading of Bill No. 3835. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3836 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3835 with the following results: Ayes – Leahy, Fleming, Terbrock, Dogan, Kerlagon, Harder. Nays – Finley. Bill No. 3835 was approved by a vote of 6-1 and became **Ordinance No. 14-16**.

**BILL # 3836 - AN ORDINANCE PROVIDING FOR THE APPROVAL OF A SUBDIVISION PLAT FOR WESTGLEN PLAT 7 RESUBDIVISION AS PROVIDED IN CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF BALLWIN, MISSOURI.**

A motion was made by Alderman Harder and seconded by Alderman Leahy for a first reading of Bill No. 3836. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3831 was read for the first time.

A motion was made by Alderman Fleming and seconded by Alderman Leahy for a second reading of Bill No. 3836. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3836 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3836 with the following results: Ayes – Fleming, Leahy, Terbrock, Dogan, Harder, Kerlagon. Nays – Finley. Bill No. 3836 was approved by a vote of 6-1 and became **Ordinance No. 14-17**.

**BILL # 3837 - AN ORDINANCE APPROVING A ZONING CHANGE FROM R-4 PLANNED MULTIPLE DWELLING TO R-3 SINGLE FAMILY FOR 905 QUAIL TERRACE DRIVE.**

A motion was made by Alderman Leahy and seconded by Alderman Fleming for a first reading of Bill No. 3837. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3837 was read for the first time.

A motion was made by Alderman Fleming and seconded by Alderman Leahy for a second reading of Bill No. 3837. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3837 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3831 with the following results: Ayes – Fleming, Leahy, Kerlagon, Harder, Terbrock, Dogan. Nays – Finley. Bill No. 3837 was approved by a vote of 6-1 and became **Ordinance No. 14-18**.

**CITIZEN COMMENTS**

*State Representative Sue Allen*, 702 Willow Spring Hill Ct., Town and Country, Missouri: Representative Allen said she represents Ballwin in the 100<sup>th</sup> district at Jefferson City. She offered assistance for any needs of the City of Ballwin and thanked the Board for the good job they are doing.

**State Representative Rick Stream**, Kirkwood: Representative Stream said that he has served 6 years with Representative Allen and she had done a good job in representing the community. He thanked the Board for how they run the City of Ballwin. He said that Ballwin is one of the top cities in the State of Missouri in the way it's managed, very efficient, competent management, honesty and integrity are the hallmarks of the City of Ballwin.

**George Wrather**, 560 Goldwood: Mr. Wrather asked that the potholes be repaired on Goldwood. He said there are potholes in front of Goldwood: 527, 523, 560, 564, 565 and 574, and Statewood: 327 and 322. City Administrator Kuntz thanked Mr. Wrather for providing this information. He also said that there is a pothole notification on the Ballwin website.

Mr. Wrather said that at the North Pointe Aquatic Center, the lazy river has lots of leaves in the water. He said an employee told him that maintenance is performed at night. That allows for 12 hours for the water to get dirty again before the pool opens. He suggested that the maintenance crew work from 8:00 a.m. – 12:00 p.m. This would provide better conditions for the patrons. He said he would like for the Ballwin pool to be better than Ellisville's pool and the Fenton pool. He uses these pools as well. He said the condition of the Lazy River is deplorable.

**Nawshad Kabir**, 405 Elm Crossing Ct., / **Steve Wirtz** (spokesperson): Mr. Wirtz spoke to the Board regarding an easement on property at **15493 Manchester Road**. He said there has been an issue regarding cross parking lot access. He said there's been no change in the development plan and the site plan, or any changes to the building other than ownership. He said the building is a stand-alone piece of property. There are issues regarding the access. There is a multi-cabinet on the adjacent property right where the access is planned. There's a telephone long distance cabinet that's not going to move unless someone spends a lot of money to do this. Since there are no construction changes on the building, it's not subject to this requirement. He said that waiving this for parking lot access or it may not even be required.

City Attorney Jones said the ordinance states that all new developments, re-developments, building expansions and/or site improvements, the petitioner is required to dedicate a cross-access easement. Mr. Wirtz said they have not done any of this. The only thing that has changes is ownership. City Attorney Jones said that is not correct. The City of Ballwin can waive this requirement if topographic or other conditions prevent the inter-connections from being built or utilized. That waiver would occur at the time the legislation is passed. The bill has already been voted upon and passed. It's no longer possible for the Board of Aldermen to waive this requirement. The ordinance would have to be repealed and re-enacted in a different form. This requirement is an integral part of access management along Manchester Road.

Mayor Pogue said that this was discussed at the Planning & Zoning meeting. The Board of Aldermen asked if the petitioner and property owner if the easement could be set, and they both agreed. He said that's why the ordinance was passed.

Mr. Wirtz said that Assistant City Administrator Aiken was contacted prior to the meeting, and he was told that this was not acceptable. There was no agreed upon easement. The easement was never signed and agreed upon. He said that in the next day or two, he talked with Mr. Aiken and was told by Mr. Aiken that there would be no problem. This seems to have changed. Mr. Aiken contacted the leasee instead of the property owner. The property owner is the only one who can agree to this. He said it's going to be impossible to put an easement in this location because there is a tree on the adjacent property at Car-X. Mr. Wirtz said they were willing to grant an easement 25 feet x 25 feet at the entrance, but a curb cut would have to be made to utilize it. The purpose of a cross section is to eliminate multiple driveways and one at the corner of an intersection of the street. His entrance way would probably be the one eliminated. Mayor Pogue said that there wouldn't necessarily be any elimination of curb cuts.

Mr. Wirtz said there has been no easement granted. Mayor Pogue said they agreed to the easement and it is on record. Both the petitioner and the property owner said on record that the easement would be given. Mayor Pogue said that he should consult staff tomorrow.

## PUBLIC HEARINGS

None.

## NEW BUSINESS

### LEGISLATION

#### **BILL # 3838 - AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF BALLWIN, MISSOURI, TO EXECUTE THE MUNICIPAL HOUSING AND COMMUNITY DEVELOPMENT COOPERATION AGREEMENT OF 2015 – 2017; AND SUPPLEMENTAL AGREEMENTS THERETO WITH ST. LOUIS COUNTY WITH REGARD TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AS AMENDED.**

A motion was made by Alderman Fleming and seconded by Alderman Terbrock for a first reading of Bill No. 3838. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3831 was read for the first time.

Alderman Harder said asked what does this involve. City Attorney Jones said this is the new Community Development Cooperation Agreement for fiscal years 2015 – 2017. Typically, the demographics in the City of Ballwin do not allow using the funds for capital improvements that benefit lower income families because we don't have the sufficient residents living close by to merit this requirement. We have traditionally entered into an agreement with St. Louis County and have turned the funds awarded to Ballwin, which is \$40,400, back to St. Louis County to be administered as part of the Home Improvement Program. A number of other communities do the same thing. This agreement governs how those funds are to be used and what responsibilities the City of Ballwin has, which are very few. It authorizes St. Louis County to act as our agent in disbursement in accordance with Federal guidelines. There are income requirements.

A motion was made by Alderman Harder and seconded by Alderman Fleming for a second reading of Bill No. 3838. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3838 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3831 with the following results: Ayes – Harder, Fleming, Kerlagon, Terbrock, Dogan, Leahy, Finley. Nays – None. Bill No. 3838 was approved and became **Ordinance No. 14-19**.

#### **BILL # 3839 - AN ORDINANCE AUTHORIZING THE CONTINUED PARTICIPATION OF THE CITY OF BALLWIN, MISSOURI, IN THE MULTI-JURISDICTIONAL DRUG TASK FORCE ORGANIZED BY ST. LOUIS COUNTY.**

A motion was made by Alderman Finley and seconded by Alderman Fleming for a first reading of Bill No. 3839. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3839 was read for the first time.

A motion was made by Alderman Fleming and seconded by Alderman Dogan for a second reading of Bill No. 3839. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3839 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3839 with the following results: Ayes – Fleming, Dogan, Terbrock, Harder, Kerlagon, Leahy, Finley. Nays – None. Bill No. 3839 was approved and became **Ordinance No. 14-20**.

**BILL # 3840 - AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF BALLWIN, MISSOURI, ON BEHALF OF THE CITY, TO EXECUTE A LEASE WITH NEW CINGULAR WIRELESS, LLC FOR A TELECOMMUNICATIONS TOWER AND SUPPORT FACILITY IN FERRIS PARK.**

A motion was made by Alderman Kerlagon and seconded by Alderman Fleming for a first reading of Bill No. 3840. A voice vote was taken with a unanimous affirmative result, the motion passed and Bill No. 3840 was read for the first time.

Mayor Pogue asked, have all of the access easements and landscaping plan been settled with staff? Assistant City Administrator Aiken said that the final draft of the lease addressed all of the issues about landscaping, staging for construction and access.

Alderman Harder asked what this lease is about? City Attorney Jones said that the initial term of the lease is 10 years. The monthly lease payment is \$1,500 per month. It will adjust every five years. After that, for a total period of 30 years. The adjustment will be based on the consumer price index up to 7.5%. The lease document was thoroughly vetted between staff and AT&T's construction personnel to be sure that it is limited to access to the parking lot by vehicle and then by pedestrian access from the parking lot to the leased premises. The purpose is so that there are no large trucks driving on the sidewalks in the park to access the site. There are provisions in the lease to make sure that any damage to the park is restored. During the construction process, there will be a temporary construction easement which will expire after the facility is completed. Ballwin remains free to develop, rezone, or sell the park. He said there are no plans to do that. The city is not being burdened in any way other than granting the lease hold interest for the tower and the support facility, which is located immediately next to it.

A motion was made by Alderman Fleming and seconded by Alderman Harder for a second reading of Bill No. 3840. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3840 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3840 with the following results: Ayes – Fleming, Harder, Finley, Kerlagon, Dogan, Terbrock, Leahy. Nays – None. Bill No. 3840 was approved and became **Ordinance No. 14-21**.

**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. Crack Sealing
- B. Locker Room Floors
- C. Pointe Painting
- D. Salt
- E. Liquor License Renewals

Alderman Dogan requested that Item D be removed for further discussion.

*A motion was made* by Alderman Fleming and seconded by Alderman Finley to accept the Consent Items A, B, C and E. A voice vote was taken with a unanimous affirmative result and the motion passed.

**MAYOR'S REPORT**

**Liquor License for BBQ ASAP:** Mayor Pogue said that there was some paperwork that was not included with his renewal. The owner said he will be able to provide the paperwork by the end of the week. Since the next Board meeting is July 21, BBQ ASAP would not be able to sell alcohol until the license renewal is approved at that meeting. He said that there is an event scheduled to be held at BBQ ASAP over the July 4 weekend, which will require all paperwork be approved before that time.

Mayor Pogue asked if the Board would approve the Liquor License contingent upon Mr. Randall providing all paperwork for the business license and liquor license before June 30. He said that City Attorney Jones agreed that this is possible as long as it is contingent upon all current financial obligations being met and all paperwork being submitted. City Administrator Kuntz said that if all required documentation is not received, there will be no serving alcoholic beverages.

*A motion was made* by Alderman Terbrock and seconded by Alderman Harder to approve the Liquor License for BBQ ASAP, contingent upon their providing the paperwork and financial obligations by the close of business at the Ballwin Government Center on June 30. A voice vote was taken with a unanimous affirmative result and the motion passed.

**National League of Cities:** Mayor Pogue said the National League of Cities Conference will be November 18 – 22 in Austin, Texas. There has been much discussion regarding Aging in Place, Energy Efficiency of Street Lights, and other subjects that will be discussed at the conference. He said no one from Ballwin has attended for the last few years. City Administrator Kuntz said there is an early registration which has a reduced rate. He asked that anyone on the Board interested in attending should give notice by the July 21 Board meeting so that the reduced rate can be obtained.

**International Baseball Tournament:** Mayor Pogue asked the Board for approval to do the same donation for the International Baseball Tournament that the Ballwin Athletic Association will be hosting in the first weekend in August. The donation consists of the use of the Golf Course for their coaches to meet.

*A motion was made* by Alderman Fleming and seconded by Alderman Terbrock to provide the requested assistance. A voice vote was taken with a unanimous affirmative result and the motion passed.

**15493 Manchester Road:** Alderman Fleming said that there seems to be confusion on this situation. He said it sounds like the petitioner left with the instructions being that we can't figure a way out of this and now have to start over again. City Attorney Jones said if they don't want to grant an easement, the ordinance that has already been passed requires it. The only way to have them open under a Special Use Exception is to fulfill the terms of the ordinance. One of those conditions was to grant the cross-access easement.

Alderman Fleming said that it sounds like what Assistant City Administrator Aiken wrote is that an easement is to be established with the owner of the adjoining property so such an inner connection could be established at such a time Ballwin is able to secure a similar easement from the adjoining property owner (which is Car-X). He said if the petitioner says that they will grant the easement as long as Car-X gives one, that should fulfill it. City Attorney Jones said he believes that it requires the current grant of a cross-access easement. It may never be built or utilized until the adjoining property also grants a cross-access easement. Historically, we have always gotten the easement and recorded them now to be used in the future when the adjoining property eventually is redeveloped or newly developed. The ordinance is very clear about the location. It says that it shall be at least as deep from the right-of-way as the minimum required front yard depth in the C-1 district. Under no circumstances shall such easement be so shallow as to prevent the construction of a 25-foot wide two-way vehicular roadway. It is to run from the closest curb cut to the adjoining property line.

Alderman Fleming said, it is not possible for him to grant an easement of that kind because of the site. City Attorney Jones said he doesn't know of any restriction on that site that would cause him to not be able to grant such an easement.

Assistant City Administrator Aiken said the 60-foot front yard setback in the C-1 district can only be used for parking lots and driveways. One can never construct a building in it. That's what this part of the site is currently being used for, a parking lot and driveway. He said the ordinance is specific. It describes in detail and stipulates that Ballwin be granted the easement. It also allows the two private properties to

enter into a private agreement and establish the same cross-connection option without Ballwin's involvement.

Mayor Pogue said the petitioner and owner of the property both said they would grant the easement if the ordinance was approved. City Attorney Jones said that they later submitted a document, which was an agreement to enter into an easement in the future. Assistant City Administrator Aiken said it's done this way because if we secure the easement today, and then at some point in the future, the adjoining property is developed, the interconnection can be made. If this property is sold, there won't be any leverage against the new owner of the property to get the connection when the adjoining property is redeveloped. A promise may not be transferrable as a deed restriction to a future owner. He said that's the reason the ordinance was written as it was which only allows it to be done between the two people today, or granted to the City of Ballwin for future opportunities. It could still be reduced to a private connection agreement between two adjoining property owners and the city could be out of it. The intent is to interconnect the parking lot to provide alternative ways for traffic to get in and out of the site without having to go out onto Manchester Road. When the Car-X site is connected, it won't make a lot of difference, but the next one is Enterprise Leasing and that will create a connection all the way to Mimosa Lane.

Assistant City Administrator Aiken said that the issue of the easement was not raised during the Planning & Zoning Commission meeting. After the Planning & Zoning meeting, the owner then expressed concern. At a meeting, Mr. Aiken provided what he thought was an appropriate easement. There seemed to be agreement. They came to the Board meeting when the Board approved the Special Use Exception. When Mayor Pogue asked if anyone was in attendance representing the petitioner. They acknowledged their presence but they didn't raise the issue at that time. It wasn't until after the Board passed the ordinance that concerns were raised. They then provided a document that was a promise, to grant an easement in the future. Alderman Fleming asked that someone explain this to them again. Assistant City Administrator Aiken said he has done this but will do so again.

City Attorney Jones said that in the agreement that they submitted, only provided that the easement would be granted in the future, and there was a provision that Ballwin would pay for the reconfiguration of the curb cut on Manchester Road. He said the Board never agreed to such a thing.

Alderman Fleming said they should be told quite plainly that if they grant the easement, everything is fine. If they continue to say they will not grant the easement, they will have to start all over again with Planning & Zoning. They will probably decide they would prefer to open their restaurant than worry about an easement that will never happen as long as Car-X is there.

Alderman Harder said that if the easement is granted, Car-X would lose 2 – 3 parking spaces. Alderman Terbrock said to make this clear, there is no easement until this is redeveloped. Losing parking spaces is not going to happen.

City Attorney Jones said that there is an easement, but there are no improvements on the ground. There is a grant of a right to the City of Ballwin. Alderman Terbrock said no one is losing anything. The only time this will happen is if there is redevelopment. City Attorney Jones said the ordinance passed in 2008 required the cross-access easement. Alderman Harder said that it wasn't recorded on the new deed when the property was sold to the new owners. City Attorney Jones said that is probably correct. Alderman Harder said the previous owner would have known that there is supposed to be an easement but didn't disclose it to the purchaser. Mayor Pogue said it depends on how the property was handled. It's triggered by a development, and now we have a development.

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

**Salt:** City Administrator Kuntz said that salt is purchased from two sources. Ballwin belongs to a co-op, which is a group of cities within the County that puts together a bid proposal so that we can benefit from the volume of our purchasing power. The co-op purchase is a one-time fixed amount purchase. We lose some flexibility in terms of shortage of supply and unknown weather conditions. Supplemental purchases are not an option under the co-op agreement. To combat that, several years ago, we split our order and

purchase approximately 50% from the co-op. This gives two scheduled deliveries. One is in November or December and the other comes in January or February. He said the rest is purchased on the open market through a competitive bid from a secondary source. This second source can provide supplemental supplies if needed.

City Administrator Kuntz said that because of the demand this past year and the lack of catch up by the supplier, the unit price is much higher than it has been in the past several years. He said our goal continues to be that we like to start every winter season with a full salt dome. On the secondary market this year, he said a supplemental purchase was made. Because there is an established relationship or an open order with the secondary supplier, we were able to get more salt to get through the winter. This cannot be done with the co-op. The co-op bids will come in during August and that's what we are locked into. You can't take more or less salt.

City Administrator Kuntz said that City Engineer Kramer put the secondary purchase out to the competitive market, and is recommending that the contract be awarded to North American Salt Company, who submitted the low bid of \$64.87 per ton.

Alderman Dogan said that it appears that we didn't budget enough for salt purchases in 2014. City Administrator Kuntz said that the year before, we had salt in the dome when the budget was prepared. It's a function of weather conditions. Part of this recommendation is for 2015 and part will come out of the 2014 budget. There's no way that we could have stayed within budget for salt last winter. That was an emergency expense and we didn't have any options. Since the salt is stored inside our dome, it doesn't get depleted if not used. Excess supply becomes surplus for the following snow season. City Engineer Kramer said that in May, salt was still being delivered to Colorado. A supplier stated that they are so concerned about the supply of salt and being able to meet the demand this season that they made an agreement, if they need it, to buy salt from South America.

**A motion was made** by Alderman Fleming and seconded by Alderman Harder to accept staff recommendation for the salt purchase. A voice vote was taken with a unanimous affirmative result and the motion passed.

**E-mail Retention:** City Administrator Kuntz said this is regarding how long e-mail or electronic records should be retained. We don't have a policy at this time. The recommendation is that we establish a policy by legislation. The alternative to unlimited retention is the need to continue purchasing storage capacity. The question is what is a reasonable time frame to retain the records.

City Administrator Kuntz said that a time frame needs to be established by future legislation. Mayor Pogue asked if it has been confirmed that this would be off of the server and there would be a secondary source. Mr. Kuntz said this correct. City Attorney Jones said that if the time frame is reasonable and followed, it's acceptable. This is in the State Statutes. There's no guidance from other communities because the Sunshine Act does not have a required retention period.

Alderman Fleming said he approves with 1 year moving it off of the exchange server onto external storage. He said he doesn't know how long it should be kept on the external storage. He said he doesn't want to cut short the time on the external storage. Mayor Pogue said that 1 year off the exchange and 5 years off the backup sounds acceptable. City Administrator Kuntz said that personnel records are kept indefinitely. Financial statements, court records and police records each have specified retention dates. This is just to establish a policy for e-mail records. Mayor Pogue said he approves of having the longer secondary backup. Alderman Terbrock said he approves of moving e-mails after 1 year onto the external storage and keeping that for 5 years. There are some things that can only be kept on paper.

Mayor Pogue said some electronic formats are acceptable but not highly recommended. City Administrator Kuntz said it's important to have a policy, which we don't have at this time. He said that moving e-mails off the exchange server after 1 year and storing for 5 years on external storage is conservative and will help with our needs. He said that 1 and 5 is a good starting place.

*A motion was made* by Alderman Fleming and seconded by Alderman Finley to draft legislation for an e-mail retention policy. A voice vote was taken with a unanimous affirmative result and the motion passed.

## **STAFF REPORTS**

None.

## **CITY ATTORNEY'S REPORT**

**Outside Storage and Debris:** City Attorney Jones said this is mainly regarding carports. Some changes need to be made regarding outside storage of debris. He said the most significant change is regarding visibility from the outside. It's not allowed to erect a privacy fence in a front yard to screen items that would be visible from the street. If a site proof fence / privacy fence is erected in the rear yard or side yard, they can store these kinds of things that would otherwise be prohibited. This will be a more restrictive ordinance than what we have had in the past. It has been expanded to include appliances, non-usable and non-functional furniture, construction machinery and equipment, that these items have to be within a fully enclosed building or at least something that's not visible.

Alderman Terbrock said there are some parked cars in driveways that are never moved. City Attorney Jones said there is a different code section that deals with vehicles. This expands the code to include any outdoor storage of miscellaneous items. He said that in Section 15-413 The open storage of inoperable vehicles or other vehicles deemed by the City to constitute a public safety hazard is prohibited. Section 15-412 prohibits abandoning vehicles on the right-of-way of any public road or state highway. A vehicle on the street has to be operable and currently licensed. If it's on private property, isn't required to be licensed.

City Attorney Jones said that if a neighbor's yard is elevated and someone can look down into a back yard and see offensive materials, the ordinance is not going to prohibit that as long as it's behind a privacy fence.

Alderman Dogan asked what can someone do if they have a carport and have items they want to store outside? Miscellaneous objects it overly broad. It sounds like you can never store anything if all you have is a carport.

City Administrator Kuntz said that if some of the items in the photograph that has been provided were neatly stacked and stored, it wouldn't have generated the same amount of attention. Alderman Dogan said that since we have a complaint-driven philosophy for enforcement, when complaints are limited, enforcement is limited. In this way there will be a lot of complaints that are not objectively based. He said he's uncomfortable with the whole legislation. He said it covers too much overall. He feels that we're taking a sledge hammer to something that's a small problem. Alderman Dogan said he hasn't heard complaints from people in his ward.

Alderman Harder said that "miscellaneous items" should be taken out of the wording. A miscellaneous item could be one bike or a 3-wheeler. The items that should be addressed are construction materials, broken equipment, refrigerators, couches, etc. The word "miscellaneous" is too broad and could be interpreted as anything from a newspaper to a refrigerator left outside.

Alderman Fleming said the solution of the items being screened is a possibility. He asked if there are any other options to consider, such as time as the measuring point. If roof shingles are stacked in a carport for a month until the roofer comes, that's acceptable. If the shingles are there for 6 months, that may not be acceptable. Can time be used as a measurement? City Attorney Jones said that this would be difficult. The inspectors would have to keep a record of when they saw something. Assistant City Administrator Aiken said this is done with dumpsters and pods, where these can be in place for 30 days. Sometimes the inspectors aren't aware of it until someone complains. That starts the 30-day clock, even though it may have already been there for a while.

City Attorney Jones said he will make the suggested changes in the draft ordinance and provide the update at the next Board meeting. The Board agreed.

**ALDERMANIC COMMENTS**

None.

**Adjourn:** A motion was made by Alderman Fleming and seconded by Alderman Terbrock to adjourn. The motion passed unanimously and the meeting was adjourned at 8:43 p.m.

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TIM POGUE, MAYOR

ATTEST:

\_\_\_\_\_  
ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC

**June 16, 2014**