



BOARD OF ALDERMEN

Meeting Minutes

DECEMBER 12, 2022

7:00 PM

1 GOVERNMENT CTR. BALLWIN, MO 63011

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.

ROLL CALL

Present

- Mayor Tim Pogue
- Alderman Mike Utt
- Alderman Michael Finley
- Alderman Kevin M. Roach
- Alderman Mark Stallmann
- Alderman Frank Fleming
- Alderman Jim Leahy
- Alderman Ross Bullington
- Alderman David Siegel
- City Administrator Eric Sterman
- City Attorney Robert Jones

Absent

The Pledge of Allegiance was recited.

MINUTES

The minutes from the November 28, 2022 Board of Aldermen Regular Meeting were submitted for approval. Alderman Mike Utt asked for additional time to research some of the items in the minutes. The minutes will be on the January 9, 2023 agenda for approval.

The minutes from the November 28, 2022 Board of Aldermen Closed Meeting were submitted for approval. Alderman Frank Fleming made a motion to approve as submitted, seconded by Alderman Mike Utt. The minutes from the November 28, 2022 Board of Aldermen Closed Meeting were approved unanimously.



CITIZEN COMMENTS

Mr. Pat Mahon addressed the Board and spoke against the practice of mosquito fogging. Mr. Mahon stated that the permethrin used is harmful to beneficial insects in addition to the mosquitos, and is not as effective as other methods.

Ms. Lori Bresnan addressed the Board, requesting that the mosquito fogging be removed from the 2023 budget. She feels that fogging indiscriminately is harmful to wildlife and beneficial insects, as well as children and pets. She feels it is a tool that is overused and will result in mosquitos that are resistant to the pesticides.

PUBLIC HEARING

Mayor Pogue opened the public hearing for the proposed 2023 Budget and asked if anyone wished to speak in favor of the budget. Alderman Frank Fleming stated that the opening summary of the budget is very well written, and commended Finance Director Keller and City Administrator Sterman. Alderman Fleming also addressed the mosquito fogging and said that it will likely be discussed before notifying the County in the spring. Alderman Mark Stallmann also commended Staff on the budget. Alderman Stallmann also noted that the Budget was completed with no real estate or personal property taxes. Alderman Michael Finley agreed that the Budget is very well done. Alderman Finley said that as chairman of the Public Health & Safety Committee, he would be willing to hold a special meeting to discuss the mosquito fogging issue.

Mayor Pogue asked if anyone wished to speak in opposition to the 2023 Budget. No one came forward, and Mayor Pogue closed the public hearing.

LEGISLATION

BILL 4150 - 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, 2023, AND ENDING DECEMBER 31, 2023, PROVIDING FOR EXPENDITURES IN ACCORDANCE WITH SAID BUDGET AND MAKING APPROPRIATIONS THEREOF.

A motion was made by Alderman Frank Fleming and seconded by Alderman Michael Finley for a first reading of Bill 4150, title only. The motion passed unanimously. Bill 4150 was read for the first time.



Discussion:

None.

A motion was made by Alderman Frank Fleming and seconded by Alderman Michael Finley for a second reading of Bill 4150, title only. The motion passed unanimously. Bill 4150 was read for a second time.

A roll call vote was taken for passage and approval of Bill 4150. Bill No. 4150 was approved unanimously and became Ordinance No. 22-36.

Bill 4151 - 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, 2023, AND ENDING DECEMBER 31, 2023, PROVIDING FOR EXPENDITURES IN ACCORDANCE WITH SAID BUDGET AND MAKING APPROPRIATIONS THEREOF.

A motion was made by Alderman Frank Fleming and seconded by Alderman Ross Bullington for a first reading of Bill 4151, title only. The motion passed unanimously. Bill 4151 was read for the first time.

Discussion:

None.

A motion was made by Alderman Frank Fleming and seconded by Alderman Ross Bullington for a second reading of Bill 4151, title only. The motion passed unanimously. Bill 4151 was read for the second time.

A roll call vote was taken for passage and approval of Bill 4151.
Bill No. 4151 was approved unanimously and became Ordinance No. 22-37.

Bill 4152 - AN ORDINANCE LEVYING AN ADDITIONAL SALES TAX ON SALES OF ADULT USE MARIJUANA AND CALLING AN ELECTION FOR VOTER APPROVAL OF SUCH TAX.

A motion was made by Alderman Mark Stallmann and seconded by Alderman David Siegel for a first reading of Bill 4152, title only. The motion passed unanimously. Bill 4152 was read for the first time.



Discussion:

City Administrator Sterman said that other cities have already decided to put this on the ballot, or are deliberating it.

Alderman Stallmann asked if the tax can be lower than 3%. City Attorney Jones said that as long as the voters approve the maximum of 3%, the Board has the flexibility to set it at whatever rate they wish (up to the maximum).

Alderman Finley asked about a microbusiness. City Attorney Jones said that there is a difference in eligibility and qualifying interest for a microbusiness. City Attorney Jones will research and report back with zoning information.

Mayor Pogue asked if there is anything that would preclude the Board from putting the tax toward a dedicated fund such as Public Safety. City Attorney Jones said that can be done, but then the tax will always be earmarked for that fund; it cannot be changed. Mayor Pogue asked if the ballot language would need to be amended if it is decided to do so; City Attorney Jones said yes.

Alderman Roach asked for a clarification of the term “adult use marijuana.” City Attorney Jones said that is the term used in Constitutional Amendment 3, because minors are prohibited from using recreational marijuana. Alderman Roach asked if the proposed tax authority would differentiate between medical and recreational marijuana. City Attorney Jones stated that the City cannot impose this special sales tax on medical marijuana. There is a 4% tax that goes to directly to the Veteran’s Affairs of the State of Missouri for a special fund. Alderman Roach suggested that the language be changed to reflect that the tax would be imposed on recreational marijuana. City Attorney Jones said this ballot language is taken directly from the amendment, and he didn’t want to vary from it as it could be challenged later.

Mayor Pogue asked if the Board wanted to direct the sales tax to a specific fund, would that be addressed within the ordinance. City Attorney Jones said a motion would be needed to amend the bill, and then it would have to be read a second time as amended. Alderman Fleming asked if the tax revenue could be designated as a line item in the budget, without specifying in the ballot language where it would be disbursed. City Attorney Jones said yes. Mayor Pogue noted that in the past, voters have commented that they would like to know what the tax they are voting on will be used for. Alderman Fleming said that he feels that this will be such a small amount of tax revenue that it wouldn’t matter to the voters. Alderman Roach said that he feels dedicating the funds to Public Safety is a marketing technique and that funds can be moved around. Mayor Pogue responded vehemently that this Board does not operate that way.



Alderman Stallmann said he likes the idea of earmarking the tax revenue for a dedicated fund such as Public Safety. Alderman Finley said he concurs with City Attorney Jones on using the language from the amendment.

Alderman Fleming asked City Attorney Jones to research modifying the language and whether it will affect the City's ability to collect the tax. Alderman Roach said if the language can be modified, he suggests making it clear that the tax is to be levied on recreational marijuana.

Bill 4153 - AN ORDINANCE REVISING THE CITY CODE OF ORDINANCES REGARDING HOME BASED BUSINESSES.

A motion was made by Alderman Mark Stallmann and seconded by Alderman Frank Fleming for a first reading of Bill 4153, title only. The motion passed unanimously. Bill 4153 was read for the first time.

Discussion:

Alderman Stallmann noted that the Planning & Zoning Commission reviewed this ordinance and recommended approval to the Board of Aldermen. This ordinance will bring the City into compliance with State Law. Alderman Frank Fleming stated that this ordinance was studied closely by the Board of Alderman, and appreciates the extra thought put into it.

Alderman Roach questioned why the language stated "inside the residence or in the yard." City Attorney Jones said that the idea is that it would be a no-impact business, so business activity would not be allowed in a part of the property that is visible to the public. Alderman Roach asked about not allowing street parking for clients/customers. City Attorney Jones said that commercial vehicles can't be parked on the street, but at any given time, cars may be parked on the street in front of a house, and it would not be known if it was a visitor or a client/customer. He said he did not expect the City to be proactive in enforcing that part of the ordinance, but in general, the City would encourage off-street parking.

Alderman Roach asked how the City will ensure that home-based businesses are compliant with state and federal law and taxes once they register with the City. City Attorney Jones said that if they register a retail sales operation, the City will require a business license and make sure that sales taxes are remitted. The language in the ordinance is taken from House Bill 1662.

Alderman Finley asked how complaints regarding a home business would be handled. City Administrator Sterman said it would be handled by code enforcement or police officers, depending on the complaint.



A motion was made by Alderman Frank Fleming and seconded by Alderman Ross Bullington for a second reading of Bill 4153, title only. The motion passed unanimously. Bill 4153 was read for a second time.

A roll call vote was taken for passage and approval of Bill 4153.
Bill No. 4153 was approved unanimously and became Ordinance No. 22-38.

Bill 4154 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO SOPHIA TRAN AND NOEL FEHR D/B/A TEALUX CAFÉ FOR A RESTAURANT WITH FRONT YARD PARKING AT 14788 MANCHESTER ROAD.

A motion was made by Alderman Ross Bullington and seconded by Alderman Frank Fleming for a first reading of Bill 4154, title only. The motion passed unanimously. Bill 4154 was read for the first time.

Discussion:

Alderman Stallmann noted that the petitioner came before Planning & Zoning Commission and is in the audience tonight. It was unanimously recommended for approval to the Board of Aldermen.

A motion was made by Alderman Roach to amend the ordinance by correcting the address in two places. Alderman Stallmann seconded the motion, which received unanimous approval.

A motion was made by Alderman Ross Bullington and seconded by Alderman Frank Fleming for a second reading of Bill 4154, title only. The motion passed unanimously. Bill 4154 was read for a second time.

A roll call vote was taken for passage and approval of Bill 4154. Bill No. 4154 was approved unanimously and became Ordinance No. 22-39.

Bill 4155 - AN ORDINANCE GRANTING A SPECIAL USE EXCEPTION TO SHANNON MOORE FOR A RESTAURANT WITH RETAIL SALES AT 109 BALLPARK DRIVE.

A motion was made by Alderman Michael Finley and seconded by Alderman Mike Utt for a first reading of Bill 4155, title only. The motion passed unanimously. Bill 4155 was read for the first time.



Discussion:

Alderman Stallmann noted that the petitioner came before Planning & Zoning Commission and is in the audience tonight. It was unanimously recommended for approval to the Board of Aldermen.

A motion was made by Alderman Michael Finley and seconded by Alderman Mike Utt for a second reading of Bill 4155, title only. The motion passed unanimously. Bill 4155 was read for a second time.

A roll call vote was taken for passage and approval of Bill 4155.

Bill No. 4155 was approved unanimously and became Ordinance No. 22-40.

MAYOR'S REPORT

Mayor Tim Pogue made two appointments to the Ballwin Historical Commission: Martin Schnipper and Gary Mertz, with their terms expiring December 31, 2025. A motion was made by Alderman Stallmann and seconded by Alderman Roach to accept the appointments. The motion passed unanimously.

Mayor Pogue thanked Gary Carr and the Parks Department for the holiday lights and decorations at the Old Cabin on Park Drive.

Mayor Pogue gave a year-end summary highlighting the City's achievements. He thanked the Staff for their work during the year.

CITY ADMINISTRATOR'S REPORT

City Administrator Eric Serman noted that the next Board meeting is scheduled for the day after Christmas, and the office is closed. He asked if the Board wants to cancel that meeting. A motion was made by Alderman Stallmann and seconded by Alderman Mike Utt to cancel the December 26, 2022 meeting. The motion passed unanimously.

Annexations are still on target for January 1, 2023. Legal descriptions for the streets and easements have been drawn up and is with the HOA for approval.

The bid opening for New Ballwin Road was held. This was the second bid request for this project, and the low bid came in lower than the original bid. Mayor Pogue asked if the second bid reduced the scope of work. City Administrator Serman said that the scope of work was unchanged from the first bid request.



CITY ATTORNEY'S REPORT

Nothing to report.

ALDERMANIC COMMENTS

Alderman Stallmann said that 2022 has been a great year, and he looks forward to next year. He wished everyone a Merry Christmas and Happy New Year.

Alderman Finley thanked Alderman Stallmann and Mayor Pogue for their feedback from the Planning & Zoning Commission meetings. He noted that the Public Health & Safety Committee/golf carts meeting is scheduled for January 23, 2023, at 6:00 pm. He asked that the meeting be publicized on the City's Facebook page. Alderman Finley wished everyone happy holidays and thanked the staff for their hard work during the year. He also recognized Jeff Greenberg for his fair reporting in West Newsmagazine.

Alderman Roach noted that longtime Ballwin resident Peggy Duenke had passed away. Mrs. Duenke was known and beloved by many and will be missed.

A motion was made by Alderman Frank Fleming and seconded by Alderman Kevin Roach to adjourn the meeting. The motion was passed by a unanimous voice vote. The meeting was adjourned at 7:58 p.m.

_____ TIM POGUE, MAYOR

ATTEST:

_____ LINDA LECHNER, INTERIM CITY CLERK