



BOARD OF ALDERMEN

Meeting Agenda

OCTOBER 26, 2020

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Approval of Minutes**
 - a. October 12, 2020 Board of Aldermen Meeting Minutes
- 5. Citizen Comments**
- 6. Legislation**
 - a. Bill 4073 – Commercial Vehicles
 - b. Bill 4074 – Telecom SUE
 - c. Bill 4075 – Waterford Subdivision Annexation
- 7. Mayor's Report**
- 8. City Administrator's Report**
- 9. Staff Reports**
 - a. Administration – Special Revenue Funds – 2021 Budget
- 10. City Attorney's Report**
- 11. Aldermanic Comments**
- 12. Closed Session** – Pursuant to Section 610.022 RSMo, the Board of Aldermen will vote to close the public meeting and move to closed session to discuss real estate matters under Section 610.021(2).
- 13. Adjourn**

NOTE: Due to ongoing City business, all meeting agendas should be considered tentative. Additional issues may be introduced during the course of the meeting.

CLOSED SESSION: Pursuant to Section 610.022 RSMo., The Board of Aldermen could, at any time during the meeting, vote to close the public meeting and move to closed session to discuss matters relating to litigation, legal actions, and/or communications from the City Attorney, as provided under Section 610.021(1) RSMo., and/or personnel matters under Section 610.021(13) RSMo., and/or employee matters under Section 610.021(3) RSMo., and/or real estate matters under Section 610.021 (2) or other matters as permitted by Chapter 610.



BOARD OF ALDERMEN

Meeting Briefs

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This meeting of the Ballwin Board of Aldermen will be conducted live in accordance with the assembly guidelines limiting attendance to 25% of room capacity. The meeting room has been set up to insure social distancing. To ensure compliance, staff and/or members of the general public may be required to wait in the lobby and adjacent spaces.

MINUTES Enclosed, please find the Minutes from the October 12, 2020 Board of Aldermen Meeting.

LEGISLATION

BILL 4073 - AN ORDINANCE PROVIDING FOR THE ERECTION OF TRAFFIC CONTROL SIGNS AND AMENDING THE ORDINANCES PROVIDING FOR THE LOCATIONS THEREOF

This ordinance is to approve signage prohibiting commercial vehicles on certain streets in Claywood subdivision.

BILL 4074 - AN ORDINANCE REVISING THE REGULATION OF WIRELESS COMMUNICATION FACILITIES AND SUPPORT STRUCTURES

This ordinance will bring the City's Code of Ordinances regarding Special Use Exceptions into conformance with State law.

BILL 4075 - AN ORDINANCE PROVIDING FOR THE ANNEXATION BY THE CITY OF BALLWIN, MISSOURI OF AN AREA OF UNINCORPORATED LAND DESCRIBED HEREIN AND REFERRED TO AS "WATERFORD SUBDIVISION."

With this ordinance, the City accepts the annexation of Waterford Subdivision.

MAYOR'S REPORT

CITY ADMINISTRATOR'S REPORT

STAFF REPORTS

ADMINISTRATION – Special Revenue Fund – 2021 Budget



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CITY ATTORNEY'S REPORT

ALDERMANIC COMMENTS

CLOSED SESSION



DRAFT MINUTES
BOARD OF ALDERMEN
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THE MINUTES ARE PREPARED IN SUMMARY TO REFLECT THE OVERALL DISCUSSIONS, NOT VERBATIM QUOTES.

The meeting was called to order by Mayor Pogue at 7:06 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 Raymond Kerlagon
City Administrator Eric Sterman
City Attorney Robert Jones

Absent

MINUTES

The Minutes from the September 28, 2020, Board of Aldermen meeting were submitted for approval. **A motion was made** by Alderman Fleming and seconded by Alderman Stallmann to approve the minutes as amended from the September 28, 2020 Board of Aldermen meeting. A voice vote was taken with a unanimous affirmative result and the motion passed.

The minutes from the September 28, 2020, Board of Aldermen closed meeting were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Bullington to approve the minutes from the September 28, 2020 Board of Aldermen closed meeting. A voice vote was taken with a unanimous affirmative result and the motion passed.



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CITIZEN COMMENTS

Wally Cammarata, 651 Tanglewilde in Claywood subdivision, addressed the Board. He is concerned about the truck traffic in his neighborhood and would like the Board to consider putting “No Truck Route” signage at his subdivision entrance. He states drivers are using this area to avoid stop lights and the concern will be greater once the new service station opens on Henry. Mayor Pogue stated Alderman Fleming sent an email to the Board and also recognized subdivision trustee Paul Hampton who was in attendance. Alderman Roach asked what the cut through street is; Mr. Cammarata replied Bitterfield. Alderman Leahy stated that this is a short entryway and big vehicles would take wide turns which would be difficult, so he doesn’t see why the signage isn’t put up. Mr. Cammarata further explained how the streets are set when entering the subdivision. Drivers use Bitterfield as it is easier access to Henry. Additionally, there are nearly 1000 cars that use this area on a regular daily basis, avoiding Manchester and 141. Mr. Cammarata also shared that Woodsmill subdivision, just to their north, has no truck route signs posted. Alderman Fleming stated, for the sake of consistency, it makes sense as there are three ways to get into Ballwin from 141; Dutch Mill and Milldale are already covered.

A motion was made by Alderman Fleming and seconded by Alderman Roach to draft legislation for a “No Truck Route” sign at the entrance of Claywood subdivision. A voice vote was taken with unanimous affirmative result and the motion passed.

CONSENT ITEMS

ADMINISTRATION – Ballwin Life Magazine

Staff recommends awarding the 2021 Ballwin Life Magazine contract to the low bidder, Messenger Print Group.

Discussion:

Mayor Pogue asked City Administrator Sterman to explain why there is a change in paper thickness for the magazine. Mr. Sterman shared that we have updated our mailing list and there is significantly more copies to be mailed out. The change in paper thickness will offset the costs of mailing/postage. Marketing and Communications Specialist Kennedy Robinson noted there will be no change to the style/finish of the magazine.

A motion was made by Alderman Roach and seconded by Alderman Utt to accept the staff recommendation. A voice vote was taken with unanimous affirmative result and the motion passed.



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ADMINISTRATION/IT – Replacement File Server

Staff recommends purchasing a replacement server to replace the existing five-year old server in production at the Police Department.

Discussion:

Alderman Roach stated he is happy to see improvements for the IT department.

A motion was made by Alderman Roach and seconded by Alderman Utt to accept the staff recommendation. A voice vote was taken with unanimous affirmative result and the motion passed.

ADMINISTRATION/POLICE – Voice Recorder-Police Department

Staff recommends purchasing a new voice recording system for the Police Department to replace the current analog-only system which has reached its end of life.

Discussion:

None

A motion was made by Alderman Roach and seconded by Alderman Utt to accept the staff recommendation. A voice vote was taken with unanimous affirmative result and the motion passed.

MAYOR'S REPORT

Mayor Pogue shared that the City has been approved for CARES act funding. He thanked staff who worked very hard to get this funding request put through. Alderman Fleming asked that when the summary is sent to the Board, to please explain how the funding will be disbursed within City funds. City Administrator Sterman explained the reimbursement is for public safety costs already incurred, starting in March.

CITY ADMINISTRATOR'S REPORT

Nothing to report.



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CITY ATTORNEY'S REPORT

City Attorney Jones reported that Aldermen Fleming and Roach had asked for his thoughts on possibly amending the City's process for approving telecommunications towers. He stated that, in reviewing our code, there is a section containing prohibitive language we could not enforce anyway regarding engineering requirements such as height, structural strength, signal interference etc., which were prohibited by federal law from inquiring into. This needs to be removed from Section 7.6. He also shared there is framework set up where certain telecommunications towers are permitted uses, typically collocation or replacements, attached to existing buildings and camouflaged or an electrical transmission tower. Another option is an administrative permit which Public Works can authorize; this is basically disguised support structures in other than residential areas. Everything else requires a special use exception (SUE). He suggested moving telecommunications towers such as the one just reviewed into the administrative permit authorization section as long as it's in a zoning class other than residential. Alderman Roach asked Mr. Jones to clarify a residential district. Mr. Jones stated if the property where the tower is located is zoned residentially, we would follow the SUE process. Alderman Roach stated he thinks the larger impact is the proximity to land that is zoned residential as in the case of tower just considered is what causes the public concern. Mayor Pogue asked Mr. Jones if there is the option of modeling something similar to the SUE process, whether solely for cell towers, but maybe not following the exact language between state and federal laws and what our SUE requirements are. Mr. Jones replied we could take those factors out of what is considered when approving an SUE and instead just track the language of the Missouri state statute. We could have a similar kind of process with public hearing and legislation and take that language out of our standard SUE qualifications. Alderman Roach stated that, for Ballwin homeowners and residents, we should have a process to make sure we are exercising all of our rights as a municipality under state/federal law; he does not want to create a process that makes it easier for applications to go through without oversight. Mr. Jones replied that, as discussed, the City really doesn't have much control and if the concern is that streamlining the process is making it easier, then maybe there should be no change. Alderman Roach feels that filing the application and having it handled administratively is a lot easier than several hearing before various boards.

Alderman Fleming shared his appreciation to Mr. Jones for reviewing the process and stated his concern in handling via SUE is that the public reads the requirements and feel the neighborhood is affected and they don't understand why the application is still approved; he further talked about having to explain state/federal laws and how they relate. He sees three options based on what Mr. Jones said: keep with the SUE process but amend language to have a strong disclaimer stating notwithstanding state/federal guidelines, the administrative process or Mayor Pogue's suggestion of something especially written for the process. Alderman Fleming feels the administrative process would alleviate his concern of the public not understanding the SUE process. Alderman Stallmann agreed that we need simplification of our process. Our current ordinance gives the public the



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impression that we have the authority to do something which is contrary to the state/federal laws which override the City's authority. Mr. Jones stated the current trend has been to go to the administrative approval process at least in commercial zoning districts. As far as historic or residential districts, most cities are maintaining whatever process they had in place.

Alderman Roach asked Mr. Jones if there has been any test of a municipality's authority under the new law. Mr. Jones stated the only case he could find was in University City and it wasn't really dealt with head on, so it is safe to say there has been no challenge. Alderman Roach stated that it is safe to say the exact boundary where municipal authority ends has not yet been defined. Mr. Jones replied not by Missouri state courts, though there have been federal decisions made. Alderman Roach asked if it is possible to have an SUE process which allows us to not attest to characteristics that don't apply. Mr. Jones replied we could not call that an SUE; it would instead have to be something like a special permitting process. Alderman Roach feels the SUE language puts the Board in a position where they have to attest to things that are not true because of the way it's written. Mr. Jones stated we could have something as simple as saying not inconsistent with state/federal law, there are these findings. Alderman Fleming stated that would be something similar to the disclaimer option he described. Alderman Roach asked Mr. Jones if there would need to be a motion to remove clauses in our code which he had mentioned earlier. Mr. Jones stated there would need to be a motion to prepare legislation to remove the analysis section which was prohibited by state statute passed just months after we passed our ordinance. Alderman Roach asked which section; Mr. Jones replied that it is the last paragraph of 7.6-6. We would substitute language in that the petitioner would say there is no other adequate location within the search frame.

A motion was made by Alderman Finley and seconded by Alderman Bullington to allow the City Attorney to draft legislation to make the recommended changes. A voice vote was taken with unanimous affirmative result and the motion passed.

Alderman Fleming stated he would recommend the administrative process which removes all language the public gets confused by. He also stated he would like to address this issue in the future.



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ALDERMANIC COMMENTS

None

A motion was made by Alderman Fleming and seconded by Alderman Finley to adjourn. The motion was passed by unanimous affirmative voice vote and the meeting adjourned at 7:35 p.m.

TIM POGUE, MAYOR

ATTEST:

POLLY MOORE, CITY CLERK



Bill No. 4073

Ordinance No. _____

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE PROVIDING FOR THE ERECTION OF TRAFFIC CONTROL SIGNS AND AMENDING THE ORDINANCES PROVIDING FOR THE LOCATIONS THEREOF

WHEREAS, the Board of Aldermen of the City Ballwin deems it necessary to prohibit commercial vehicles on certain residential streets.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Sec. 15-486. – Schedule K of the Code of Ordinances of the City of Ballwin shall be amended by adding the following:

Sec. 15-486. - Schedule K—Commercial vehicles prohibited.

In accordance with the provisions of section 15-133 and when signs are erected giving notice thereof, no person shall operate a commercial vehicle upon the streets or parts thereof described in this schedule:

*Street or Part Thereof Upon Which
Commercial Vehicles Prohibited*

Clayworth Drive from MO 141 to Henry Road.

Bitterfield Drive from Clayworth Drive to Henry Road.

Section 2. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this _____ day of _____, 2020.

TIM POGUE, MAYOR

APPROVED this _____ day of _____, 2020.

TIM POGUE, MAYOR

ATTEST: _____

ERIC STERMAN, CITY ADMINISTRATOR



Bill No. 4074

Ordinance No. _____

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE REVISING THE REGULATION OF WIRELESS COMMUNICATION FACILITIES AND SUPPORT STRUCTURES

WHEREAS, the Board of Aldermen recognizes the passage of recent legislation and wishes to bring the Code of Ordinances of the City of Ballwin into conformance with State Law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Section 7.6-6 of the Code of Ordinances of the City of Ballwin shall be repealed in its entirety and replaced with the following:

Sec. 7.6-6. Special use exception required.

All applications for wireless facilities and support structures not permitted under section 7.6-4 or 7.6-5 above shall require the approval by special use exception pursuant to the procedures and requirements of Appendix A of the City Code and issuance of building permits.

Applications for a special use exception shall be filed and processed in the manner established in Appendix A of the Code of Ordinances of the city (zoning ordinance). A decision by the board of aldermen shall be accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be submitted with the application or thereafter or presented during the public hearing by the applicant or others.

With respect to an application for a new wireless support structure, an authority may require an applicant to state in such applicant's application that it conducted an analysis of available collocation opportunities on existing wireless towers within the same search ring defined by the applicant, solely for the purpose of confirming that an applicant undertook such an analysis; for collocation to any certified historic structure as defined in RSMo. Section 253.545, in addition to all other applicable time requirements, there shall be a thirty-day time period before approval of an application.

Section 2. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this _____ day of _____, 2020.

TIM POGUE, MAYOR



Bill No. ~~4074~~

APPROVED this _____ day of _____, 2020. _____

TIM POGUE, MAYOR

ATTEST: _____

ERIC STERMAN, CITY ADMINISTRATOR



Bill No. 4075

Ordinance No. _____

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE PROVIDING FOR THE ANNEXATION BY THE CITY OF BALLWIN, MISSOURI OF AN AREA OF UNINCORPORATED LAND DESCRIBED HEREIN AND REFERRED TO AS “WATERFORD SUBDIVISION.”

WHEREAS, the City has received verified petitions signed by at least seventy-five percent (75%) of the registered voters within an area of land located in unincorporated St. Louis County referred to as “Waterford Subdivision” and more fully described on Exhibit “A” hereto; and

WHEREAS, the St. Louis County Boundary Commission approved the annexation as a Simplified Boundary Change pursuant to RSMo. Section 72.405.6(1).

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The City accepts the annexation of the aforesaid properties within Waterford Subdivision into the City and City staff is hereby directed to undertake all necessary duties to complete such annexation, to be effective on January 1, 2021.

Section 2. Kylewood Court and Kylewood Place shall be accepted for public maintenance by the City.

Section 3. This ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this ____ day of _____, 2020.

TIM POGUE, MAYOR

APPROVED this ____ day of _____, 2020.

TIM POGUE, MAYOR

ATTEST: _____

ERIC STERMAN, CITY ADMINISTRATOR

A digital inscription of the metes and bounds legal description of the proposed annexation area, provided for enhanced legibility:

"A tract of land in the West ½ of the West ½ of SECTION 3, TOWNSHIP 44 NORTH, RANGE 4 EAST and described as follows: Beginning at a point in the center line of Reinke Road 30 feet wide at the Northwest corner of property described as Parcel 1 in deed to Duenke Construction Company property by deed recorded in Book 4517, Page 480 of the St. Louis County Records; South 89 degrees 00 minutes 00 seconds East, along the North line of said Duenke Construction Company property, 675.01 feet to an iron pipe on the West line of property described as Parcel No. 2 in deed to Duenke Construction Company by deed recorded in Book 4517, Page 480 of the St. Louis County Records, thence North 00 degrees 36 minutes 00 seconds East along the West line of said Duenke Construction Company property, 404.91 feet to an old concrete monument at the Southeast corner of property conveyed to Behymmer Corporation by deed recorded in Book 4550 Page 415 of the St. Louis County Records; thence North 69 degrees 04 minutes 00 seconds West along the South line of Behymmer Corporation property, 674.48 feet to a point in the center line of said Reinke Road, thence South 00 degrees 43 minutes 00 seconds West along the center line of said Reinke Road; 404.20 feet to the point of beginning, according to the survey thereof executed by Clayton Surveying and Engineering Co. on July 20, 1968."

