

**CITY OF BRENTWOOD
REGULAR BOARD OF ALDERMEN MEETING
MINUTES**

**City Hall
Council Chambers**

**December 5, 2011
7:00 pm**

Mayor Kelly called the meeting to order and led with the Pledge of Allegiance. Roll call was taken with the following members present: Alderwoman Clements, Alderman Marshall, Alderman Leahy, Alderwoman Krewson, Alderman Kramer, Alderman Robertson, Alderman Wynn and Alderman Harper.

Staff Present: City Clerk/Administrator Akande, Director of Planning and Development/Asst. City Administrator Rottjakob, City Attorney Albrecht and Executive Secretary Williams.

Absent: None.

CONSIDERATION AND APPROVAL OF THE DECEMBER 5, 2011 BOA MEETING AGENDA

Motion was made by Alderwoman Clements, second by Alderman Wynn to approve the Agenda of the Regular BOA Meeting of December 5, 2011 as submitted. All in favor none opposed.

CONSIDERATION AND APPROVAL OF THE NOVEMBER 21, 2011 BOA MEETING MINUTES

Motion was made by Alderwoman Clements, second by Alderwoman Krewson to approve the Minutes of the Regular BOA Meeting of November 21, 2011 as submitted. All in favor none opposed.

BIDS – None

HEARING OF ANY MATTER OF PUBLIC INTEREST UPON REQUEST OF ANY PERSON PRESENT

Julie Pozzo, resident at 2211 St. Clair Avenue came before the Board to comment on the emails between City Administrator Akande and Maureen Saunders regarding the police investigation and charging citizens for public documents. She stated that if the City wants to be more transparent, especially after receiving bad publicity from the recent scandals, and having hired a public relations person, waiving the charge for copies of documents would have been a nice first step. If staff feels that they would be overwhelmed with requests, then a copy could be made available in the library or in City Hall for viewing without charge. The section of the Sunshine Law regarding copies states "documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute to significantly to public understanding of the operations or activities of the public governmental body and is not

primarily in the commercial interest of the requester". She asked who in the City has the authority to waive the charges for the documents.

Public Hearing – FY 2012 Budget

Mayor Kelly announced the Public Hearing for the FY 2012 Budget would now be heard.

City Administrator Akande stated that she is happy to present the FY 2012 Budget for the Board's consideration this evening. Pursuant to the Missouri Statutes, the annual budget must set forth a complete financial plan for the ensuing fiscal year. The Board of Aldermen shall adopt the annual budget no later than the first meeting of the Board in December, today December 5. The budget shall be prepared and it has been under the direction of the Ways and Means Committee. A Ways and Means Committee meeting was held on November 10 for a thorough review of the budget. All the officers and employees of the City of Brentwood have cooperated and have provided information that has been used to prepare the budget. The Ways and Means Committee has reviewed all expenditure requests and revenue estimates and those numbers are what they used to prepare the budget. This budget meets that requirement and is based on information that has been provided by the various departments and employees. The FY 2012 Budget is balanced. Total revenues are projected to be \$15.8 million and total budget expenditures projected at \$15.6 million. The difference between those two numbers will show net reserves of \$145,749. With this budget, the City is able to maintain current levels of services, make capital improvement investments, make payments toward the ultimate payoff of the City's debt, invest in the City's infrastructure, and replace equipment and vehicles that are no longer useful without affecting reserves. The City has no formal policy on reserves but they will continue to set funds aside toward having at least 25% of the operating budget. At present, the City has \$2 million. In FY 2012, they have projected that an additional \$100,000 will go into reserves. If the City were to have 25% of the operating expenses in reserves that would equal about \$3.9 million. They continue the policy of the Board of Aldermen by keeping the taxes low. Residential property taxes are not assessed, providing maintenance and continuation of high quality, municipal services to the residents. Staff is proactive on code enforcement. They continue to attract and protect private investment in the city of Brentwood, an annual marketing of Brentwood commerce during seasonal times, the beautification and preservation of green space, and community pride. The annual Brentwood Days is held in September, the concerts in the park during the summertime, and an excellent parks system.

The City provides public safety to the residents, businesses, and those who work in the community during the daytime. Streets and sidewalk maintenance are provided, solid waste management, trash and recycle pickup. There is a robust sewer lateral program and they continue to embark on roadway improvements by applying for grants through East-West Gateway's, transportation improvement program. Funds have been set aside so that they can continue the redevelopment goals for Manchester Road. There are three new positions. The finance director's position is one of several steps that the City has taken to improve the professionalism of the operations and ensure adherence to the best practices that a city with

\$15 million annual budget requires. This position will provide financial oversight and serve as another check on the city administrator. There will be a new deputy court administrator. The court department lost two part time employees this year. This employee will help fill the gap and ensure continuity of operations within the department. In the police department, they will be hiring an additional officer. One of the new programs that they have in FY 2012 is a collaborative partnership with the cities of Glendale and Maplewood, where the City is providing \$35,000 to hire a fire-training officer. With this program, they have eliminated training costs of about \$10,200. They will be filling vacancies such as two paramedics in the fire department, one maintenance worker in PW, and two maintenance workers in the parks department. The City has four main funds, which are the general fund, storm water and parks fund, capital improvement fund, and the sewer lateral fund. In 2010, an overwhelming voter support allowed the City to have authorization to increase the assessment up to \$50 but the Board of Aldermen made the decision to assess \$40.

The local sales tax rate is 2.5%. General fund is one percent which the City shares 28% with the pool cities. There is the local option where the City shares 15% of that also with the pool cities. Capital improvement is the same percentage. The City keeps all of its parks and fire taxes. The City is projecting a 7.76% increase in revenues from FY 2011 estimated year-end and 8.73% in expenses for FY 2012. Transfers represent \$15,040 that the City will be making a loan to the library so that they are able to continue to provide services to the resident of Brentwood and not have to suffer reduction in staff. Overall, reserves that the City will add at the end of FY 2012 are predicted to be \$145,000 and in FY 2011 is \$264,000.

The General Fund revenue continues to be dependent on sales tax around 45%. They are projecting sales tax revenue to grow by 5.4% next year, municipal fire sales tax will grow by 10% and occupational license increase by 5.4%. Building permit, construction, and fire are based on expectations that Drury Hotel will break ground sometime in the middle of next year. Additionally, an insurance building will be built at the corner of Brentwood Boulevard and White Avenue. Fines will go up 20% and there are general increases in recreational related revenue sources, which are multiple revenue sources. Sewer lateral fund will go up 2%. Capital improvement will go up 47%. A majority of that is due to the STP grants that the City will be receiving for some roadway projects. Total revenues for fiscal year 2011 budget are very close. The first amount for FY 2011 is about \$10.8 million. FY 2011 year-end is about \$10.84, and they are projecting \$11 million in 2012, which is a growth of about 2.54%. The FY 2011 storm water and parks improvement is about \$1.8 million. FY year-end 2011 is about \$2.2 million. They are being relatively conservative in 2012. They are projecting less than one percent growth, which will be about 1.875%. Very little has changed with the sewer lateral. FY 2011 is \$152,000 and year-end is \$155,000. They are projecting just fewer than 2% growth for FY 2012.

Even though, the City has seen the loss of Borders bookstore, there are many opportunities coming their way. They continue to talk to developers, so they know they are interested in the community. They anticipate the opening of Five Below at the Promenade and they have seen interest in a new retailer occupying the Borders space, and they hope to lease the pastry shop on the end cap of that store. The retailer that will be occupying the Borders space will generate

\$6-8 million in taxable sales tax. The end cap store will generate up to \$1.2 million in taxable sales. Assessed valuation grew very little between the years 2005 to 2006. There was significant increase between 2006 and 2007, which was about 25% growth. From 2007 to present, the City continued to lose value and it dropped more in 2010. As you recall, the housing market collapsed in 2007 and 2008, which contributed to the decrease. In relation to this the assessed value of homes are also on the decline. Assessed value correlates to property tax. In 2008 and 2009, it grew by 31%, then a modest growth from 2009 to 2010 by 4%, and then started to lose value from 2010 to 2011. The departments with the biggest expenditure percentages are the police department – 3.3%, capital improvements – 2.6%, fire – 2.4%, storm water and parks improvement – 1.8%, streets – 1.7%, and municipal operating - 1.2%. The budget includes salaries, benefits, insurance premiums, which continue to increase at a compounded rate each year. In the budget is a 1% increase for employees who meet the performance expectation for a total of \$60,793 that will be distributed amongst all employees that qualify for it. The medical premiums increase by 7.5%, dental by 3.5%, 1% in LAGERS, and in capital improvement, the City has budgeted 2.6%. A total of \$76,000 has been budgeted for planning for Manchester Road.

Mayor Kelly thanked City Administrator Akande for her efforts in putting together the FY 2012 Budget and said she did an outstanding job. Mayor Kelly stated that in regards to the Rose Avenue project, they are planning to create better pedestrian access from Brentwood Boulevard to the Brentwood Promenade. Another project is pedestrian access from Metrolink to the Promenade and Memorial Park. They received grants through East-West Gateway for those projects. The third project is improving pedestrian access along Litzinger Road from Brentwood Boulevard to McKnight Road. The project will include consistent sidewalks throughout the corridor with pedestrian lighting, and improved roadway. A grant was acquired through East-West Gateway for this project as well. Mayor Kelly thanked staff for working hard to acquire the grants.

Mayor Kelly asked if there were any comments from the audience regarding the FY 2012 Budget. Hearing none, Mayor Kelly announced the Public Hearing closed.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

First and Second Readings of Bills

Motion was made by Alderman Marshall, second by Alderman Robertson to give Bills No. 5642 and 5643 first and second readings. All in favor none opposed.

Bill No. 5642 – FY 2012 Budget

City Attorney Albrecht gave Bill No. 5642, AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE CITY OF BRENTWOOD FOR THE CALENDAR YEAR 2012; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5642 as a Bill that adopts the annual budget for the City's fiscal year, which runs from January 1 through December 31. The Ways & Means Committee has reviewed, discussed and approved the budget. The total revenue budget is \$15,808,853 and total expenditure budget is \$15,663,104.

Alderman Marshall thanked the department heads, Karen Mosby, Shelly Williams, Barb Cross, and Virginia Roberts for their work with the budget.

Alderman Kramer mentioned that they went through the topic of the reserves about \$2 million was quoted. They have unrestricted and restricted reserves. Are the emergency reserves lower than that?

City Administrator Akande responded that the \$2 million are unrestricted.

Alderman Kramer asked if it is with the contribution the budget allows or without the contribution.

City Administrator Akande responded without the contribution.

Alderman Kramer asked if all the Hanley Industrial streets are city streets.

Mayor Kelly responded yes, but there is a debate about the cutoff at the entrance to Grainger. Other than that, they are all city streets.

Alderman Kramer stated that the Drury Hotel project alone is supposed to add about \$80,000 to \$90,000 in fees.

City Administrator Akande responded yes in building permit fees.

Alderman Leahy asked about the amount in the budget for the Meridian reconfiguration of the bottom half of the sales proceeds, since the City is giving up half of the bottom half. Normally they would have counted on that revenue coming in, but now they are going to be paying it out.

Mayor Kelly responded that it would be in the sales tax projections.

Alderman Leahy asked if an adjustment has been made for the lower return that they anticipate for next year.

City Administrator Akande responded yes.

Motion was made by Alderman Marshall, second by Alderwoman Clements to approve and adopt Bill No. 5642. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman

Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5642 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4318.

Bill No. 5643 – Agreement with Executive Associates Limited

City Attorney Albrecht gave Bill No. 5643, AN ORDINANCE AUTHORIZING AN AGREEMENT AND OTHER RELATED ACTIONS WITH RESPECT TO THE DONATION OF REAL PROPERTY TO THE CITY BY EXECUTIVE ASSOCIATES LIMITED, A LIMITED PARTNERSHIP, AND THE CONVEYANCE OF SUCH PROPERTY, AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5643 as a Bill that authorizes the Mayor to enter into an agreement with respect to the donation of real property (2805 and 2767 Mary Avenue that total 2.4 acres) to the City by Executive Associates Limited and terms for acceptance and conveyance to the City. The limited partnership seeks to remove flood-damaged buildings from the floodplain and to further the City's floodplain management efforts. There will be the conveyance of two parcels.

Director of Planning and Development Rottjakob came before the Board and stated that the City has been working with Mr. Barron to come up with the donation agreement that is before the Board tonight. This project was originally proposed by the City as a grant application to FEMA to buyout the property in cooperation with MSD who was going to provide the local match. Staff applied twice, and they did not receive the grant. It is a very competitive grant application process. Now Mr. Barron is interested in donating the property to the City. It is their understanding that MSD still has some money set aside to assist the City with demolition and clearance of the land. This would not be through the grant but they would achieve the same result of floodplain management but through a donation of the property. Mr. Barron has said through this agreement that he will do the environmental assessment of the property/ground.

Alderman Robertson asked if this would be a deed-restricted property like a typical SEMA or FEMA building.

Mrs. Rottjakob stated that would not be required to be deed restricted although her recommendation would be open space. It is connected to one of the existing parks.

Mayor Kelly pointed out that it would be an addition to the Norm West Park along Mary Avenue. It would be the property adjoining it to the north.

Alderman Kramer thanked Mr. Barron for working with the City on the donation of the property. There is the open topic about the appraisal that the City had advanced and the possibility of the City not getting the property. In that case, would the City bear that cost?

Mrs. Rottjakob responded that would be something they would want to clarify in the agreement. The initial agreement states that the cost of the appraisal would be covered by the City and the property owner would reimburse the City if the property were not donated. She would defer the question to Mr. Barron just to confirm that it is still the case. It is referenced in the donation agreement that he will be paying for it at closing.

Mayor Kelly stated that the original agreement was that the City would supply an appraisal for the property, and if Mr. Barron were to sell the property to someone else or did not go through with donating the property, Mr. Barron would reimburse the City for the appraisal.

Mrs. Rottjakob stated that this agreement states that at closing the donor will reimburse the donee the actual cost of the appraisal incurred by the donee.

Mayor Kelly asked Mr. Barron if his understanding is that the City would cover the cost of the appraisal if he donates the property to the City.

Mr. Barron responded yes.

Alderman Leahy pointed out that section two of the agreement states that "Donee shall not have any liability or responsibility with respect to the Appraisal, the Appraised Value, or the deductibility of the Appraised Value". If that is not what they are agreeing to then that sentence needs to be fixed.

City Attorney Albrecht stated that he agrees. He did not prepare the agreement. The original agreement states that if the property was conveyed the City would pay for the appraisal.

Alderman Leahy stated that it is his understanding that Mr. Barron will have a survey done on the property.

Mr. Barron responded that they have had a survey done and will have the environmental assessment done by Shifrin and Associates.

Alderman Leahy stated that the intent is that all parties complete this action by the end of the calendar year. He asked if the asbestos checking of the property was removed from the Geotechnology review.

Mrs. Rottjakob stated that is incorrect. They propose a phase 1, a limited phase 2, and asbestos assessment of the building. They removed the asbestos assessment of the building from the proposal. Geotechnology was going to do the phase 1 and the limited phase 2 analysis of the ground.

Alderman Leahy asked about the hazardous inspection and all of the asbestos is being checked for assurance that there is no problem with demolition and removal of the construction material.

Mr. Barron stated that there is no asbestos.

Alderman Leahy explained that his fear is if they receive the property as a donation, the City will take care of the demolition and disposal of the property, but if hazardous materials are found on the property, the cost for disposal can go up.

Mrs. Rottjakob pointed out that they would still need to do an environmental analysis of the building prior to getting a permit to demolish it from St. Louis County. It is possible it could be determined that there is asbestos.

Mayor Kelly stated that MSD has funds available for those costs and he would imagine that they would qualify.

Mrs. Rottjakob stated that based on their estimate of the environmental assessment and demolition cost for the grant application, they came in around \$500,000 and that is the amount that MSD has obligated toward this project.

City Attorney Albrecht recommended that the agreement be amended in section two by changing "donee" to "donor".

Mayor Kelly requested a motion to clarify that if the property is donated and turned over to the City, the City will cover the cost of the appraisal.

Motion was made by Alderman Marshall, second by Alderman Wynn to amend the agreement to Bill No. 5643 by changing the word in the last sentence of the section 2 from "donee" to "donor". All in favor none opposed.

Alderman Kramer pointed out that this property would expand the City's parks system.

Mayor Kelly stated that going back to the comment about deed restrictions; he would think that MSD would require that it remain open space, if they were using their funds for the demolition.

Alderman Leahy stated that he, City Administrator Akande and Asst. City Administrator Rottjakob discussed the realization that the subdivided property still needs to be readjusted in the land boundaries because of access to the third set of properties that would remain the apartment complex. It has to be changed prior to this property being donated to the City. They also talked about the access to the property. Mary Avenue is not a Brentwood street, and thus

the West family who owns that street and the deed restrictions would have to give them access. Those two issues need to be completely clarified prior to things being transferred.

Mayor Kelly pointed out that he believes Mr. Barron has a cross access agreement with N.B. West to access his apartments and that would probably continue with access across what would be the new park area.

Alderman Leahy suggested contacting the West family to assure that we end up with access.

Motion was made by Alderwoman Clements, second by Alderwoman Krewson to approve and adopt Bill No. 5643 as amended.

Alderman Leahy stated in the revised agreement that was presented to them today the physical identification of the two parcels was taken out of the agreement. The agreement does not define the two specific parcels.

City Attorney Albrecht stated that the attached Exhibit A references the property and the legal description is on Exhibit A. The actual legal description on the deed of closing is what will control the transfer.

Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5643 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4319.

ACCOUNTS AGAINST THE CITY

Motion was made by Alderman Marshall, second by Alderwoman Clements to approve the warrant list dated 12/5/11.

Alderman Kramer asked about the MGW Communications expenditure.

City Administrator Akande stated that last week they received approximately \$15,000 from the US Department of Justice as restitution from Mr. Seemayer, which will go toward legal expenses that the City incurred.

All in favor none opposed.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Mayor's Report

Mayor Kelly announced an Executive Session/Personnel Matter would be held following this meeting.

Mayor Kelly stated that long time Library Board member Beth Osiek, who had recently resigned from the Library Board; husband was ill and passed away this morning. Our thoughts and prayers go out to Beth and her family. Mayor Kelly asked for the appointment of Jamie Allen, a Brentwood resident who is very eager to serve on the Library Board.

Motion was made by Alderman Wynn, second by Alderwoman Clements to approve the appointment of Jamie Allen to the Library Board. All in favor none opposed.

Mayor Kelly reported that Grainger closed their doors on Friday, so they will no longer be operating in Hanley Industrial Court. When Grainger built the Brentwood facility, they planned to close the downtown location, which they never did. Between that and the economic times, they decided to close the Brentwood facility. They had anticipated that they would do about \$10 million a year out of that store, but they were nowhere near that number. In revenue to the City, it will be about a \$25,000 a year loss. Controlled Devices, a long time business in Hanley Industrial Court has been working with St. Louis Economic Council and will be moving to an expanded facility in Fenton. In just their business license alone, it will be about a \$25,000 loss to the City in 2012.

Public Safety Committee – No report

Public Works Committee – No report

Director of Planning and Development – No report

Ways and Means Committee – No report

City Attorney – No report

City Clerk/Administrator

City Administrator Akande reported that she would like to update the Board in executive session on the search for the finance director's position. She stated that the recruitment process began in August and the position was held open for a month. At the end of September, they received thirteen resumes. They did a no fee recruitment process, which means that they did not pay for ad space. They ran ads in municipal government publications, websites, the Missouri Municipal League, the Missouri City Management Association, the St. Louis Area County Management Association, and the General Government Finance Officers Association. In October, they narrowed the applicants down to seven, and one dropped out. They asked that the applicants respond to a comprehensive supplemental information questionnaire. The goal was to assess their knowledge in governmental finance and accounting. In November, they scheduled an all day interview with four applicants. On the interview panel were city

administrators from the cities of Maplewood and Des Peres, and finance directors from the cities of Creve Coeur and Richmond Heights. The final four applicants are all highly qualified individuals.

Excise Commissioner – No report

Library – No report

Municipal League – No report

Communication – No report

Historical Society – No report

UNFINISHED BUSINESS

Alderman Marshall asked about the time clock issue.

City Administrator Akande explained that training is taking place in the finance department and they hope to schedule training for supervisors soon. They may have a problem with their ability to incorporate the fire department. If ADP is unable to help with the fire department, they will have to go with another provider.

Mayor Kelly gave an update on the property located at White Avenue and Brentwood Boulevard by saying that little over a year ago, Chris and Pam Thornton started working to purchase the property and build a new office for their insurance business and they found out there were some issues with the property. They thought the property had been abated. They received the site plan approval from the City of Brentwood and closed on the property. They have been working very hard with the Department of Natural Resources trying to come up with an action plan to clean up that property so that they can acquire a “no further action” letter in order to secure the financing to build on it.

Chris Thornton, at 9421 Tilles Drive came before the Board and stated that they have encountered a number of hurdles that have been overcome. Three Monkeys LLC is in the process of working with the Department of Natural Resources and the Petroleum Tank Insurance Fund to clean up the property. They have discovered that there is contamination on the property that is slightly above the residential permitted levels for the state of Missouri and it is likely that the contamination has escaped the boundaries of the property. Under the DNR guidelines, they will be required to take samples from the adjacent properties and they will have to request permission from the property owners to take those samples. It is his understanding based on everything they have learned from the Petroleum Tank Insurance Fund that the adjacent property owners could have their properties abated at no cost to them. If they are refused permission to do that then they can obtain a qualified work plan from the DNR based on the property owners’ refusal. Unfortunately, under those circumstances they will not

receive a “no further action” letter from the State because the mess would not be entirely cleaned up. It will make things harder on them and harder to proceed with the project.

Alderman Marshall asked if the approval from P&Z Commission expires.

Mayor Kelly explained that typically, it is a twelve-month approval and the City has granted them one extension.

P&Z Commission Chair Geppert stated that it might be worthwhile to go through the P&Z Commission again for reapproval of the plan. It is a high quality plan that they have and he cannot anticipate that there will be any problems with it but they could put a stamp of approval on it again.

NEW BUSINESS

Alderman Leahy announced that the Ward 3 meeting for the month of December would not take place on the 27th. They will most likely miss the month of December due to other commitments.

Alderman Leahy stated that during the public comment section there was a request that the Board consider waiving the fee for request of documents for Maureen Saunders. According to the email, there is a \$61.50 fee for the DVDs.

City Administrator Akande stated that Maureen Saunders has already taken possession of the DVDs.

Alderman Leahy stated that the City has waived it for the skating rink, ball diamonds and stage usages. With what the residents are working on right now and are trying to accomplish, he thinks the Board should give them the opportunity to work it through it.

Motion was made by Alderman Leahy, second by Alderman Harper to waive the fee for the collection of the documents.

City Administrator Akande asked for clarification on who are they waiving the fee for because there are multiple requests from multiple people for those items.

Alderman Leahy responded for Maureen Saunders.

Mayor Kelly pointed out that the concern with records requests, at all levels, being a public entity, is that they get records requests on a number of different issues. It is very difficult for the City to be put in the position to pick and choose, whether it is a resident or not, which ones they are going to waive or not waive. There is time involved, especially with the DVDs. They are DVDs of a police investigation and certain things had to be redacted out of the DVDs, like personal information, social security numbers, addresses, phone numbers, etc. It took staff's

time in order to prepare the records to be released. Whether it is a resident, newspaper or TV station requesting information it still takes time and expense. They do follow the Missouri Sunshine Law. They try to make it as reasonable and as cheap as possible, but there are expenses associated with that, and they have to be consistent in making sure that they apply that across the board for records requests.

Alderman Leahy asked how that is different from a ball group that comes to the City and says that they want to use the field and not have to pay the registration fee.

Alderman Marshall responded that it is one request and is not numerous requests of the same information repeatedly.

Alderman Leahy stated that his problem is if you based it on what Alderman Marshall is saying in the fact that one ball diamond asked for it, why wouldn't you use the same argument if they set the precedent. He could end up getting all the ball teams to play the league at no charge. The same reason the Brentwood School District comes to the Board and says they want to use the skating rink for their gym class and the fee is waived across the board for the school district. Have they not set a precedent? Ms. Saunders' group is challenging this Board for transparency and double-checking what they are doing is in the best interest of the city. They have a tough task but this group has one agenda. They want to see that they are doing the job right. He thinks they should at least make it available to them, to make it so they could accomplish and be an independent set of eyes to tell them if they are doing their jobs right.

Alderman Wynn stated that the only other answer is to not charge anybody. To be fair to everybody, you should not charge anybody.

Alderman Marshall stated that either you charge everybody or you do not charge anybody. They do not pick and choose because then it makes them look like they are playing favorites.

Ms. Saunders stated then you have it available in the library at no charge to the residents.

Mayor Kelly called for the question on the motion. In clarifying the motion, he stated that the motion was made to reimburse Maureen Saunders her fees.

Alderwoman Clements asked if it is possible to make it available in the library.

Mayor Kelly stated if that is what the Board decides to do.

Roll call: Alderwoman Clements, no; Alderman Marshall, no; Alderman Leahy, yes; Alderwoman Krewson, no; Alderman Kramer, no; Alderman Robertson, no; Alderman Wynn, no; Alderman Harper, yes.

Motion was made by Alderwoman Clements, second by Alderman Marshall that the information be available in the library.

Alderwoman Clements stated that she would have to withdraw her motion until she can get more information as to whether that is something they could do. She thinks they need to make sure of that.

City Attorney Albrecht stated that if the Board chooses it could be available in the library.

Mayor Kelly stated that it has not been their practice in the past.

Alderman Marshall asked if Ms. Saunders can return the DVDs, put them in the library, and then she does not have to pay for it, and they are not refunding the money to her but making it part of the public record.

City Attorney Albrecht stated that if the Board wants to handle it that way, the City is basically refunding the money.

Motion was made by Alderman Marshall, second by Alderman Robertson to take back Ms. Saunders copies, reimburse her, and put the copies of the DVDs in the library.

Alderman Leahy stated that he would reimburse Ms. Saunders the full cost of the fees out of his own pocket.

Ms. Saunders said she still wants it available in the library.

Alderman Leahy stated that he thinks the Board needs to ponder how they approach, not only these requests, but also waiving other fees.

Alderman Kramer stated in regards to charging some versus not charging others, his understanding of the Sunshine Law in particular is that what they cannot do is charge some and not charge others. He does not know who has been told already besides any of the residents, that they can get copies. He heard the complaint from one of the members of the Press last meeting that they were going to have to pay. His only issue is that if the Board is going to make a decision that they understand that this decision should be for everybody and not just for one group. He understands the narrative of putting it in the library and making it available. They will have several different types of Sunshine Law requests throughout the year for various topics. Maybe some are more conducive to being placed in the library than others. This particular item is different from just making a couple of copies and giving them out at no charge. In this particular case, some could say that the information is a little bit on the volatile side. Well, they will have to let the viewer decide if it is volatile or not. It is available through the Freedom of Information Act. This could be considered a precedent going forward. He is not advocating one way or the other but he is saying that they cannot do it for some and not do it for others. He thinks that is why this particular topic became so volatile because some people thought that they should get it free, while others should not. That is something he does not

think they should do. It should be as Alderman Wynn said all free or all not free. Has anybody paid already besides the resident? Has anybody been given a bill or told the fee already?

City Administrator Akande responded no. Ms. Saunders is the only one. It is an exhaustive list, so they are still working on compiling the rest.

Alderman Kramer stated for clarification, the question is if the Board wants to do this for the Press and everybody, the Press is going to have to come view it at the library if that is their choosing. If they do not want to view it at the library, then they would have to purchase an extra copy. Is that the motion that is being made on the floor?

Alderman Marshall responded that is what he is saying.

Alderman Kramer stated so there will be a copy at the library and if any additional copies were to be procured, they would have to be purchased.

Mayor Kelly clarified that a distinction should be made. The City is a public entity and all the records, to a certain extent, are public records. They do not know which ones somebody is going to request. They are trying to make sure they give over the records that people ask for but also that the City is reimbursed for the cost of the materials and the time involved in gathering the information. He believes they follow the Sunshine Law when they do that. Is it appropriate to put every records request in the library, he does not think so? They have only had one request from a resident of this information and some other media sources, so if those people want the information there is a cost associated with getting it. The fees are being assessed to be fair to everybody and recoup the cost of producing the request.

Alderman Wynn asked if the library has been contacted, since it is a separate entity, about whether they will receive it.

City Administrator Akande responded that they would receive it. Is this motion specific to this one request or is it every other request that the City receives?

Alderman Marshall responded that he is specific to this one request.

Alderwoman Clements stated that because this particular request is for something that was personnel and legal matters, and she is not comfortable with it being in the library.

Alderman Kramer asked for a restatement of the motion.

Alderman Marshall stated that if Ms. Saunders still wants to, the City could take her copies of the DVDs back, reimburse her, put them in the library for review by the residents, or they make another copy, and if somebody wants a copy of it, then they charge them.

City Administrator Akande asked how do they monitor that because you could easily go to the library and burn a copy from a laptop.

Alderman Kramer asked City Attorney Albrecht to comment on his understanding of the Sunshine Law regarding if they provide a free copy at the library but charge everyone else who wants a copy are they providing equal access.

City Attorney Albrecht responded that everybody has equal access at the library. He is not advising one way or another. He is saying that it is permissible to put a copy of the records at the public library and if somebody wants their own copy and make the request to the City, to charge them for that copy.

Alderman Kramer asked City Attorney Albrecht if he is saying that under the Sunshine Law that is equal access.

City Attorney Albrecht responded that he believes so.

Alderwoman Krewson asked if they refund Ms. Saunders for the copies are they going to have to refund the money to someone else who may have gotten copies and paid for them. Are they setting a precedent?

Mayor Kelly stated that with all records requests it is very difficult to distinguish which ones they should waive and which ones they should not. Most of the City's records requests are from residents throughout the year. It could be something very involved like the DVDs or something very simple. What if someone comes up to them and says that they heard somebody got a DWI, they want a copy of that report, and they want it put in the library. They do not want to pay for it but they want to view it, so they want the City to put a copy in the library.

Alderman Kramer stated that it is the intent of the Sunshine Law to have the issue of whether or not charges are going to be assessed or waived before the requests are made. Now, he thinks that if a free copy will be put in the library but charge other people for access or copies, you are providing unequal access. Therefore, you are in violation of the Sunshine Law. In this particular case, if that is the motion, he cannot vote for it.

Alderman Marshall stated that he understands what Alderman Kramer is saying but disagrees in the sense that by putting it in the library gives even greater access.

Alderman Kramer added as long as everyone else gets a free copy as well.

Alderman Marshall pointed out that they are not getting a copy. They are getting the ability to view a copy. They are getting access. Alderman Marshall stated that he is sticking with his motion.

City Administrator Akande suggested that they could get a legal opinion from the Missouri Attorney General before the Board makes a decision.

Alderman Marshall withdrew his motion and Alderman Robertson his second.

Mayor Kelly stated that they would get an opinion from the Missouri Attorney General on what would be the appropriate action in circumstances like this. He is sure this has happened in other cities as well and will not be unique to Brentwood. He thinks they need to be consistent in how they proceed.

Executive Session

Motion was made by Alderman Kramer, second by Alderwoman Clements to enter into an Executive Session on personnel matters at 8:21 pm. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Mayor Kelly and City Administrator Bola Akande provided an update on the Finance Director search and presented the qualifications of the preferred candidate. Motion was made Alderman Kramer, second by Alderwoman Clements to direct the City Administrator to make a conditional job offer to the preferred candidate pending the outcome of the background check and psychological assessment. Roll Call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Mayor Kelly, City Administrator Bola Akande and the special legal counsel provided an update on other personnel matters.

Motion was made by Alderwoman Clements, second by Alderman Wynn for the City Administrator's \$5,000 increase in compensation be moved up from August 2012 and become effective January 1, 2012. Roll Call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, no; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Motion was made by Alderwoman Clements, second by Alderman Robertson for the City Administrator to offer Parks and Recreation Director, Michele Frankowski the opportunity to resign and/or be terminated. Roll Call: Alderwoman Clements, yes; Alderman Marshall, no; Alderman Leahy, no; Alderwoman Krewson, no; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, no - 4, yes, 4, no which equals a tie vote. Mayor Kelly, votes yes.

Motion was made by Alderman Leahy, second by Alderman Robertson to exit the Executive Session at 9:58 pm. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman

Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

ADJOURNMENT

Motion was made by Alderwoman Clements, second by Alderman Leahy to adjourn the regular meeting of the Board of Aldermen at 9:59 pm. All in favor none opposed.

Pat Kelly, Mayor

Attest:

Bola Akande, City Clerk/Administrator