

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

**City Hall
Council Chambers**

**December 19, 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 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, Executive Secretary Williams, City Treasurer Reynders.

Absent: Alderman Marshall.

CONSIDERATION AND APPROVAL OF THE DECEMBER 19, 2011 BOA MEETING AGENDA

Motion was made by Alderman Robertson, second by Alderman Leahy to approve the Agenda of the Regular BOA Meeting of December 19, 2011 as submitted. All in favor none opposed.

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

Motion was made by Alderman Leahy, second by Alderman Wynn to approve the Minutes of the Regular BOA Meeting of December 5, 2011 as amended. All in favor none opposed.

Corrections: page 9, third line, replace, "they" with "we" and page 10 replace, "Beth Osiek" with "Jamie Allen".

DRAWING OF NAMES FOR BALLOT

Mayor Kelly announced that if more than one candidate appears in the office of the City Clerk at 8:00 am on the first day of filing for election their names have to be drawn to determine the order of names on the ballot. One Tuesday, December 13, two people showed up from Ward 1 and two from Ward 4, so their names have to been drawn. Alderman Harper pulled the names. Mike Daming's name will appear first for Ward 1, and Lorraine Krewson's name will appear first for Ward 4 on the April 3, 2012 ballot.

BIDS – None

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

Mayor Kelly announced that to eliminate confusion and to keep the appropriate order at the meetings, there be no talking from the audience once public comment is closed. If someone talks from the audience or interrupt a Board member while they are speaking, they will be ask to leave the council chambers. If they do not, they will be removed.

Julie Pozzo, resident at 2211 St. Clair Avenue came before the Board to comment on Mr. Seemayer's investigation. She stated that she recently had the opportunity to listen to all the DVDs. The testimony given by City employees gave some very good insight into how the City has been managed. In her opinion, it is a public disgrace and she is still left with much suspicion and unanswered questions. She asked the Board if any of them knew or had ever heard about the incentive pay being given to the firefighters, as part of the maintenance program, before the investigation.

Maureen Saunders, resident at 2326 Parkridge Avenue came before the Board and asked about the request made to have the DVDs made public in the Brentwood Library. She stated that she emailed the elected officials, along with City Administrator Akande about a response as to why and how they will treat reimbursement, waiving the cost. In the email, she asked about the item on the request for records form to waive the cost if you choose to. It seems to her that it is on a case-by-case, item by item basis. Alderman Kramer alluded to all or nothing; she does not believe that is correct with having that option on the form. She requested that her emails be enter into the record because she still has not received a response. She wonders if this is the new transparency and accountability the residents are supposed to expect. She sends emails, it takes a long time to get answers, and then questions are partially answered. She stated that she would like to get the answer from the Attorney General on the question about the DVDs. She asked why the roll call vote from the executive session was not published in the first set of minutes released. Ms. Saunders, addressing City Attorney Albrecht, asked if he understands that when a vote is made during executive session the Sunshine Law requires you to put it in the minutes within 72 hours unless you are not able to contact the employee with regards to termination or any disciplinary hiring/firing action. If the vote is taken, according to the Attorney General, it has to be a roll call vote and each vote has to be made known and made public. She stated that there was another attorney present in the December 5 executive session as well.

Ms. Saunders also mentioned the budget amendments presented tonight and stated that she was not expecting the amendments to the 2011 budget. She is seeing that legal fees went up \$256,000 from the first budget, salaries are going up, and many big expenses, and yet they do not have to have a public hearing on it. She would like the items explained before the amendments are adopted or possibly having a hearing on those items.

Dennise Soebbing, resident at 2612 Porter Avenue came before the Board to advise them that the noise from PDI facility behind their house is still sounding. It has been ten years and they have been on a wild-goose chase. Per the advice of City officials, they have filed peace

disturbance reports. After two years, Mike Shelton has not been able to enforce the nuisance ordinances because he has not been able to hear the noise. City Administrator Akande came over to their house on December 2, along with Jim, and heard the noise. They were told at that time that if the noise continues they should contact the police department and report it so that it would show up on the dispatch reports. They did that on December 8. They called the police department and they sent two officers. They were told to come up and make an appointment with City Administrator Akande because she is their boss. They needed some additional direction. She and her husband came up to City Hall on December 9 in the afternoon to set up an appointment. They spoke with Mrs. Williams and had an appointment for 4:00 pm. They showed up at 4:00 pm. They were told that Ms. Akande's meeting was running over which she totally understood. They asked if Ms. Akande was going to be back later before the day was up and they were assured that she would be. She and her husband came back around 4:30 to 4:40 pm. They spoke to a man who called and advised that they were there. They were told that Ms. Akande was in a meeting and they (the Soebblings') asked if it would be all right if they sat down the hall and waited for Ms. Akande to finish her meeting. He said that was fine. They sat there and did not speak to anybody. There were people walking back and forth. All of a sudden about 5:00 pm, six armed police officers came and walked directly up to them and told them that if they did not leave immediately they were going to be arrested. She does not understand why they were told they had to leave right away. No one asked them to leave prior to that point. No one even came by and told them the office was closed. If Ms. Akande would have called or reached out the door and communicated that she was not going to make it, to reschedule, they would have left. Mrs. Soebbing stated that she does not know if that is normal procedure for everybody, but she suspect it is not. By coming up and complaining about it, now they are being threatened with arrest. She asked if it is normal practice to escort people out at 5:00 pm.

Secondly, it seems like there are ordinances in place and the City does not want to enforce them. She asked why and if it is because PDI and KV are supplying more money and paying more taxes than they are. How much revenue has KV Pharmaceutical that no longer has a presence in Brentwood, and is now PDI, contributed to Brentwood. Is that why the City is not enforcing the nuisance ordinances?

There is a trash pickup ordinance that states that trash is not to be picked up before 7:00 am. On Friday, December 9 another trash truck in the area of PDI was picking up trash before 7:00 am. Her husband called the police and he was told that a summons was issued. She would like to know if that summons has been posted and how much the trash truck facility is going to be charged. Now instead of just being ignored, she feels like there is intimidation. That if they continue to raise those issues they are being threatened with arrest.

Karen Smith, resident at 8930 Harrison Avenue came before the Board and thanked City Administrator Akande for the email last week regarding the revised summary from the December 5 executive session. She is concerned because if the Patch had not interviewed former Director of Parks Frankowski, the public would have never known what took place.

When she asked why it was not in the executive summary she was instructed that it was a personnel matter. She clarified that she was not asking about the discussion itself, but she was concerned why they were not documenting that the discussion took place and the outcome of the vote. She was still told that it was a personnel matter and could not be disclosed. She has felt for a long time that there are things that are discussed in executive sessions that probably should not be and should be held in open session and documented for the public. It is clear to her now that there are things going on in executive sessions that are not being disclosed to the public because of what happened with the most recent executive session. Things are being couched as personnel matters and real estate when they really are not. It is disturbing to her that the City has legal counsel involved and that they are paying those salaries. The City hired a City Administrator who she thought came with some outstanding credentials. She is still hopeful that those credentials are still there. They risk their professional integrity by how they conducted themselves in this matter. You talk about building trust but your actions speak louder than your words.

Ms. Smith asked if the Mayor would consider having a public comment session at the end of the meeting to respond to things and have more open conversations and transparency. In a meeting, Mayor Kelly commented that he felt personally/verbally attacked. She stated that the residents feel that way too by how things are conducted. Now the police are harassing them, which is scary. It is very disturbing that somebody came up to City Hall that had an appointment, was waiting patiently, and then they are asked to leave or were going to be escorted out by the police.

Ms. Smith stated that she has questions about the budget. Following up with Ms. Saunders comments, she does not know that there was any public comment for the budget amendments. She asked if the Ways and Means Committee discussed the revisions.

City Administrator Akande responded no.

Presentation by MSD and St. Louis County Municipal League

Jeff Theerman, Executive Director of MSD came before the Board and stated that everyone is probably aware that MSD was sued by the Federal government and the State of Missouri for alleged violations of the Clean Water Act in 2007. They have entered into a settlement agreement with the EPA that has an estimated cost of \$4.7 billion. That is for the entire region's sewage overflow problems both in the City of St. Louis and in the County. That settlement agreement has gone through a public comment period that has been closed and now the Federal government is moving to enter in that settlement. MSD has started the process through its rate commission of raising rates to comply with the settlement. They intend to bring to the voters this next year a bond referendum to seek voter approval of the use of about \$945,000 million of revenue bonds to start funding the improvements. That is by no means the end of the line. Their settlement agreement is for a 23-year schedule of compliance with a very large price tag to deal with sewage overflows. In Brentwood, there are about 50

signs out there informing the public about the hazards of swimming and playing in streams. The St. Louis County Municipal League has a perspective about their settlement.

Tim Fischesser, St. Louis County Municipal League came before the Board and stated that they have over the years generally stood shoulder to shoulder with MSD whether it's trying to increase storm water rates or modify them in a manner that is more equitable. Along comes the issue with the EPA across the country communicating that when there is an excess amount of rain and some overflow goes into the creek, some of that may contain sewage, that in certain systems where you have two pipes you have to eliminate almost all of them or treat it. Where you have everything in one pipe as you have in the combined areas, EPA will tolerate some of those but you have to make improvements but not necessarily total elimination. When MSD told them that the cost to correct it or to comply with the EPA was the \$4.7 billion, it gave his Board of Directors made up of elected officials around St. Louis County some concern. It was over a 23-year period. He met with MSD about the possibility of the \$4.7 billion being added to the bills over 40 years and the Board of Directors wanted to know what the impact would be on clean water. He was sent an 800-page report, which he forwarded a chapter to the City, with the resolution that they passed. He went over the charts that show not very much improvement when you spend the \$4.7 billion. Roughly, half is to build 27 miles of big underground tunnels to hold the contamination until it can be processed. When he asked what the contaminations are and what happens if they do not do that or they spread it out over 40 years, there is not much impact. He went back and reported to his Board that he had asked them about extending it over 40 years but they said even doing it over 23-years doesn't get them much clean water. It is not very dirty now. They said that they certainly do not want it going into people's basements. They want it corrected and they want the system that already exists to be improved. They have a lot of questions about if it is worth spending the billions on 27 miles of deep underground tunnels to store the slightly contaminated waste when the charts don't show many improvements. The Board entertained a membership resolution to suggest that civic leaders get together. This is a federal problem. It's a mandate without any money, with questionable benefits, and our leaders ought to tell their senators and congressional representatives to look at it more closely before the consent decree is signed. They cannot justify this huge underground tunneling and the cost associated with it when they think the money should be spent on the existing system, preventing the basement backups. They do not think it is a cost benefit and they would like their federal officials to be notified by local officials that it is not right.

Mr. Theerman pointed out that of the \$4.7 billion, about \$1.9 billion is to deal with combined sewer overflow issues, and that is the tunnel projects that Mr. Fischesser just spoke about. Brentwood would be a recipient of one of those projects because of the combined sewers. The idea is that you store overflow in the tunnels and then take it to a treatment plant after the rain is over. The balance of the \$4.7 billion is almost \$2.8 billion, which is a direct investment in the infrastructure that exists today. It deals with basement backups, overflows of the separated system, and customer problems that have plagued many customers from a wastewater perspective. From an environmental perspective, it is hard to see the improvement in the

numbers. It is not because the water is very clean. It is because sewage overflow is not the whole picture. There is a lot of storm water pollution that comes to these creeks throughout the region that is not addressed in this program. He has negotiated with the EPA for four years and he knows what has been settled in other cities, virtually thirty major metropolitan areas around the country. They will not grant more than the kind of duration they are talking about and that is why they went ahead with the settlement they believe was important. MSD currently has AAA bond rating from one agency and AA plus by two others. They are fearful that a lack of public support could affect their bond rating which would then make the cost of compliance more expensive for everyone. They are asking city councils to consider the issue carefully. The investment is not perfect. It complies with the Clean Water Act, which has an absolute standard against the overflow and has to be compliant.

Alderman Leahy asked if the settlement is a done deal. Is it still working its way through the parties prior to a court hearing?

Mr. Theerman responded that from MSD's perspective it is a done deal because they have signed, as all the other plaintiffs.

Alderman Leahy stated that the last he has heard is that the Attorney General had yet to agree to sign.

Mr. Theerman responded that the State of Missouri has been removed from the settlement agreement. They are not a party in the agreement that they have tried to arrive at. The question of whether they will sign or not sign is an open one. The Coalition for the Environment, MSD, and the EPA have signed the settlement.

Alderman Leahy asked about a bond issue that was passed in the last six years in order to get the Lemay facility up and running. Does that have any dealings in trying to meet the EPA's requirement to show compliance?

Mr. Theerman responded that MSD has passed two bond referendums in the past decade. A \$500 million issue in 2004 and \$275 million issue in 2008. All were focused on compliance with the Clean Water Act. MSD has invested over a billion dollars in the last eight years trying to comply with the Clean Water Act, much of that occurring before they were sued in 2007. This is all part of a very large system effort to get into compliance.

Alderman Leahy referring to working through the resolution side of the request asked if the intent is to try to influence the settlement itself, instead of allowing the settlement to take place to redirect its efforts.

Mr. Fischesser responded that the intent is to try and temporarily stop it until it can be subject to more direct scrutiny, hopefully by your federal officials who vote on the laws and have some

impact on discretionary enforcement. They are trying to get the judge not to let it go through at this point until there can be more discussions at the civic level about their options.

Alderman Leahy stated that at this point he is not aware of any bills working through Congress to address this portion of the issue, and how do you get municipalities to conform to the arrangement.

Mr. Fischesser stated that it is an annual topic in Congress.

Alderman Leahy stated that there are no bills in front of Congress to say that if they stop the settlement an alternative would be put in its place.

Mr. Fischesser responded that Congress could make its point when it wants to.

Alderman Leahy asked about the closest alternative available to make the problem go away, if they interfere or get involved to persuade the postponement of the settlement. The EPA is not going to yield on continuing business as usual, so what is the best alternative. You are looking to put all the money into replacing and fixing the pipelines that are currently in existence versus, in this case, capturing the overflow so that you are not hit with River Des Peres and Missouri River dumpings without treatment.

Mr. Theerman responded that there is currently no legislation in Congress turning back the requirements of the Clean Water Act. He is not sure that is appropriate. There is certainly a lot of good will to come from this program. Albeit true, it is hard to see drastic improvement in water quality. They have been working with lots of sewer utilities in the nation trying to bring some reality to the situation of the EPA continuing to ratchet up regulatory requirements on wastewater utilities. Frankly, there is never going to be enough money and not everything can be priority one. There is a bill in Congress that they have been working on that has to do with prioritization of scarce resources on water quality improvements. It has not been filed yet but there is interest on the part of the legislators both here in St. Louis and in other large metropolitan areas. He has met with the EPA as recently as last week on the topic, along with lots of other utility officials. There was also testimony in Congress on the very same issue. While it does not roll back requirements that they are talking about, they can spend a certain amount of money on water quality problems, as they exist today. Then, they will try to start addressing storm water problems, swimming issues in the Mississippi River, nutrients in a city that impact the Gulf of Mexico, and other things, and they will have already spent their money and there will not be money available with other water quality issues. That legislation is really trying to bring some rationale to why they decided to spend money here first and what is the correct expenditure dollars.

Alderman Kramer stated that he and Mr. Theerman have spoken in the past about the recipient of some CSO outlet issues. He asked for an update on when the timeline for the CSO

elimination projects. He asked if the revenue generated from the impervious fees has aided MSD.

Mr. Theerman responded that the consent decree is laid out to where they do sort of a front loaded effort on sanitary sewer overflows. While that effort moves forward, the planning work to build the tunnels and storage that gets rid of the combined sewer overflows continues and then they build the tunnels later in the 23-year cycle. At any given time, MSD is going to be doing about \$250,000 million of capital improvement each year, over the 23 years period. Regarding the overflows near the Brentwood Forest area a few years ago, he doesn't know where that is in the timeline but it is certainly one of those projects that they intend to eliminate and get that flow if it does occur into a storage tunnel so that it could be treated appropriately. With respect to the impervious charge, none of the constituents should be seeing that anymore. They turned that charge off in August of 2010 because they had the rate struck down as being unconstitutional by a court in Lincoln County, so they are not collecting the impervious charge, and that has presented problems. They do very little with storm water because the way they are funding storm water today is sort of a hodgepodge of services of taxes that existed prior to the impervious charge. They turned those back on when they lost the rate. They are presently appealing that decision and expect an answer at the appellate level to be tendered this spring. At the end of the day, when it is settled, if they regain the ability to use an impervious charge, the average customer that is paying about \$4 a month for impervious fees, they have a rate escalation to go up about \$7 over a \$7 year period. That generates a fair amount of capital for dealing with storm water problems. You have to think of MSD as two utilities in an umbrella, so they are storm water utility and a wastewater utility. Often it is hard to tell the difference between the two if you are looking at them from a customer perspective but they try to fund them separately.

Alderman Kramer following up on the last topic, asked if the court finds that the fee is non-collectable is that to be returned to the residents or how does that work?

Mr. Theerman responded that it is an open question. The circuit court ruled that a refund was not to happen. The reason for that was MSD is not a profit making organization. They are not a private company. In order for them to refund their customers, they would have had to charge them again for the service they already received and then pay them back with the money they paid them, less 25% which had gone to the attorneys. Rather than do that the judge at the circuit level ruled not to enforce a refund, but that is also under appeal. If at the end of the day the impervious charge is an unconstitutional issue, MSD will have to go about the issue of devising a rate that is appropriate.

Alderman Kramer stated that he knows that this particular topic may be tempestuous at times but thanks to Mr. Theerman and Mr. Fischesser for the respective work that they do for each of their agencies which is much appreciated.

INTRODUCTION, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

First and Second Readings of Bill

Bill No. 5644 – Professional Services Agreement

Motion was made by Alderwoman Clements, second by Alderman Robertson to give Bill No. 5644 first and second readings. All in favor none opposed.

City Attorney Albrecht gave Bill No. 5644, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT ON BEHALF OF THE CITY OF BRENTWOOD, MISSOURI WITH GEORGE BUTLER ASSOCIATES, INC., FOR RIGHT-OF-WAY NEGOTIATION SERVICES FOR THE PEDESTRIAN AND TRANSIT IMPROVEMENTS PROJECT; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5644 as a Bill that would authorize the Mayor to enter into a professional services agreement with Kevin Cleary with George Butler Associates (GBA) for right-of-way (ROW) negotiation services for the Pedestrian & Transit Improvement Project, a federally funded project to construct new ADA compliant sidewalks from the Brentwood Metrolink station through Hanley Industrial Court, connecting to Brentwood Promenade and finally to the existing sidewalk at Memorial Park on Strassner Drive. Because federal funds are used for the ROW phase of this project, the City must follow federal guidelines for the acquisition of the permanent and temporary easements, and so is requesting assistance for these negotiations.

Alderman Leahy pointed out that this bill did not go through committee but there were three bids that were taken and this was the best bid of the three in order to accomplish the same scope of work.

Mayor Kelly added that this is an ongoing project, which is the Hanley Industrial Park path project. The first year is usually design work. The second phase would be the right of way acquisition and the third phase would be the construction. Staff solicited interviews with different engineering companies and through that process; they made the recommendation to the Board.

Motion was made by Alderwoman Clements, second by Alderwoman Krewson to approve and adopt Bill No. 5644. Roll call: Alderwoman Clements, 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. 5644 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4320.

Resolution No. 978 – FY 2011 Budget Amendment

Mayor Kelly stated that the City is required by State law to have a balanced budget. Usually you have to wait until the end of the year to see where those account balances are and make the adjustments in order to have a balanced budget. The City is not required to have a public hearing. It has been their procedures to do that and to have it considered at the last meeting of the year.

Alderman Kramer read a synopsis of Resolution No. 978 as a Resolution that would amend the FY 11 Budget. The City adopted the 2011 Budget as Ordinance No. 4262 on December 6, 2010. Section 2-421 of the Brentwood Municipal Code allows budget amendments as necessary. The 2011 Fiscal Budget is hereby amended by the attached Exhibit A in accordance with Section 2-421 of the Brentwood Municipal Code.

Alderman Kramer asked City Administrator Akande to go through and highlight the amendments.

City Administrator Akande stated under Administration, the salary adjustment is due to the fact that she started in August, so her cost is partially in the amendment and the accrued benefit payout to the departing City Administrator. In addition, under Municipal Operating Expenses, the healthcare premium went up after the budget had been adopted by 6.9 percent. Then the City had more employees than anticipated collecting unemployment benefits. Under Utilities, Ameren rate increase went into effect this summer. In addition, Ameren conducted an audit of all streetlights in the 93 municipalities and have determined that an error was made on their end where street lights, were accidentally removed from the City's account, which meant that the bill had dropped significantly over that period. In September, they started paying for 146 streetlights. The amount under Accounting is due to the additional audit. Legal is ongoing labor relations cost in regards to personnel matter and real estate litigation. In two places, they had unavoidable fuel increases. Contractual expenses are additional expenses resulting from sales tax adjustments, recreation center analysis and the cost of that. Fire station was a year-end final adjustment. Misc. repairs were unanticipated emergency repairs and remodeling work that had to be done in City Hall. Misc. expense adjustment was due to monthly maintenance bank fees. They determined that one of the banks with which the City do business had started charging the City bank fees so they will be doing an RFP on that next year. Planning and Development is an adjustment due to salaries from having a part time position to a full time position in that department. Fire is due to over time cost that the City has incurred. When you have employees who are out for various reasons you still have to maintain minimum staffing during each shift in the fire department. The last one is an adjustment due to engineering cost related to the installation of a new storm drain.

Alderman Kramer stated that one of the interested highlights is the legal expense. As an elected body, when they come across situations such as they had this year, most of them unfortunately and untimely, many of the issues can be very sensitive. There is a huge exposure to lawsuits that could expose the City to an exponentially larger windfall for other parties, making this legal expense look tiny. They have to weigh those situations one at a time as they come through. Sometimes they may not always decide the same way a resident might decide but they do the best that they can and try to make the best decision given all the facts that they have at the time.

Alderman Harper asked if the fire station amount of \$8,676 is to cover some of the items at the new firehouse that weren't under warranty or is it for a different item.

Mayor Kelly responded that he believes the amount was charged by the former City Administrator to the firehouse, and that was reimbursed but it was an expense. They are only seeing the expense side, not the revenue side. The City is still ahead at the end of the year, showing a surplus.

Alderman Leahy stated that you see \$752,000 of adjustments to the point of costing the City more money, but they are not touching reserves and did not overspend the revenues. This is taking money from other accounts that did not spend their total budget to be able to offset and make it work.

Alderman Harper asked if they are looking at \$20,000 or \$30,000 more than what was budgeted last year, with the amendment for the fire department.

City Administrator Akande stated that \$90,000 was budgeted last year and this is \$19,000 more.

Alderman Harper stated that when he looked at the budget originally it appeared that the police department had lost some of their overtime money.

City Administrator Akande responded that they lost \$10,000.

Alderman Harper stated that the police department is the largest department in the City with the most employees. He is trying to wrap his head around how the largest department loses \$10,000 but the fire department gains \$20,000. He is not sure what the average cost is of a firefighter working overtime.

Mayor Kelly stated that the average salary for a firefighter is around \$28 an hour. The average salary for a police officer is about \$38 an hour. Keep in mind that the firefighters are scheduled for 216 hours per month. The police department is a standard 40-hour week. The reality is if they need it, it should be there, and they should make the adjustments at the end of the year.

Motion was made by Alderman Leahy, second by Alderman Wynn to approve Resolution No. 978. Roll call: Alderwoman Clements, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, no.

ACCOUNTS AGAINST THE CITY

Motion was made by Alderman Leahy, second by Alderman Robertson to approve the warrant list dated 12/19/11.

Alderman Kramer stated that the City is getting ready to conduct a test of the CodeRed emergency system. For the resident, if you have not signed up for it, it is free. The information is only used for the CodeRed service. It is not sold, traded or used for anything else. It will warn portions of the city or the whole city at one time. Please check it out on the City of Brentwood's website. Alderman Kramer asked about the expenditure for the Overhead Door Company of St. Louis for the oly room door.

City Administrator Akande stated that she thinks "oly" might be a typo but it was a repair to one of the doors where the cables were not really working and the doors were not closing.

Alderman Leahy stated that he does not see any fees on the warrant list for the TIFs or the TDDs for Brentwood Square or the MLP project. They see the pass through money for the end of the year and he does not see it on this warrant list.

Mayor Kelly stated it is ongoing.

City Administrator Akande stated that she could look into it.

All in favor of approval of the warrant list none opposed.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Mayor's Report

Mayor Kelly announced that Beth Osiek had resigned from the Library Board. When she submitted her resignation letter, her husband was ill, and as he announced at the last meeting, Mr. Osiek passed away. Beth has since requested that she be reinstated to the Library Board.

Motion was made by Alderman Wynn, second by Alderman Leahy to reinstate Beth Osiek to the Library Board. All in favor none opposed.

Mayor Kelly stated that dealing with the Soebblings' and the noise issue it has been an ongoing debate on interpretation of the Code between the resident and the attorneys. In talking with City Attorney Albrecht and City Administrator Akande his recommendation would be to do another sound study. One of the things they have determined is that when St. Louis County did the last sound study it was based on their codes not the City's. His recommendation would be that the Board considers an additional sound study in that area to determine if the noise is not compliant with Brentwood's code.

City Administrator Akande stated that they would have to solicit vendors to do the study and the estimate is around \$1,500.

Motion was made by Alderwoman Clements, second by Alderman Wynn to proceed with the sound study.

Alderman Leahy explained that he does not feel it is the best way to proceed. They have done three studies and none of the three to his recollection shows that they are in violation of the County's or the City of Brentwood's code. The noise is what it is and the readings from the studies are what they are. The last letter the City has provided the Soebblings was that if they wished to pursue the matter, they have the option to do it in civil court and that they could present their own evidence to be sufficient. The City cannot pass any ordinance that makes the current problem go away because it is grandfathered. The company did everything that was seemingly reasonable to try to accommodate this problem for the last ten years. He thinks that throwing more money after it is not going to help them.

City Attorney Albrecht pointed out that to his knowledge, there were two sound studies conducted many years ago. One was conducted by KV Pharmaceutical, which did not specifically address the standards set forth in the ordinance. The other was conducted by St. Louis County and addressed measurement standards under St. Louis County's ordinance but not the environmental standards set out in Brentwood's code. Neither one of those studies, regardless of what they say address whether or not those buildings or businesses comply with Brentwood's code.

Alderman Kramer stated that he is in favor of the study and actually visited the site within the last few months. He did hear a sound from the fence line of the rear yard of the Soebblings', but does not know if it is the sound the Soebblings' are hearing. He agrees with the Mayor in that the sound study will not

hurt. The resident continues to have complaints. He wants it settled according to Brentwood's code and move on.

Motion was made by Alderwoman Clements, second by Alderman Wynn to approve the sound study. Roll call: Alderwoman Clements, yes; Alderman Leahy, no; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

Mayor Kelly responded to the question about the Attorney General by saying that in general, the Attorney General's response was that the City could do whatever it wants to do. The Board still needs to determine whether to waive fees or put the DVDs in the library for public viewing.

Alderman Harper asked if it would be possible to have the actual comments from the Attorney General made public.

City Administrator Akande responded that it would be made available.

Alderman Kramer stated that based on the response that he read from the Attorney General's office and the dialogue that the Board has had on the topic, he thinks that the Attorney General's office was in favor of them, if possible, making more information available when they can. Every topic is entirely different. For clarification, regarding Maureen's take on his comment, when he says all or nothing it is not for every topic. It is when there is an agreement. For example, that they are going to have items available at the library free of charge and available for viewing or documenting then it should be free for everyone. Either everybody has to pay or everybody gets it free. Therefore, if you are putting it in the library and they are not being charged then people should get it free.

Alderman Leahy stated that the request that he is making to the Board is that they make the two interviews, the requested DVDs, available in the library and that the Board considers waiving the fee for Maureen Saunders.

Mayor Kelly stated that the DVDs include all the interviews.

Motion was made by Alderman Leahy, second by Alderman Harper to make the documents available in the reference room to be used in the library for the residents who would like to come in and listen to them at no additional charge.

Alderman Wynn stated that sometimes there are things that can hurt people and it is unintended. He asked if the library has to accept the DVDs since they are a separate entity.

Alderman Kramer stated that to Alderman Wynn's comment, absolutely, depending on the item there could be unintended consequences. He thinks that the Attorney General's recitation was whatever the item is, if it is for the greater good of the community and the public, it should receive the highest exposure. In addressing Alderman Leahy, Alderman Kramer stated that if his motion pertains only to the library, but plans to charge everyone else outside the library, he cannot vote for that. The motion is not clear enough.

Alderman Leahy stated that his motion is to make the DVDs during the police investigation for Mr. Seemayer's case available in the Brentwood Public Library at no charge as reference material to be used in the library.

Alderman Kramer asked if they are to charge anyone else who wants access.

Alderman Leahy stated that if you're referring to someone wanting their own copy of the DVDs, the City has the right to accumulate those records, and according the Attorney General access a fee or possibly waive the fee on a case by case basis. Right now, you are looking at just getting the records available in the Brentwood Library.

Roll call to place the DVDs in the library for public viewing: Alderwoman Clements, no; Alderman Leahy, yes; Alderwoman Krewson, no; Alderman Kramer, no; Alderman Robertson, yes; Alderman Wynn, no; Alderman Harper, yes.

Motion was made by Alderman Leahy, second by Alderman Harper to reimburse Maureen Saunders for the fee paid for the DVDs. Roll call: Alderwoman Clements, yes; Alderman Leahy, yes; Alderwoman Krewson, no; Alderman Kramer, no; Alderman Robertson, no; Alderman Wynn, no; Alderman Harper, yes.

Mayor Kelly stated with respect to the releasing of the December 5th Executive Session minutes, there was some debate on the interpretation of the Sunshine Law and exceptions. There are a number of different things that exempt certain things from being released. There were some concerns under their analysis whether a final action had actually taken place. They waited until they got a determination from legal counsel whether that had happened. Once it was determined that final action had taken place, then they released the vote.

Mayor Kelly announced an Executive Session, Personnel Matter will be held following this meeting.

Mayor Kelly stated that in talking with the financial consultant with respect to the Brentwood Pointe project. It had a very bad 2009 from a revenue standpoint. They have recouped from that and had a very good 2010 and 2011. They are back on track and the TIF should be paid off in the fall of 2013, which is about eight years ahead of the 23 years. The Brentwood Square project is also ahead of schedule. They are doing very well. The bonds were just rated at an A-. That project is scheduled to be paid off either the spring or summer of 2014. Both of those projects will be significant increases in revenue to the City. They are getting ready to reissue the bonds for the Meridian project. The bonds were rated for that as an A/A-, which is good because that means they will get a lower interest rate once they are sold. To maintain an "A" bond rating in this environment is very good. The new tenant for the former Borders space is Michaels. They will be occupying the space. He thinks it will be a great addition to Brentwood Square. They are anticipating opening on September 17, 2012. They are in negotiations with another tenant for the smaller space. The Brentwood location will be the second location in St. Louis. The Mayor stated that he was asked to wait on the announcement of the new tenant until their lease is signed.

Mayor Kelly stated that there are no regular meetings scheduled for January. The Mayor requested that a special meeting be held on the third Tuesday, January 17 at 7:00 pm.

Motion was made by Alderman Leahy, second by Alderwoman Clements to schedule a special board of aldermen meeting on Tuesday, January 17th at 7:00 pm. All in favor none opposed.

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

Excise Commissioner – No report

Library – No report

Municipal League

Mayor Kelly thanked Tim Fischesser and Jeff Theerman for coming tonight. The gist of the situation is that the Municipal League does not think that they should give up their negotiations in trying to get this resolved. A lot of this is regulation that Congress has given the authority to the EPA to initiate. One of the requirements coming about in the next couple of years is that when they treat the water, it will have to be palatable before they can release it into the Mississippi River, so they will be required to chlorinate the water before they put it in the Mississippi River. The problem with that is that you cannot put chlorinated water into the Mississippi River, so they will have to de-chlorinate the water before they can release it into the River. It will be a huge expense. He asked everybody to become as educated as possible about the issues because the taxpayers will end up paying for it.

Communication – No report

Historical Society – No report

UNFINISHED BUSINESS

In answer to Julie Pozzo's question regarding the firefighters' incentive program, Alderwoman Clements, Alderman Robertson, Alderwoman Krewson, Alderman Kramer, Alderman Harper, Mayor Kelly, Alderman Wynn, and Alderman Leahy stated that they did not know.

NEW BUSINESS

Alderman Leahy stated that there would be no Ward 3 meeting this month.

Mayor Kelly announced a Coffee with the Mayor on Friday, December 23 at 9:00 am.

Alderwoman Clements wished Mayor Kelly happy birthday.

Alderwoman Clements announced that tonight is Shelly Williams last Board meeting. She is leaving the City and will be missed.

Mayor Kelly stated that Mrs. Williams has done an outstanding job for the City of Brentwood. She will be going back to school fulltime. Mayor Kelly wished her well.

Executive Session

Motion was made by Alderwoman Clements, second by Alderman Leahy to recess the meeting and enter into an executive session, personnel matter at 8:20 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.

After discussion, motion was made by Alderman Robertson, second by Alderman Leahy to return to open session at 10:24 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 meeting at 10:25 pm. All in favor none opposed.