

**CITY OF BRENTWOOD, MISSOURI
BOARD OF ALDERMAN SPECIAL MEETING
OCTOBER 1, 2012**

MEETING CALLED TO ORDER

Mayor Pat Kelly called the regular meeting to order at 7:00pm, in the Council Room at Brentwood City Hall located at 2348 S. Brentwood Blvd., Brentwood, MO 63144, and immediately led the Pledge of Allegiance.

Roll Call

Deputy Clerk Pittman performed roll:

Alderman Saunders	Present	Alderman Robertson	Present
Alderman Manestar	Present	Alderman Wynn	Absent
Alderman Leahy	Present	Alderman Harper	Present
Alderman Toohey	Present	Mayor Kelly	Present
Alderman Kramer	Present		

Members present constituted a quorum. Also present were City Clerk/Administrator Bola Akande, City Attorney Frank Albrecht, and Deputy City Clerk Octavia Pittman.

APPROVAL OF AGENDA

Alderman Saunders questioned why the Chris Seemayer topic was not on the agenda. Administrator Akande responded that we do not have a full board. Saunders also questioned how is determined, if whether a board member is present and we have a quorum; it seems subjective. Akande stated we also have not completed the additional research staff was asked to do; it should be finished in time for the next meeting. Mayor Kelly added that given the topic, it's important that the Aldermen that were present when some of these things were discussed before, be present for that meeting so they can give their input. Saunders commented that she wondered if she weren't here if the meeting would go on and added that she wasn't told there was additional research. Administrator Akande commented that if the server hadn't be down since Thursday this would have been included in the weekly report.

Alderman Robertson made a motion to accept the **Board of Aldermen Regular Meeting Agenda October 1, 2012**. Motion seconded by Alderman Manestar. Unanimous vote in favor taken; **MOTION PASSED**.

CONSIDERATION AND APPROVAL OF THE MINUTES

Alderman Manestar clarified her statement on Page 3; she said it sounds as if the Public Works Committee members were in agreement to combine city hall with the rec. center and that wasn't the case. She said her confusion was directed at Aldermen Robertson's statement that he was referring to both the gymnasium and a fitness center at the public works meeting. She stated how it should read is "Alderman Manestar stated her confusion; it seemed to her that there was a consensus at the PW meeting to utilize Alderman Leahy's suggestion of a simple survey to use the consultant to assist the survey question at a minimum cost and that the gym mentioned was a gymnasium, not a fitness center. Alderman Saunders stated she had a change that was emailed about 5pm. Mayor Kelly stated everyone should be on the same board on how minutes are presented and changed. If they are taken by staff at either a subcommittee meeting or at the Board of Aldermen, any changes to those minutes should be made at the board level; otherwise staff could develop minutes and they could be changed without everyone knowing what the change was. Saunders clarified that she wanted "complained" changed to "stated" on page 1. Alderman Leahy made a motion to approve the

Board of Alderman Regular Meeting Minutes August 20, 2012 as amended. Motion seconded by Alderwoman Saunders. Unanimous vote in favor taken; **MOTION PASSED.**

After noted corrections; the citizen's correct spelling is "Kobler", on page 16 the first motion to pursue civil action was rescinded, and it was clarified for Alderman Leahy that the motion to consider civil action was just to add it to the agenda, there is no action being taken at this time; Alderman Leahy made a motion to approve the **Board of Alderman Special Meeting Minutes September 10, 2012** as amended. Motion seconded by Alderwoman Saunders. Unanimous vote in favor taken; **MOTION PASSED.**

PUBLIC HEARING

Establishing the 2012 Property Tax Rate, Continued

Mayor Kelly reopened the Public Hearing at 7:10pm. Administrator Akande announced the proposed 2012 tax rate; the estimated revenues changed the proposed rates stays the same.

Fund	Residential	Commercial	Personal	Est. Revenues
General Fund	\$-0-	\$1,960	\$2,070	\$ 260,068
Library Fund	\$2,000	\$2,160	\$2,290	\$ 569,035
Pension Fund	\$3,650	\$4,110	\$3,850	\$1,044,833
Debt Service	\$-0-	\$-0-	\$-0-	\$-0-

There were no additional comments; Mayor Kelly closed the public hearing.

PRESENTATION/RECOGNITION

2011 Comprehensive Annual Financial Report

Gina L. Jarvis, CPA, Finance Officer, presented the city's 2011 Comprehensive Annual Financial Report (CAFR). This report is prepared annually to document the city's financial position at the end of each fiscal year; it contains the city's audited financial statements, the independent auditor report and is the official permanent record for the city for the year ending December 31, 2011 and is also published on the website. She stated the CAFR differs from the budget document and is reflective of the budget that is adopted by the Board of Aldermen. The budget document is also an official permanent record of the city and reflects the spending plan for the city as recommended by management and adopted by the board.

Tammy Alsop, CPA, CFE, Partner, Hochschild, Bloom & Company, LLP, provided an overview of the report submitted. She highlighted several sections of the report; the opinion letter; independent auditor's report, and stated that the city has received an unqualified opinion which is the highest form of opinion that a city can receive on their financial statement. The management discussion analysis is a short synopsis of what is included in the financial statement. It looks at the government wide basis, the basis of accounting if the city was a for-profit entity. It includes all of the infrastructure and debt of the city. It also includes TIF debt as required even though this development is not owned by the city. You have the regular governmental funds, the modified accrual basis is included as well as the notes and budget to actual statements.

Total liabilities exceed assets by \$17million. Governmental activities had unrestricted net assets of -\$35 million, this amount is due to the TIF bonds outstanding for development not owned by the city. Mayor Kelly clarified that those record keeping regulations changed within the last 10 years, requiring cities to carry TIF as an obligation. Not only are they carried and don't own the development but they are also not an obligation to the city either. It's an obligation to the tax revenue collected from that specific project for that period of time. Alsop added that GASB 34 came into effect 9 years ago and is what made everything go on to the

government wide statement, such as the infrastructure and the debt, but that is not debt that is owned by the city; the tax increment revenue the city receives is used to pay off that debt. It's nothing that the city has to pay from its general fund. Alderwoman Saunders questioned the net asset amount factoring out the TIF (\$2million); it is listed under financial highlights – the unrestricted net asset. Alsop continued, stating at the close of the year, the city's governmental funds report an ending fund balance of \$11 million, a decrease of \$1 million. Of this amount \$388,000 or 4% is unassigned funds available to spending at the city's discretion. The unassigned balance for the general fund is \$491,000 or 4% of the general fund expenditures. The total debt decreased by approximately \$4 million or 8%, which is very good, and this is why there is no longer debt service tax levy. Total revenues were \$22.9 million in 2011, \$22.7 in 2010; there were a few changes dealing with the economy. Expenses went from \$19.2 million to \$20 million; municipal operation increased \$1.4 million. In reviewing, this increase has a lot to do with the Brentwood Eager Road TIF. It is \$700,000 more than 2010 because of the fees and charges with the bond. Hopefully they can be refinanced soon and start paying them down. It was clarified that fees will continue to increase until the bank and developer settles; this money does not come from city funds, it comes from TIF funds. Mayor Kelly added that this is a good thing to know, if the project goes belly up it is not an obligation of the city to pay those bonds. Alsop explained that there was a huge difference; there were some other factors as well, unemployment, health insurance, legal fees. After questions from Alderwoman Saunders of TIFs being accounted for in municipal operating expenses, Alsop replied that we have to combine all the revenues and expenditures, and all cash from the TIF fund – all activity that goes through those accounts must be accounted for in the city's financial statement.

Ms. Alsop stated there were no problems with the audit and thanked Administrator Akande and Director Jarvis for their help in the process.

Alderwoman Saunders stated the process needs to be addressed; she asked at Ways & Means that the organizational chart is pulled from the statements because it is not accurate. There she learned that the report had already been submitted to the GFOA and pulling the chart back would require everything be pulled back. She stated she is trying to understand how this all happened because she was under that impression that the board adopted the audited financials; in previous years the report had been submitted earlier for review. Ms. Alsop replied that it wasn't just this year; she doesn't believe that Ways & Means were submitted the draft in previous years. Mayor Kelly explained that there has to be separation between the staff working with the auditors to develop the report and that there really isn't anything for Aldermen to contribute when it is being developed because staff is handling the day to day operations of the city. It is presented to Ways & Means before it is presented to the Board of Aldermen and then accepted; it's not passed by an ordinance and really didn't require board action. Alsop added that she does not have any problems changing the process if that is decided. She apologized for misspeaking or leading someone to believe that the draft was previously submitted to the committee for approval.

Alderwoman Saunders stated her confusion with the minutes of September 2011 stating that the report will be submitted, when in fact it had already been submitted. She stated the problem she has with the organizational chart is that we know we've had an issue with the chart as it was the first topic brought up with employee manual and she would have thought that would have been brought to the committee before moving forward. Alsop replied from what she remembers and her notes from last year, that Ways & Means did talk about updating the organizational chart and it is her understanding after speaking to Director Jarvis that this chart reflects how the government works. Alderman Leahy explained that Former Alderman Marshall's main concern last year was to put the citizens above everybody and that we all respond to them; from there breaking down and defining what the different committees did. After doing some housekeeping, 2-3 committees were removed from existence; and then the question was who reports to whom. Mayor Kelly commented that a lot has been made of the

organizational chart, to a certain extent it doesn't mean that much when you are looking at the city's operation. This is a picture of how the city is run. The issue coming to play over the last year is that there is a difference between the operational organizational chart of the city and then the legislative organizational chart; sometimes it's hard for people to combine that. He stressed that any Alderman that thinks they have a change or would like to work to put an organizational chart together that meets the code to give that input. He said the one thing that we are lacking through all of these discussions is that everyone is saying it's wrong but no one is saying what they think is wrong about it. Alderwoman Saunders commented that she can only speak for herself, but she has never said it was wrong meaning that the old chart was wrong. She didn't understand why we changed the chart and when those changes came forward she thought the rationale would follow. The old chart seemed reasonable because that's how we always seemed to be conducting business. Because she had no problems with it, that's why she never brought forward any changes as suggested; the old chart accurately reflected the way we conduct business. Administrator Akande commented that when she started in August, there was a conversation that the organizational chart was wrong. It has all of the departments reporting to the committees from a legislative point and when you look at the code, they do. But when you look at the chart in the 2010 CAFR, it also makes it seem from a personnel standpoint that all the departments' report to the committees; they are two separate functions. In following the direction given last fall, we are trying to separate those two functions and to show the reporting structure, how it really is on a day to day basis.

Alderman Kramer stated that the Ways & Means Committee, in the past, had a certain methodology for doing things. He stated there is a discrepancy in the organizational chart if you look at it in only one way. There is another way to look at it, the reporting to and the control of, which are different. In the new employee handbook draft there is some further work that has been done. In the past the Ways & Means Committee looked at the audit as a third party comprehensive analysis of our financials. It's important to realize that this is a snap shot of the end of the year 2011. One of the things that has come up continuously is the reserve figure; the number reported in the audit is from the end of 2011; that same line item (general fund unrestricted) is different today than it was then. It is also important to realize that this number does fluctuate. In terms of the structure and the way things are in the organizational chart, in the past it never was really studied that closely because we don't technically follow it. The requirement is that the chart be as accurate as possible before it is certified and approved. He stated we don't want to make any changes to the audit, as it is not really the board's job; the board's job is to receive it and accept it. In the future it won't hurt for Ways & Means to look at it earlier in the year and perhaps reform items such as the organizational chart if it needs it. But as far as the data goes in the audit, it's really for understanding not necessarily changing. Hopefully next year the committee will be in agreement of receiving the information earlier and decide if there is any interest in looking at something like the organizational chart and then quickly pass it on to the professionals to go through their process before it comes back to the committee to recommend it's acceptance by the full board.

As requested by Alderwoman Saunders, Ms. Alsop addressed the unassigned reserves and as well as the changes that affected the fund balance. She stated the fund balance in the general fund did decrease by \$700,000. She stated her recommendation to have a target fund balance, in example 15% of expenditures, or whatever amount that the board feels is a comfortable number; this recommendation is also included in the report. She explained how the fund balance is described and stated if there were plans to use some of that fund balance, we would actually show that as being assigned for in subsequent budget reserves.

Alderwoman Saunders questioned if it should be described similar to a checking account balance that fluctuates up and down based on revenue expenditures going out. She thought there should be a reserve line with a target minimum. Alsop replied that the new GASB 54 is recommending there be a reserve line with a target minimum. Although GASB 54 was implemented in 2011; discussion were held in regards to having a comfortable reserve balance.

It seemed like we were doing okay then all of a sudden we used a lot of the fund balance this year.

Alderman Leahy commented that the \$1.2 we had was left over cash from prior years. We ran into trouble with the one development project. We incurred additional expenses that we had to at least cover upfront. That's where the \$700,000 comes in; in order to make it work, last year's budget we ended up with 11 years projected to be about \$17,000 higher than the expected expenditures. We went into the trouble of covering the bills for the one development and we pulled in from the reserves to make it work. Thus we stayed balanced. Our trick in the last 10 years is to make sure that our 11 years have always just been a little bit higher than what we think we're going to spend to work with so that what we have left over capital to throw into the reserves later if we don't spend anything because of last year's legal issues and stuff, we did. We never presented a budget to the citizens where we knowingly are saying we do anticipate spending far more than we take in thus requiring us to go back to the loose cash and say I need to pull money out of here to get the budget to balance. Constantly putting money in the reserves but the trick is we don't always come up with that much extra cash. Do I tax you to put it a rainy day fund or do I pay the least amount of tax as possible to cover the city budget?

Mayor Kelly stated we have because the position the city's in today, talked about we do want to have a line item in there for some certain amount of reserves to start building up that account to reaching whatever level we decide is important. Another big benefit is that when the Brentwood Square is paid off in 2014. Depending on what we do this year, again next month we should be getting another pass through for Brentwood Square. It should be about as much as we had last year and if we decide to put all that back in and pay down the bonds or whichever but right now as of today, the reserve fund we'll actually get back when that is paid off will be \$825,000. That money can be used in general revenue so that already was one of the things that we had planned on. Going in and starting to help build up that reserves as we go forward and plus the reason that we should be able to start allocating funds every year is because of the increases in revenues as projects are paid off. We've talked about building reserves every year.

Alderswoman Saunders stated she is happy to hear that but wanted to make sure we stayed on target because after 2009 the Promenade bonds and we saw, I think you said at the last meeting approximately \$2million additional in revenue and I would have hoped some of that would have gone to reserves.

Alderman Kramer reiterated that he has always been an advocate for a larger reserve; his exposure to Brentwood Forest has spoiled him in that regard. He stated the city has been able to do some nice things along the way, for example contributions to the school district. He stated that we found ourselves in some unique situations last year but he is excited and looking forward to a very comfortable balance in the future.

Alderman Toohey questioned, if once the reserve level is set, is testing done throughout the year to ensure the level is intact and what are the guidelines for dipping below that number. Also explained it's kind of difficult to look at the number throughout the year because of how the revenues and expenditures come in but you do want to consider that number when you are looking at the budget and I know this was one of the first years that we actually amended the budget.; and stated we should be looking at amending the budget regularly. She added that the board would determine what those guidelines are.

Alderman Robertson commented that we also have restricted funds that are a part of the reserves. It was previously discussed in the Board workshop that we really have a much higher reserves in the event there is true emergency we can transfer those funds. Mayor Kelly added that there is over \$2.5 million right now if there was a true emergency. For instance,

sometimes you borrow from the general revenue fund to help a capital improvement project and vice versa, but it has to be reimbursed later when the funds come in.

Alderwoman Saunders questioned if you can charge interest or is it just kept on the books that it's owed. Also stated you can charge interest but you don't have to; you want to make sure that it's kept on the books.

Alderman Kramer made a motion to accept the auditing report for 2011 as presented. Alderwoman Saunders asked if it is necessary, seems like it's just a presentation. Mayor Kelly agreed we don't need to accept it. Motion seconded by Alderman Leahy. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – absent; Alderman Harper – no; **MOTION PASSED.**

BIDS

None

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

Julie Pozzo, St. Clair, presented the board with a list of unauthorized questionable spending of city funds. She recalled Mayor Kelly's statements of being unaware of firefighters inflated overtime, unaware that the golf tournament was taking a loss and that he thought the baseball dinner tickets were donated by Gene-del. If it is true that Chris Seemayer abused his authority and authorized questionable spending, shouldn't there be an investigation. Per the municipal code the city administrator is bonded for public employee dishonesty and forgery or alteration. She asked if the city has looked into recovering some of the loss through this means. She stated all board members took an oath with a promise to uphold the US Constitution, the State Constitution, and the Ordinances of the City; she quoted RSMo Chapter 79 and said it is the Board's duty to cover some of the losses due to Chris Seemayer and it seems logical to pursue civil suit. She thinks it is unbelievable to allow him to resign; thereby allowing him to take accrued sick leave and vacation. She stated the reserves are 4% and this shows poor fiscal management. Maureen Saunders has repeatedly asked to have an employee compensation survey yet it has not been done and questioned if this task can be taken on the by HR manager. She also contacted the city of Clayton in regards to their survey and learned that they paid \$20,000 not in excess of \$100,000 as previously stated by the Mayor. She stated in her opinion there is no excuse for Brentwood not to have a survey and that the audit clearly shows the city does not have the funds to sustain the current level of spending; all spending should be justified with priority given to safety and government regulations, for instance is the cost of a car for the city administrator justified. The police have requested along with Maureen Saunders in her budget request 3 additional officers. We have seen an increase in crime in the area due to new development and location, protecting residents should be a our number 1 priority. If crime continues to increase, families won't want to live or shop here. If increased police presence makes us safer we need to ensure there is money in the budget to add these officers. This may mean reduce spending in other areas, we need to demonstrate fiscal responsibility.

Susan Ryan, 9324 Pine, questioned the number order of bills introduced. It was explained that the bill number out of order was adopted at the last meeting. She also referred to the organizational chart; after questioning an ethics code for committee members she learned that they are not required to take an oath. She stated her request that the board consider reviewing and adopting a similar code of ethics or core value statement that has been adopted by some neighboring cities requiring committee members to sign and commit to. She also previously

submitted a behavioral standard for public meetings that she asked the board to consider. Everyone deserves to be listened to and should behave in a respectful and orderly manner.

Karen Smith, stated her belief that the city was going to conduct a salary survey after the last meeting and asked if that decision has changed. She commented on the fraud policy being introduced; she encouraged the board to consider adding that employees can also report their concerns to the police, and asked if such a case happened, we would be allowed to use an outside resource for investigation to not put the police department in an uncomfortable position. In regards to the audit, expenses appear to be going faster than revenues and all the situations we encountered last year were not necessarily unique; we should be prepared for continued health insurance increases and we can't stop law suits. We need to have a better reserve resource to be able to handle these things. The reserves, being at \$400,000 seem exceptionally low. She asked Alderman Kramer to share the policy being used for Brentwood Forest and asked if the board would consider using their tactics if it seems reasonable. She stated that the management letter says that we are going to be adopting a policy on reserves and to Mr. Toohey, in that policy we could identify when it would be appropriate to dip into that to meet your concerns. I also don't know that by maintaining that reserve and having it at a certain level, this if we run into a hiccup, I don't know that our only new course is to raise taxes. Another big side of the equation is the cost. Someone brought up earlier about all of the cost that we've had seep out over the last couple of years due to not having appropriate policies and procedures in place and I think that's a real area we need to continue to look at closely. In this report it does mention the balances, like revenues and expenditures and it also talks about assets and liabilities for the different debt service funds and asked for clarity of the different TIF and TDD funds.

Mayor Kelly responded to questions of the compensation survey; this is something that has been talked about at the committee level but no one has taken any action to have one done. Staff has been contacting other municipalities that have done a survey to see if they can acquire theirs in hopes to not have to pay for one and maybe that will be enough; but the board needs to take some action. He apologized to the City Administrator for not doing this at the last meeting, and stated it is unfair for the people to criticize the fact a car was placed in the budget for the city administrator; this is something that a part of the agreement offered when the position was filled. This is common with positions of this level; they may get the use of a car or maybe a stipend. He clarified that the budget wasn't \$40,000 it was \$30,000 for an Escort hybrid car to test and see how efficient it would be but then they stopped making the model. If you want to criticize someone, do it to the Board of Alderman.

Alderman Leahy stated that the code establishes that Mayor the city administrator shall be bonded but there is nothing included that requires the Board of Aldermen or committee members to be bonded. Alderwoman Saunders questioned if we would try to collect on it and Mayor Kelly responded that this will be a part of the closed session discussion.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

Alderman Leahy made a motion for 1st and 2nd reading of Bills #5697, 5698, 5699, and 5701. Motion seconded by Alderman Robertson. Unanimous vote in favor taken; **MOTION PASSED.**

Alderman Robertson made a motion to remove Bill #5697, 5698, 5699 from hold. Motion seconded by Alderman Leahy. Unanimous vote in favor taken; **MOTION PASSED.**

Bill #5697 – An Ordinance To Confirm, Ratify And Approve The Rate Of Tax To Be Assessed And Collected For Each One Hundred Dollars (\$100) Of Assessed Valuation For The Year 2012 For: (A) General Municipal Purposes; (B) To Pay Principal And Interest As The Same Matures On Indebtedness Of The City Of Brentwood Evidenced By Bonds; And (C) To Provide The Annual Contribution To The City Of Brentwood's Police And Firemen's

Retirement Fund; Providing For The Effective Date Of This Ordinance; And Providing For The Repeal Of All Conflicting Ordinances – 1st & 2nd Reading

Attorney Albrecht read Bill #5697 by title only. Attorney Kramer provided the synopsis, “annually, the City of Brentwood is required by State Statute to hold a public hearing prior to establishing the tax rate on real and personal property. This Bill authorizes the mayor to set the 2012 tax rate for the General Fund, Pension Fund and Debt Service Fund. The City of Brentwood assesses no residential ad valorem taxes. Also, this year, the City will not assess a debt service tax rate because the two general obligation bond issuances of have been paid off this year. In addition, the City assesses a much lower tax rate the ceiling would allow at some savings to the tax payer”. After questions by Alderwoman Saunders, Mayor Kelly clarified that the city does not set the police and firemen’s pension fund and the same with the library fund. She stated that she called the state auditor’s office and they said that both are levies of the city unless the city authorizes those entities to set the tax rate. She stated that she has reviewed the ordinance and though the pension fund ordinance spells this out, the library ordinance does not grant this power; the state auditor’s office has it listed as a levy of the city. She questioned comments previously made that the library tax is not the purview of the board and stated she has difficulty understanding. Mayor Kelly explained past processes, they may not have voted but the city administrator talked to them about what they wanted the rate to be. Generally speaking, the rate was always set at the highest level. Alderman Leahy stated that the library tax for the last 15 years has been 15¢ instead of 25¢ and not because of the Hancock Amendment; this was the miscommunication at the intent of trying to figure out where they needed to be. The trick is, if the city appoints the library board in funding and making that commission, did not task them by ordinance to set the tax rate, then the tax rate stays with the city. We have taken the library’s recommendation as a recommended board; we could change it at any time for the Board of Alderman. In this case, the library has reviewed the situation and has come back to us with a lower tax than what was originally approved by the ways and means recommendation to come to the Board of Alderman. That’s the second bill you’re looking at. Now in my research of ordinances for the library, I too found no authorization from the board of Alderman authorizing the library to set its own tax but they can always recommend to us and that’s what we’ve allowed them to work through.

Mayor Kelly replied that it was the understanding they were always at the ceiling and I can assure you that the police and fireman pension fund has always been that way too because they have never gotten to the point yet of being fully funded. Although, from a funny standpoint, it’s probably one of the best funded or one of the top pension funds in the state of Missouri because their support of the Brentwood voters increasing their tax a few years ago for the police and fireman pension fund which is under the same cloud of the Hancock Amendment in that they’ve reduced it even though the ceiling at the time was 32¢ I think at that point they were down to 24¢ that they could actually assess. And I think that that was the same case with the library and that they were charging the most that they could under the Hancock Amendment even though their ceiling was 25¢. And so that’s why they needed to go for the nickel increase. It really doesn’t make any difference. If we want to go ahead and set the tax rate then go ahead and set the tax rate but I think we had always tried to take it to the ceiling of what that was for those two entities but I do think that what they presented to the voters was a nickel increase and because terminology got confusing, it had mistakenly raised a new ceiling of 30¢ which actually could have given them a 15¢ increase. We always took the recommendation, I don’t know if they voted on it, as far as my understanding those recommendations of those two committees we’re just keeping it at the highest level.

Alderwoman Saunders stated I understand, but for me it does matter a little bit because I was taken to task for even asking questions about this and I was trying to understand the process and I was at ways and means and I was very nice and said I love the library. I have nothing against the library and when they said they never had a visitor at their meeting, last September I was there because there was missing funds and they didn’t quite understand and there had been a note that wasn’t documented and so forth. So I have been to a meeting before and like I

said I was taken to task and Alderman Toohey also took me to task at the last meeting and I want to get this clarified. Now on their minutes, it says that I told them to take 30¢ and that was not my intention. I will swear under oath on a stack of bibles that I went there to tell them if they went from 15 to 30 that they would be taking \$57 per \$200 assessed values and if they went from 15 to 20 it would be \$19 and \$19 was what was in their literature and that was the complicated topic and maybe it was misinterpreted and maybe that's one of the reason too that I like the verbatim minutes. That might have been their interpretation but that is not why I went to that meeting. I just feel like at Ways and Means asking questions I was being told that we had no autonomy here whatsoever and we had no saying and I was like okay well then we'll just pass this and later I go to find out something different. And as a resident, not even an Alderwoman, I should have been able to go to that meeting and ask questions; they actually took a vote to allow me to speak. They said I stayed up there for an hour but I gave my \$19, \$20 thing as quickly as I could on the board but the members kept asking me questions so I went back up and it did get very complicated. But there is confusion about this 30¢ because at the ways and means, Alderman Kramer, you said that the library knew for a long time the ballot language and that they also knew in advance the amount of revenue they were going to get. And that you were upset that there was not a precast of how much they were going to devote towards prepaying down the balance that the owed to the city versus waiting to do it and that was just your opinion. So, they were aware, and the city was aware, of this \$400,000 windfall. I'm just saying what Alderman Kramer said. And then when I went to that meeting they did say Brian said that he was surprised within the last week that he had just, library board I'm going to concur with you, he explained that they just found that out last week and he explained how they got to the number was by starting at the \$125,000 and backing into it and they did it eloquently and I complimented him and again I said the board did the right thing and I apologized at the end. I said I wasn't happy with my manner and I don't like to lose control and I was very apologetic and felt awful about it all night but I just wanted people to know why I did and I just, I'm a stickler for procedure and process. That's all I have to say and I will continue to do that and if you need to change the rules or I'm doing something wrong, just let me know and I will change it.

Alderman Kramer commented that the bottom line is that we have really good news for our residents through some interesting but fortunate twist of events and also some very calculated efforts and planning. The City of Brentwood residential tax rate is the lowest it's been since way before 2008. We are fortunate; it was going to be higher, it's not. One thing I wanted to bring up in my comment and that's this; what happens when the vote leaves here is that another entity has complete and unilateral power over their own tax rate and that is the school board and regardless of what we do, the tax rates that you pay on the taxes for your home are completely impacted by the school district, but we don't have those numbers yet. They take the vote coming up soon so it could come as a surprise. We don't know exactly what its going to be but just remember if you don't like your taxes, you're paying under residence. It's not because of what we did, and the school district doesn't like me saying that, but it's the truth. We do our best through a lot of planning that general fund is at 0. Many municipalities don't have that. We're very fortunate on top of the fact that we have to share a lot of the tax revenue with other cities that don't have other retail that we do. I'm excited that we're at .5650 for the residential tax rate for the year and I'm hopeful we are as fortunate with the school member when it does come out.

Mayor Kelly reiterated that we have one of the lowest tax rates from total tax rates of any municipality in St. Louis County and I think that's because the residents are able to support the school district because we are able to keep our taxes for the city as low as possible.

Attorney Albrecht read Bill #5697 by title only. Alderman Kramer made a motion to perfect Bill #5697 into ordinance form. Motion seconded by Alderman Leahy. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes;

Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – absent; Alderman Harper – yes; **MOTION PASSED.**

BILL #5697 IS HEREBY PASSED AND ORDINANCE #4374 IS ASSIGNED TO SAID BILL

Bill #5698 – An Ordinance To Confirm, Ratify And Approve The Rate Of Tax To Be Assessed And Collected For Each One Hundred Dollars (\$100) Of Assessed Valuation For The Year 2012 For To Pay For The Maintenance Of The Public Library; Providing For The Effective Date Of This Ordinance; And Providing For The Repeal Of All Conflicting Ordinances – 1st & 2nd Reading

Attorney Albrecht read Bill #5698 by title only. Alderman Kramer provided the synopsis, “annually, the city of Brentwood establishes the tax rate through ordinance on behalf of the Library Board – a separate taxing entity. State Statute of Missouri requires us to hold a public hearing prior to establishing the tax rate on real and personal property. The Library Board through a unanimous vote affirms this tax rate. This Bill authorizes the mayor to set the 2012 tax rate for the Library Fund”.

Alderwoman Saunders asked if we, at some point, do we want to consider maybe doing an ordinance to give them the authority to set their tax rate? Mayor Kelly responded that it’s actually interesting because I think it answered a question I’ve had for a number of years and I’ve asked St. Louis County and they’ve never been able to give me an answer, that they’ve published the rate book every year with all the taxes and the list is always separate tax but they never listed our library as a separate taxing entity. And I called and asked and they always say we’ll get back to you or the person who can answer the question is not there but we always knew the city collected taxes and those kinds of things from the revenue, and we have to keep all those funds separate, but maybe that does answer that question. I think that’s something you could discuss at ways and means.

Alderwoman Saunders added that it’s just a suggestion and that’s exactly where this started from. That’s what I brought with me to the library boards meeting was this tax rate book because it had it all lumped in and like you, I started with St. Louis County and they could not give me an answer. They actually said for me to go to Brentwood and so I spoke with someone at the auditor’s office and then eventually they referred me up to the state and then it was this individual. As requested by Alderman Toohey, it was clarified that the state lists them as part of the city.

Mayor Kelly commented that the confusion may come in that the ordinance that was adopted by the city which established a library and then also that says the it follows certain state statutes and in there it says that once the library is established that then the library board is divested from the city and acts as a separate entity and that the city has no basic control over any of the funds and so forth. And so I think maybe over the years that is our feeling that the library is a separate entity. Again it wasn’t really too much of an issue because in fact we were always taking their recommendation. It wasn’t like they had the ability to assess anything less than what they could but that can be discussed at ways and means.

Alderman Kramer made a motion that Attorney Albrecht review this topic. Motion seconded by Alderman Leahy. Unanimous vote in favor taken; **MOTION PASSED.**

Attorney Albrecht commented that he would like to look into it further but his general review of the ordinance or state statute is that the state said it was organized here. The library board sets a rate and the city collects the funds that are admitted to the library and that board determines how the money is spent.

Attorney Albrecht read Bill #5698 by title only. Alderman Leahy made a motion to perfect Bill #5698 into ordinance form. Motion seconded by Alderman Kramer. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes;

Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – absent; Alderman Harper – yes; **MOTION PASSED.**

BILL #5698 IS HEREBY PASSED AND ORDINANCE #4375 IS ASSIGNED TO SAID BILL

Bill #5699 – An Ordinance Establishing The Annual Assessment For 2012 For The City Of Brentwood’s Sewer Lateral Repair Program At \$50; And Providing For The Effective Date Of This Ordinance – 1st & 2nd Reading

Attorney Albrecht read Bill #5699 by title only. Alderman Kramer provided the synopsis, “this bill establishes the annual assessment for 2012 for the City of Brentwood’s sewer lateral repair program at \$50. On November 4, 1997, voters approved the establishment of a fee to provide funds to pay for the cost of certain repairs of defective lateral sewer lines. At that time a maximum fee was set at \$28. On August 3, 2010, voters approved Proposition “A”, to authorize an increase to the sewer lateral tax assessed annually on residential property for a maximum charge not to exceed fifty dollars. On August 16, 2010, the board of aldermen approved an ordinance establishing the annual assessment for 2010 for the sewer lateral repair program at \$40. Recently the Ways and Means Committee recommended the assessment be increased by \$10 for 2012 to cover the increased cost (operations and supplies and materials and bridge the gap between when sewer lateral revenues come in and on-going expenses) to continue to cover this exceptional service to our eligible residents”.

Alderman Leahy stated, I’d like to vote no on this bill in request that ways and means look at the justification that we’ve received as a large portion of the additional cost that’s going on as the housing inspections that are coming through on real estate. I think ways and means should look at having that type of service, obviously necessary to be done, but to be a charge service versus having all the residents pay the bill to help cover that fee verses raising the cost here for all the residents here to cover that fee and I’d like to have the ways and means committee look at increasing revenue that way verses taxing everybody the extra \$10.

Mayor Kelly commented that those requests are coming from the home owners at the time to do an inspection of the sewer lateral line. I guess what you’re saying is you would want to have a distinction that if somebody has their house listed, and then we would not provide that service for that resident. Alderman Leahy clarified that would be a cost to do a service for something outside a maintenance problem.

Director Nahmensen replied that the inspections that were done were already provided by the real estate agents. They’ve already paid for them and then they’ve made us aware of any problems that there might be and then we come over and do our own inspections to verify something that they have already looked at or had a plumber come up because of the pending sale of the home. We’ve had more repairs because of those and that’s where the cost is. Everybody’s requesting sewer lateral inspections with the sale of a home nowadays but when they find a problem, they always contact the City of Brentwood and we go over and do our own inspections and come up with our own conclusion whether or not we’re going to make the repair or not.

Alderman Kramer stated, Alderman Leahy, we did discuss this at the ways and means level. We did discuss the distinction between the labor and the resources put towards repairs that are verified versus and inspection request. There are times when some of the real estate agents through the owners or owners through the real estate agents make the request but just because they bring it forward to our public works department, we don’t start working on something until, like any case that’s brought to our attention, we verify the repairs needed. Just like any owner is entitled to, that’s eligible in the program, if the repairs needed, we’ll make the repair.

Director Nahmensen replied that we don’t respond because a real estate agent requests an inspection, never. They do their own first and then we verify any repairs that need to be done.

Alderwoman Saunders stated her agreement, I thought that we were told in the past that we were doing those inspections for them and that maybe they would supply the tape or DVD.

Director Nahmensen replied that they supply us a DVD that's already been done, an inspection that's already been done by a plumbing company. We look at it and then we go over and then we do our own inspection to verify, just to make sure it didn't come from somebody else's sewer lateral because they all look the same.

Alderwoman Saunders stated, looking at the tax rate, most municipalities are still at the \$28 surrounding, and I know our service is exceptional but if I got my brochure and I did read, again though, I was under the impression that we would do a lot of the inspections where once again this brochure says if you have sewage backup, that there's a definite problem, then we'd go in. And so in reading these numbers to, like there was 200 something per year, and we dedicated two full people. That if we do that, that's not even once call every day of the year so I don't understand. I mean it seems to me a better way to account for our cost would be hours spent on municipal because there has got to be days where you'll get no calls and maybe some days where you'll get 2 calls and how do you have 2 people completely assigned; the accounting doesn't work for me on that because you don't even have enough calls to have 200 or so a year. How many business days is it? There's not even 1 call a year so how do we have 2 full time people on it every day.

Mayor Kelly commented that that's the way it's been allocated, again to help cover those costs. I think what would happened if we want public works to start keeping track of all the main hours spent, that's fine. I think, the way it's been explained to me, because we've had these discussions before, we'll have a sewer lateral that you do have guys going out and doing inspections pretty regularly, responding to calls, but when you go out and do a sewer lateral, it may take 3 or 4 people to be there for 2 days so it's not just those 2. I think it was kind of the law of averages as a way of doing it in allocating those expenses in the sewer lateral. But at the direction of the board, they could keep track of it however you want.

Alderwoman Saunders stated to me that seems a better way. Because the reason we seem to be at a short fall this year or getting closer to it is because we're attributing the benefits to 2 people too and I think since we just increased this to \$40 from \$28 in August 2010, that maybe we need to get a better grasp on our cost.

Mayor Kelley commented that in one hand it's unfair to compare our service to the service of the other municipalities and what their fees charge because I would tell you that in a number of municipalities their process and what they actually do, doesn't come close to what we do. Very few of them, if any other ones have clean out service so if you have a blockage on the outside of your house that they actually come in 24 hour call in order to cable those out. We could eliminate that service. A lot of other municipalities, the take in \$100,000 a year and you're at the end of the year and they've already spent all their sewer later funds, they stop. And that's what their policy is. And the also only allocate a certain amount per resident. For instance, I think Glendale, if you have a sewer lateral breakage, you need to go out and get 3 estimates to get that repaired. Keep in mind that while you're doing this, your sewer lateral's not working and you have to bring that up to city hall and then you have to have that approved, taking the low bidder. And there are certain municipalities they may only allocate a certain amount towards the repair. We do provide the elite program for our residents but we can eliminate some of these services. It's the quality of services that we provide compared to other municipalities and I don't think you can compare what we do, with what they do. Alderman Kramer added that other municipalities also have co-pays and other delays on their service. He has not received any complaints on the program or the fees to date. It's a very inexpensive insurance to have compared to having to pay for this just once by yourself. He too has spoken with public works and been very open about adding 2 men to the program. It also

appears that sometimes additional public works employees to help keep the program up at times. Mayor Kelly stated it would be good to review all of these things; there is always the ability to reduce it next year if we need to. The Brentwood Forest property manager was present and commented that it is cheaper for residents to pay the \$50; it can be very expensive if they have to pay for lateral repair. So far it's worked out well and he hasn't heard any complaints. Alderman Robertson echoed previous comments stating he has heard only good comments about the program; it's extremely efficient. As questioned by Alderwoman Saunders, Administrator Akande stated we have a handle on the cost and there were no incidents of misallocated funding. Alderwoman Saunders compared the program to other municipalities and agreed that some are more restrictive.

Attorney Albrecht read Bill #5699 by title only. Alderman Robertson made a motion to perfect Bill #5699 into ordinance form. Motion seconded by Alderman Harper. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – no; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – yes; Alderman Wynn – absent; Alderman Harper – yes; **MOTION PASSED.**

BILL #5699 IS HEREBY PASSED AND ORDINANCE #4376 IS ASSIGNED TO SAID BILL

Bill #5701 – An Ordinance Authorizing The Amendment Of The City Of Brentwood's Current Employee Handbook Providing A Fraud Policy And Policies Regarding Payout Of Accrued Vacation And Sick Leave – 1st & 2nd Reading

Attorney Albrecht read Bill #5701 by title only. Alderman Kramer provided the synopsis, "Members of the Ways and Means Committee recommended a fraud policy and policy regarding the payout of accrued vacation and sick leave be developed and adopted prior to the adoption of the revised employee handbook. Adopting this policy would put the following safeguards in place. Employees who resign from the City will be offered a severance package that contains any payouts of sick and/or vacation leave to which they are entitled. Acceptance of this severance package by the employee will release the City from any future employment-related liability. If there are reasons to believe an employee may not be leaving in good standing, the City Administrator may reject a written resignation and terminate the employee after discussing the matter with the Board of Aldermen. Violation of the City's Fraud Policy may be one of the many reasons why an employee may not be leaving in good standing. Employees who are terminated are not eligible to receive their accrued vacation or sick leave. The associated fraud policy defines what constitutes fraud and outlines the City's zero tolerance position". Attorney Albrecht read Bill #5701 by title only.

Alderwoman Saunders stated her agreement that employees at any level should inform the police of any acts and investigation will be done. This policy won't protect us from what happened in the past year, for instance the City Administrator telling the mayor about credit card use a year ahead of time. And the Mayor didn't know he was talking about himself. Nothing set off bells or alarms to find who could use the city credit card for cash and then who did this and action taken. I don't see the down side to informing the police. Alderman Leahy commented that employees may not be protected under the whistleblower act if they take the matter outside of the employment of the city; they may actually open themselves up for libel suit. Attorney Albrecht stated his preference to refer this back to the labor attorney that drafted the policy. Alderman Kramer commented that it would be prudent if there was request to alter the language to take it back to the committee. Alderman Robertson questioned the need to return it back to the committee for further discussion after it has been drafted by the labor attorney. Comments were made that we would be making it clear for everyone and the attorney's have given a lot of advice and not all of it has been accepted.

Alderwoman Saunders made a motion to place this Bill on hold. Motion seconded Alderman Kramer. **ROLL CALL:** Alderwoman Saunders – yes; Alderwoman Manestar – yes; Alderman Leahy – yes; Alderman Toohey – yes; Alderman Kramer – yes; Alderman Robertson – no; Alderman Wynn – absent; Alderman Harper – yes; **MOTION PASSED.**

Resolution #983 – A Resolution Of The City Of Brentwood, Missouri, Authorizing The City Administrator To Apply For A Grant-In-Aid From The Municipal Parks Grant Commission Round #13 To Improve A Public Park In The City Of Brentwood

Alderman Kramer provided the synopsis of Resolution #983, “this resolution authorizes the City Administrator to apply for a grant-in-aid from the Municipal Parks Grant Commission Round #13 to improve the Maple Trail that begins at the In-line rink at Hanley/Memorial Park, through Rogers Parkway to Manchester Road. The Public Works Committee supports staff’s recommendation. Alderman Robertson added that a study is being conducted to expand the trail system for some connectivity and this is one part of it. Alderman Leahy made a motion approve Resolution #983. Motion seconded by Alderman Robertson. Unanimous vote in favor taken; **MOTION PASSED.**

ACCOUNTS AGAINST THE CITY

Alderman Kramer announced the warrant list in the amount of \$70,663.77 and made a motion to approve as submitted. Motion seconded by Alderman Leahy. Unanimous vote in favor taken; **MOTION PASSED.**

REPORTS OF COMMITTEES AND DEPARTMENT HEADS;

Mayor Kelly, expressed his appreciation to staff and residents for the success of the Maddenfest. He announced a free city-wide shred day will be held November 10th; 9am-1pm; at Shred & Protect at 1429 Strassner in Hanley Industrial, all residents are welcomed to take advantage of this event. On October 13th, the city will conduct a free electronic recycling event at Norm West Park 9am - 2pm. He also announced a series of stakeholders meetings will be held to discuss flood mitigation along Manchester. An engineering firm has been engaged to conduct this study and help determine what improvements can be made on Manchester from Mary Ave to Hanley Road. These meetings will be held at the Brentwood Community Center on November 19th and are open to the public. The first meeting 2:30-3:30pm; is directed towards regulations and all stakeholders are invited. The second meeting 4:00-5:00pm is directed towards managers and property owners along Manchester Road. And the third meeting is directed towards elected officials, city officials and the redevelopment corporation; 5:30-6:30. Input is welcomed.

Public Safety Committee, Alderman Wynn was not present.

Public Works Committee, Alderman Robertson announced the upcoming meeting will begin at the inline skating rink to look at the trails as discussed earlier.

Director of Planning & Development

Special Use Permit – Special Use Permit – True Runner (1507 S. Brentwood Blvd)

Administrator Akande announced opening of True Runner on October 10th. They have applied for a special use permit to temporarily install a 40x40 tent for a community. There will be no sales; the tent will take up 8 parking spaces but additional parking will be in the Magnum lot; many organizations are expected to be present and they will have giveaways. Alderman Robertson made a motion to approve the special use permit for True Runner. Motion seconded by Alderman Toohey. Unanimous vote in favor taken; **MOTION PASSED.**

Special Use Permit – PetSmart (62 Brentwood Promenade Ct)

Administrator Akande announced the request for an adoption event on the parking lot from 10am – 5pm; Saturday October 13th, 20th, 27th. Alderman Leahy made a motion to approve the special use permit for PetSmart. Motion seconded by Alderwoman Manestar. Unanimous vote in favor taken; **MOTION PASSED.**

Ways and Means Committee, Alderman Kramer announced upcoming budget meetings; October 17th and 29th.

City Attorney, Attorney Albrecht had no report.

City Clerk/Administrator, Administrator Akande had no report.

Excise Commissioner

Temporary Liquor License – Anne Kelleher (836 Hanley Ind. Ct.)

Commissioner Clemments announced the request by Immerse by Atlas to have a temporary liquor license to serve beer, wine and alcohol during an open house November 7th; 4-8pm. Alderman Leahy made a motion to approve the temporary liquor license for Anne Kelleher. Motion seconded by Alderman Kramer. Unanimous vote in favor taken; **MOTION PASSED.**

Library, Alderman Wynn was not present.

Municipal League, Mayor Kelly had no updates

Communication, Alderman Kramer had no report.

Historical Society, Alderman Wynn was not present.

UNFINISHED BUSINESS

None

NEW BUSINESS

Alderman Leahy announced that the Ward 3 meeting will be held October 30th at 7pm at city hall.

Alderwoman Saunders made a motion to conduct a compensation survey. Motion seconded by Alderwoman Manestar. Mayor Kelly stated it really should go to Ways & Means to discuss what the perimeters should be. The motion and second were rescinded.

Alderman Kramer responded in regards to the Brentwood Forest reserves. They have a company called Reserve Advisors Group; they analyze capital items and calculate the reserve amount based on those items that need to be funded. He explained the process undertaken; providing on case by case basis information, holding meetings and consultations, they make their recommendation and itemize why they arrived. He stated it is different than a city in many regards; the city is much more complex. It is possible to borrow parts of the process to use in the city. With the help of other Ways & Means and staff a close look will be taken to all topics to ensure the best decision is being made. He asked Attorney Albrecht offer comment in regards to meeting minutes; changing what was meant to be said from what is printed in the minutes or correcting what was said if there was an error in the minutes. Attorney Albrecht stated you should not correct things you didn't mean to say because it was a record of what was said. The correction is to correct errors made in the recording of what was said.

Alderman Harper questioned if we should have a full transcription of meetings that are audio recorded. Albrecht responded that state law does not require a full transcription, it requires that there are minutes of the meeting covering a record of the vote. You can become as detailed as you want but I'm not aware of any other cities that hire a court stenographer. Mayor Kelly commented that the board needs to decide if we want to have recordings at the subcommittee levels. No full action can be taken, they discuss the issue and then take it to the full board for passage. He reminded that meeting minutes aren't recorded word for word but

the meetings are on TV which is kept indefinitely. He commented that we may need to have the discussion on the next agenda.

Alderman Leahy questioned the redefinition of the wards in his packet. Administrator Akande replied that at the request of Alderman Kramer, this will be reviewed for adoption with the code.

PUBLIC COMMENTS – Hearing Of Any Matter Of Public Interest Upon Request Of Any Person Present

Susan Ryan, 9324 Pine Ave, asked if the board can look into an expanded definition of fraud. She asked the board to consider including language that fraud may also include an omission of purposeful failure to state material facts when nondisclosure makes other statements misleading. She also commented that the minutes were well done and represented the conversations by the board and comments were evenly distributed.

Chris Kobler, Henrietta, stated that her previous comments were not directed at the city administrator, they were directed at the board. She got her information from meetings has attended and does not recall the board voting to purchase a car that cost \$38,000 because the car was no longer available. At one point the amount was listed as up to \$40,000. She believes this is not a good expenditure of the city's money; there is a policy in place for no smoking in city vehicles, if this is enforced we shouldn't have this problem. She does not have a problem with the city providing a car, just not an expensive car; she doesn't see why it couldn't be a pool car. She commented that if it seems that citizens are complaining it is because they are, they will continue to do so until the board listens to what the citizens want. She questioned where she can locate the audit on the website and asked for clarity on where the electronic recycling will be held.

Julie Pozzo, questioned who is conducting the research for information regarding the civil suit for Chris Seemayer and how long it will take. Mayor Kelly responded that this will be discussed in executive session at the next meeting.

ADJOURNMENT

Alderman Leahy made a motion to adjourn the meeting at 9:44pm. Motion seconded by Alderman Toohy. Unanimous vote in favor taken; **MOTION PASSED.**

Approved with amendments the 5th day of November , 2012.

Attest:

Mayor Pat Kelly

Bola Akande,
City Clerk/Administrator