

MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING

City Hall
Council Chambers

December 17, 2007
7:00 p.m.

The Mayor led with the Pledge of Allegiance.

Roll Call

PRESENT: Mayor Kelly, Alderwoman Clements, Alderman Marshall, Alderman Leahy, Alderman Kramer, Alderman Robertson, Alderman Wynn, Alderman Harper.

City Attorney Albrecht, City Clerk/Administrator Seemayer, Director of Planning and Development/Asst. City Administrator Dailey, Treasurer Reynders and Executive Secretary Williams.

ABSENT: Alderwoman Krewson.

CONSIDERATION AND APPROVAL OF THE AGENDA OF THE REGULAR BOARD OF ALDERMEN MEETING OF DECEMBER 17, 2007

Mayor Kelly requested that a presentation be added to the agenda under item B.

Motion was made by Alderwoman Clements, second by Alderman Leahy to approve and adopt the Agenda of the Regular Board of Aldermen Meeting of December 17, 2007 as amended. All in favor none opposed.

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING OF DECEMBER 3, 2007

Motion was made by Alderman Leahy, second by Alderman Marshall to approve and adopt the Minutes of the Regular Board of Aldermen Meeting of December 3, 2007 as submitted. All in favor none opposed.

PRESENTATION

Mayor Kelly presented a plaque to Jackie Radovich who retired from the Accounting Department after 21 years of service.

BIDS – None

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

Bob Niemeyer/Brentwood Fire Chief – 2201 St. Clair came before the Board regarding Bill No. 5410 which amends the Police and Firemen’s Pension Fund by increasing the benefit for the Police and Fire Departments. He stated that they have an independent actuarial approval for it and there would be no tax increase. He asked for the support of the alderpersons.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

1st and 2nd Readings of Bills

Motion was made by Alderman Robertson, second by Alderman Leahy to give Bills No. 5410, 5411, 5412, 5413 and 5414 first and second readings. All in favor none opposed.

Bill No. 5410 – Amending the Police and Firemen’s Pension Plan

City Attorney Albrecht gave Bill No. 5410, AN ORDINANCE OF THE CITY OF BRENTWOOD, MISSOURI TO FURTHER AMEND THE AMENDED AND RESTATED PENSION PLAN FOR THE POLICE AND FIRE DEPARTMENT EMPLOYEES OF THE CITY OF BRENTWOOD AND REVISING CERTAIN SECTIONS OF SAID PLAN; PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5410 as a Bill that amends the Police & Firemen’s pension fund by increasing the retirement benefit from 65% of final average salary after twenty years of service to 70% of final average salary after twenty years of service and increase the maximum benefit from 75% of final average salary after thirty years of service to 80% of final average service after thirty years of service. This amendment was reviewed and approved by the pensions actuarial, the pension board, and the public safety committee. If approved, the benefit changes would begin January 1st, 2008.

Alderman Marshall stated that the Ways and Means Committee approved the increase for the fund as well.

Mayor Kelly stated that he has had the pleasure of sitting on the Police and Firemen’s Pension Board and the residents have always demonstrated huge support for the public safety employees. The residents have supported the last tax increase and the fund is in extremely good shape. The actuarial report stated that it could sustain the increased benefit to the employees. They pride themselves on providing good benefits to the employees and it is just another example of why they have such dedicated employees. He is very much in favor of the increase.

Motion was made by Alderman Marshall, second by Alderwoman Clements to approve and adopt Bill No. 5410. Roll call: Alderwoman Clements, yes; Alderman Marshall,

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

The Mayor thereupon declared Bill No. 5410 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4097.

Alderman Leahy asked if the pension fund covers the dispatchers.

City Administrator Seemayer responded that the dispatchers are covered by the LAGERS plan.

Bill No. 5412 – Signage Plan for Dierbergs Brentwood Pointe

City Attorney Albrecht gave Bill No. 5412, AN ORDINANCE AMENDING ORDINANCE #3721 WHICH APPROVED A SIGNAGE PLAN AS PART OF THE SITE DEVELOPMENT PLAN FOR DIERBERGS BRENTWOOD POINTE TO AUTHORIZE AN AMENDMENT TO THE SIGNAGE PLAN; PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE; AND, ESTABLISHING THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5412 as a Bill that amends Ordinance 3721 which approved a sign package for Dierbergs Brentwood Pointe by removing the existing Krispy Kreme sign and replacing it with “Fresh Kitchen & Deli”. This amendment was reviewed and approved by the Planning & Zoning Commission.

Motion was made by Alderman Leahy, second by Alderman Wynn to approve and adopt Bill No. 5412. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5412 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4098.

Bill No. 5411 – 2008 Budget

City Attorney Albrecht gave Bill No. 5411, AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE CITY OF BRENTWOOD FOR THE CALENDAR YEAR 2008; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5411 as a Bill that adopts the City’s annual budget for 2008. A Public Hearing is required prior to adoption.

Public Hearing – 2008 Budget

Mayor Kelly announced a public hearing for the 2008 budget would now be heard at 7:15 p.m.

City Administrator Seemayer stated that the City operates on a calendar year from January 1 through December 31 out of four funds, which are the general fund, capital fund, parks and storm water fund and sewer lateral fund. The proposed budget revenues in total are \$13,341,790. The expenses are \$13,318,619 with an anticipated surplus of over \$23,000. An important item for next year's budget is the Highway 64/40 construction and what impact it may have on the sales tax. Of the overall budget of the \$13 million plus, 47% of that comes from sales tax and in the general fund 36%. The sales tax forecast has been reduced by 5%. Typically it would be increased year to year from 2 to 3%. In essence it was an 8% swing. That is reflected in over a \$500,000 decrease that has caused them to find some other sources for next year. One of the sources is the City will probably be selling two of its municipal properties which is the public works site and the former Masonic temple across from City Hall. The other source is the settlements from the cell phone companies. Those are continuing to progress. The City has already approved two of them. In January a third one will be coming from AT&T and shortly after that it will be Sprint/Nextel and T-Mobile. At the Mayor's request they have reduced the capital expenditures for 2008 to necessary items and have deferred some vehicle purchases and such. The budget is in balance. They had very good cooperation from all of the departments, the Ways and Means Committee and staff members. They worked very hard with Chuck Sanders, Insurance Consultant on the employee health insurance. While keeping the benefits exactly as they are the City is able to reduce its overall expense by \$94,000 for next year.

Alderman Marshall stated that the staff has done a wonderful job with the budget this year. They were able to put another \$250,000 in the reserves, bringing it up to \$1 million.

Mayor Kelly asked if there were any comments from the audience. There were none.

Alderman Leahy asked if the budget incorporates any expenditures or income from the proposed red light camera program.

City Administrator Seemayer responded that it does and it was in the 2007 budget as well.

Alderman Leahy asked about the verbal agreement that Brentwood has with Richmond Heights for the residents to use their facility at the resident rate. The Committee agreed to \$25,000 and they have since allowed it to get to \$50,000. They should get it under an active contract and bid some of the services out.

City Administrator Seemayer stated that the \$50,000 amount was put into the budget which is what they will bill the City. Richmond Heights' fiscal year starts on July 1st, so the City has until then to try to work something out.

Alderman Kramer stated that for the first time in his aldermanic career he is not going to be voting for the budget. It has to do with the TDD funded ballot issue that was approved by the voters pertaining to the new public works garage at 8330 Manchester Road. The City made the purchase of that building for approximately \$1.6 million and the appraisal for the building was right at \$1 million, which was paid for by the City. He has done some research on what it would cost if the City were to have built a building on a similar lot. The latest figure that he has received was that for \$90 per square foot, on approximately three acres of land, not in a flood plain, the City could have built a new building that had sprinklers included for the same size which is approximately 16,622 square feet. His problem with approving the budget is the timing of the TDD purchase as it relates to the ballot issue, the use of City property to fund in part that purchase \$400,000 of it, the use of City funds to pay the interest on the \$400,000, and the use of City funds to provide a sprinkler system for the building which should have been included in the initial conversation when the negotiations took place. He asked if the cost of the upgrades to the building that have taken place since the purchase and on the salt bins are funded by the TDD.

City Administrator Seemayer responded that the TDD supplied \$1.2 million of the total purchase price. Any other additions and/or improvements are funded through the City.

Alderman Kramer stated that his understanding is at some point in the future they will try to get the TDD to fund or reimburse the \$400,000.

City Administrator Seemayer stated that it had been discussed initially that there was a possibility with TDD Board approval, that in 2012 they could issue additional bonds and reimburse the City for those costs. There is no guarantee and they did not go into it relying on that occurring, but that possibility does exist. They have to wait until 2012 and it would take the approval of the TDD Board, which is governed equally by the City of Brentwood, Metro and St. Louis County.

Alderman Marshall stated that one of the things to point out is that they did not have multiple choices of locations to relocate the public works facility. There are not three acres of unused land in Brentwood. The TDD Board approved it and the BOA backed it.

Mayor Kelly stated that they had some preliminary plans for a building drawn and their expenses were going to be in excess of what they spent to purchase that building.

City Administrator Seemayer stated that it was looked at a few years ago with design of a new building and the estimate was around \$1.5 million for the building itself.

With no further comments, Mayor Kelly announced the public hearing for the 2008 budget closed at 7:28 p.m.

Motion was made by Alderman Marshall, second by Alderwoman Clements to approve and adopt Bill No. 5411. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderman Kramer, no; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5411 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4099.

Bill No. 5413 – Cooperative Agreement

City Attorney Albrecht gave Bill No. 5413, AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT BY AND AMONG THE CITY OF BRENTWOOD, MISSOURI, THE 8750 MANCHESTER ROAD COMMUNITY IMPROVEMENT DISTRICT AND JEFFCO PROPERTIES, LLC, AND DIRECTING AND AUTHORIZING CITY OFFICIALS TO TAKE CERTAIN ACTIONS RELATED TO THE SAME, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5413 as a Bill that would approve a cooperation agreement between the City of Brentwood and the 8750 Manchester Road Community Improvement District, authorizes the District to reimburse the City any related expenses and authorizes with District approval the issuance of notes in an amount not to exceed \$1,332,500 for specific improvements. Upon approval, a sales tax not to exceed 1% may be levied to repay the notes and any outstanding bonds.

Alderman Leahy inquired that as the notes are being issued up to a ceiling amount how are the costs captured and justified on a dollar amount, so that they don't end up paying for a \$7,000 fencing that should have cost \$2,000. How is that process done through the CID program?

City Administrator Seemayer responded that they have to submit the expenses through the City for final review and approval.

Alderman Leahy stated that if the developer comes in and submits costs that they actually incurred is there a way of measuring those costs against a competitive bid to verify that they are at least staying within a fiscal responsibility.

Shannon Creighton - Gilmore & Bell stated that the Cooperative Agreement list the costs that they are planning to submit to the City for reimbursement. A certificate of reimbursable costs will be submitted and reviewed by City Administrator Seemayer for approval to the extent that they are required by Missouri State Law to publicly bid those costs.

Alderman Leahy asked if the City will get a copy of those competitive bids or has it already been processed because they now have captured some idea of what the remodeling and reconstruction cost is going to be.

Ms. Creighton stated that it is not a requirement of the Cooperative Agreement that the City receives competitive bid documents.

City Administrator Seemayer stated that most of the expenses exceed what the reimbursable costs are.

Jack Davis – Jeffco Properties came before the Board and stated that their total cost will probably exceed \$2.5 million for improvements that will be made. Not all of those costs qualify for the CID. No one has an interest in seeing that those costs are kept in line more than he. They will be spending the money and hopefully will be reimbursed.

Motion was made by Alderwoman Clements, second by Alderman Marshall to approve and adopt Bill No. 5413. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5413 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4100.

Alderman Leahy asked about the proposed restaurant for the site.

Mr. Davis stated that they have quite a bit of interest. They have received letters of intent from Wendy's, Arby's and Culvers, etc.

Bill No. 5414 – Hanley/Strassner Redevelopment Area

City Attorney Albrecht gave Bill No. 5414, AN ORDINANCE APPROVING AN AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE HANLEY/STRASSNER REDEVELOPMENT AREA, INCLUDING THE REDEVELOPMENT PROJECT DESCRIBED THEREIN; AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO AMENDED AND RESTATED REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF BRENTWOOD AND MLP HANLEY STATION, LLC; AND AUTHORIZING CERTAIN ACTIONS BY CITY OFFICIALS, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5414 as a Bill approving an amendment to the redevelopment plan for the Hanley Strassner Redevelopment Area by shifting \$1,250,000 in Tax Increment Financing Notes from Project Area Three to Project Area Two in order to reimburse the developer, MLP, for specific street improvements undertaken that were required outside of Redevelopment Area Two. This amendment was reviewed and approved by the Tax Increment Financing Commission.

City Administrator Seemayer stated one very important thing was left out of the synopsis and that is they are reducing the TDD obligation by approximately \$1,120,000 and increasing the TIF obligation.

Mayor Kelly stated that the anticipated payoff for the TIF would be a year earlier as well.

Motion was made by Alderman Marshall, second by Alderman Leahy to approve and adopt Bill No. 5414. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5414 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4101.

Alderman Kramer asked about the opening of the Strassner Road extension and meeting the timeline of the first part of January.

Andrew Checkley – MLP came before the Board and stated that they will meet the timeline. They had an update from the construction team and they are right on schedule with where they originally projected they would be. All of the documents in terms of the legal aspects from the TDD standpoint were voted on today. The TDD Board voted to make the dedication to the street and all the necessary consents were given by the bank. The deeds have been prepared and are ready for signatures. Everything is lined up. With one final run through with the Public Works staff, they should be right on schedule to open the road.

Mayor Kelly asked for an update on the out parcel.

Mr. Checkley stated that a meeting was held with representatives of the Irish Pub and they are working on letters of intent, etc. They have 93 condominium sales to date and are continuing to sell units. If construction certificates of occupancy goes as planned they should have residents in the first building by the last week in January. They are anticipating that they will give Marriott the green light sometime in March to open.

ACCOUNTS AGAINST THE CITY

Motion was made by Alderman Marshall, second by Alderman Robertson to approve the warrant dated 12/17/07. All in favor none opposed.

Alderman Leahy asked if the McBride and Son amount on the warrant list is for reimbursement of the escrow.

City Administrator Seemayer responded yes. They deposited a check for that amount with the City in September to guarantee certain improvements that the City required. They have all been completed and signed off on by the City Engineer, so the City is returning their money.

Alderman Leahy asked about the bill from Murphy Wasinger for attorney fees.

City Administrator Seemayer stated that the amount submitted is from the former city attorney. He habitually turned his bills in late. This bill goes back to 2005 through 2006. He submitted the bill in August of this year, which was rather lengthy. The bill was being reviewed to make sure everything was in order. He was under contract with the City at that time for those services, but did not bill the City in a timely fashion. They have since revised the way that they operate in that they now have a different city attorney, a different structure and are saving a substantial amount of money.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Mayor's Report

Mayor Kelly asked Gerald Keys, Building Official to come before the Board and be sworn in.

Motion was made by Alderman Kramer, second by Alderman Wynn to accept the appointment of Gerald Keys as the new building official. All in favor none opposed.

Mayor Kelly stated that since the Meridian documents were not ready for the meeting the Board needs to hold a special meeting with respect to the Meridian project. He asked that a special meeting be scheduled for Thursday, December 20th at 12:00 noon.

Mayor Kelly announced an executive session legal/personnel matter following the regular meeting.

Mayor Kelly stated that they are moving a step closer on the new store for the Promenade. Pace Properties has reached an agreement. There was an issue with the existing lease that would have had a huge impact on the new business because of their level of sales. They think they have that worked out and will be completed by the end of this year. The new business, which is Micro Center, would like to move as fast as possible to get the store opened.

Mayor Kelly reminded everyone about the Coffee with the Mayor this Friday, December 21st. Representatives from the post office will give a presentation. It will be their first public meeting regarding relocating the post office in the city of Brentwood.

Public Safety Committee – No report

Public Works Committee – No report

Director of Planning and Development – No report

Ways and Means Committee – No report

City Attorney – No report

City Clerk/Administrator

City Administrator Seemayer stated that as part of the human resources study that was completed earlier this year it was determined that the City needed to refill the position of Director of Parks and Recreation. They advertised for that position and received a number of good candidates including some of the staff from Brentwood. They elected to go with Michelle Frankowski who worked for the City previously under the name of Michelle deJong. At that time she was the Director of Parks and Recreation. One of the assets is that she has some good experience with the facilities. She will be starting on January 14th.

Excise Commissioner – No report

Library – No report

Municipal League

Mayor Kelly stated that he has spoken to Tim Fischesser with St. Louis County Municipal League and he will attend the first BOA meeting in January to answer any questions with respect to what the Municipal League will do with the funds they are receiving from the settlement agreements.

Communication – No further report

Historical Society – No report

Recreation Center Committee

Craig Strohbeck – Brentwood Parks and Recreation came before the Board and stated that the Recreation Center Committee met on Thursday night to interview three candidates to do the survey study for needs assessment and comprehensive feasibility study. They interviewed Jacob Facilities, Hastings & Chivetta Architects and Cannon Design. They decided to go with Cannon Design. The original proposal was in the low \$80,000 range to do the complete study. They indicated that by dropping Counsilman/Hunsaker, who is a pool consultant and dropping some other fees they could probably reduce it to the low \$70,000 range. They hope to have the contract ready for the January 7th BOA meeting.

Alderman Kramer stated that they appreciate all the work that Mr. Strohbeck has done leading up to this point and the work that he will be doing as they move forward. His report from that evening was that there were two good, outstanding presentations. He thinks Cannon Design will do an outstanding job for the City of Brentwood. He asked about the minutes for the Recreation Center Committee meetings and posting them on the website.

Mr. Strohbeck stated that there has been some discussion about what to put up on the website and what format to put it in, etc. It was recommended by the City Administrator Seemayer to post a summary of what took place at each meeting.

Alderman Wynn stated that he and his wife attended the facilities conference in Kansas City and Craig Strohbeck represented the City well. Craig was very knowledgeable and knew many people there. Alderman Wynn stated that he was very pleased.

Alderman Marshall thanked Mr. Strohbeck and the members of the Committee who have been participating. He appreciates their time.

UNFINISHED BUSINESS – None

NEW BUSINESS

Alderman Leahy announced a Ward 3 meeting would be held tomorrow night at 7:00 p.m. in the Council Chambers.

Recess

Motion was made by Alderwoman Clements, second by Alderman Robertson to recess the meeting at 8:07 p.m. for an executive session legal/personnel matters. All in favor none opposed.

Motion was made by Alderman Wynn, second by Alderman Leahy to reconvene the meeting at 8:13 p.m. All in favor none opposed.

Executive Session

Motion was made by Alderwoman Clements, second by Alderman Marshall to enter into executive session on a legal/personnel matter at 8:14 p.m. All in favor none opposed.

To discuss a matter involving litigation filed by former police department employee David Callaway against the City of Brentwood and Chris Seemayer. A short summary of the history of this claim was given to the Board. Mr. Callaway had a hip replacement that was not related to his employment. Mr. Callaway came back to work from the surgery and subsequently reinjured the hip while standing. (on duty) Mr. Callaway claimed this was a work related injury but was denied workman's comp benefits. Eventually Mr. Callaway's personal physician sent a letter to the City indicating that Mr. Callaway would not be able to return to duty as a police officer. Once Mr. Callaway's accrued leave time was exhausted he left employment with the City. Mr. Callaway later decided to file a suit against the City claiming he was unjustly terminated. The City vigorously denied this allegation and pursued the matter through our insurance carrier, ACE USA. A provision in the insurance contract required a mediation hearing prior to the matter going before a judge. The insurance carrier was the body that negotiated any settlement amounts. Once a settlement amount was agreed upon between the city's insurance carrier

and Mr. Callaway the matter was brought before the Board of Aldermen. There is a clause however in the insurance contract that removes the insurance carrier from any court awarded damages that would exceed the mediated settlement. This meant that the City of Brentwood would be responsible for any judgments that exceeded the settlement, which the City did not agree with to begin with. Although the City felt strongly that they had not committed any wrongdoing in this matter they reluctantly agreed to settle the matter for \$98,500 with all of the proceeds coming from the insurance carrier. This decision also removed city employee Chris Seemayer from any liability. Mr. Seemayer was being sued individually even though he had taken no action nor did he have any authority to take any action in this matter. If the City had not agreed to the settlement and a judgment (or legal fees) exceeded the agreed upon amount Mr. Seemayer would have been responsible for expenses from his personal accounts.

After discussion, motion was made by Alderman Wynn, second by Alderman Marshall to return to open session at 8:22 p.m. All in favor none opposed.

Motion was made by Alderwoman Clements, second by Alderman Robertson to give Bill No. 5415 its first and second readings. All in favor none opposed.

City Attorney Albrecht gave Bill No. 5415, AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT BETWEEN DAVID A. CALLAWAY, SR., MICHELLE CALLAWAY AND THE CITY OF BRENTWOOD, MISSOURI AND CHRIS SEEMAYER; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Motion was made by Alderwoman Clements, second by Alderman Robertson to approve and adopt Bill No. 5415. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5415 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4102.

ADJOURNMENT

Motion was made by Alderman Wynn, second by Alderwoman Clements to adjourn the meeting at 8:25 p.m. All in favor none opposed.

Pat Kelly, Mayor

Attest:

Chris Seemayer, City Clerk