

MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING

City Hall
Council Chambers

May 5, 2008
7:00 p.m.

The Mayor led with the Pledge of Allegiance.

Roll Call

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

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

ABSENT: None.

CONSIDERATION AND APPROVAL OF THE AGENDA OF THE REGULAR BOARD OF ALDERMEN MEETING OF MAY 5, 2008

Motion was made by Alderwoman Clements, second by Alderman Wynn to approve and adopt the Agenda of the Regular Board of Aldermen meeting of May 5, 2008. All in favor none opposed.

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE REGULAR BOARD OF ALDERMEN MEETING OF APRIL 21, 2008

Alderman Kramer stated that he had a proposed correction to the minutes. He distributed copies of page 10 of the April 21st, 2008 minutes, page 10 of the March 10th, 2008 minutes and a copy of a memo that he sent to Director of Planning and Development Dailey. Alderman Kramer stated that on page 10 of the April 21st minutes a portion is highlighted in gray and part of that portion is underlined. He stated that the underlined portion is inaccurate and that the Mayor may choose to change what he said or they could possibly amend or add the correction to tonight's minutes. The second page of the handout states what was said at the March 17th meeting. He believes the Mayor was attempting to quote him, however it was completely inaccurate regarding Borders Books and the possibility of filing an insurance claim with the carrier of the company that caused the problem. Page 3 also has some highlights of the email that the Mayor referred to in gray. Once again you can see there is nothing in there regarding a lawsuit. He proposed to the Mayor that he considers changing his reflection of his (Alderman Kramer's) comments or that they in fact change or add the second page to tonight's minutes.

Mayor Kelly responded that it would not be appropriate to change the minutes because those are the statements that he (the Mayor) made. If Alderman Kramer would like to discuss that later in the meeting that would be fine.

Alderman Kramer stated that he would like it noted in tonight's minutes that the Mayor's comments at the April 21st meeting of the Board of Aldermen on page 10, fifth paragraph, beginning with "Mayor Kelly" and ending with "direct a staff person to do that", is incorrect.

Mayor Kelly stated that the Board is looking at the minutes from the April 21st meeting and whether those should be approved or not. If Alderman Kramer wants to make a statement in the minutes for this meeting in reference to the April 21st meeting that is fine but it will be part of the meeting as they proceed.

Alderman Kramer asked Mayor Kelly if he is okay with the way the statement is written right now.

Mayor Kelly responded that was what he said.

Alderman Kramer responded even though it is not accurate.

Mayor Kelly stated that if you (Alderman Kramer) would like to discuss the accuracy of what was said during this meeting that is fine, but those are the minutes from the last meeting.

Motion was made by Alderman Leahy, second by Alderwoman Krewson to approve and adopt the Minutes of the Regular Board of Aldermen meeting of April 21, 2008 as submitted. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, no; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

ACCEPT CERTIFIED ELECTION RESULTS

Ward 1

Two-year term

Barbara B. Clements 62 3 invalid write-in votes

One-year term

Anthony Harper 68 3 invalid write-in votes

Ward 2

Two-year term

Michael K. Marshall 63 3 invalid write-in votes

Ward 3

Two-year term

Andrew G. Leahy 85 2 invalid write-in votes

Ward 4

Two-year term

Lorraine Krewson 62 4 invalid write-in votes

Alderman Wynn asked for an explanation of the invalid write-in votes.

City Administrator Seemayer explained that if someone petitions the Board of Elections to be placed on the ballot as a write in candidate the votes are counted for that petitioner. In this case, there was no petition for anyone to be placed on the ballot as a write in candidate, so if you submitted a write in vote the Board of Elections deems that as an invalid vote.

Alderman Leahy stated that according to St. Louis County Election Board the only time a write in candidate's vote would count is if they pre-petition or if no one had filed for a seat of office. Other than that all of the write in candidate's vote would be disqualified.

Motion was made by Alderman Robertson, second by Alderman Leahy to accept the certified election results from the April 8th election. All in favor none opposed.

SWEARING IN OF ELECTED OFFICIALS

The Oath of Office was administered to the newly elected officials, Alderwoman Barb Clements, Alderman Anthony Harper, Alderman Andrew Leahy and Alderwoman Lorraine Krewson by Mayor Kelly. Alderman Marshall was sworn in by his father Bill Marshall.

BIDS – None

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

Terry Cox – 8600 Eulalie came before the Board regarding the tie wall that is located on Helen Avenue that is falling apart and rotting. This has been an issue since mid summer of last year. Initially, the wall was supposed to be replaced. The rain keeps postponing the replacement of the wall. She wants to maintain her yard and she does not feel like she can do that until the wall is replaced.

Alderman Marshall stated that the wall will be repaired initially and then it will be replaced.

Ms. Cox stated that she would prefer it be replaced with stone. She asked what is the status of the repair or replacement of the wall.

Alderman Marshall stated that he has spoken with Street Superintendent Nahmensen and he stated that they would like to repair the wall, pull out the bad ties and replace them with good ties because of the cost of replacing them with stone. There is a budget issue. At the end of the year if the money is there they will replace it then. The idea was to clean up the wall and fix it on a temporary basis with the ties.

City Administrator Seemayer stated that Street Superintendent Nahmensen was waiting to see if there is enough money in the budget after the concrete slab replacement project is completed in Hanley Industrial Court. If he saves money there, they think that there will be enough left for the stone wall. If he can avoid the short-term fix by saving money then he will do the stone wall this year.

Alderman Marshall stated that when they put the sidewalk in on the west side of Helen Avenue they had put up retaining walls made of railroad ties. A couple of years ago the retaining wall to the north of Eulalie Avenue collapsed and fell. They are concerned that this one will eventually collapse.

Alderman Wynn stated that another problem is that children use that sidewalk to go to and from school. It is a dangerous wall. Kids are not supposed to get up on the wall but they do. They should do all they can to replace it.

Mayor Kelly stated that it is a safety issue and they will get to it as soon as possible. As soon as they are finished with the project in Hanley Industrial Court that will be the next major project.

Ms. Cox stated that there are spikes sticking out of the wood.

Mayor Kelly stated it is a City issue. The City installed the wall originally. The residents gave them some property to put that sidewalk in for the kids and they need to maintain the wall.

Ms. Cox stated that she appreciates that because when the City put the wall in they took out a tree and replaced it with whatever she wanted as far as landscaping but she is concerned now.

Mayor Kelly stated that unless somebody would like to say something different this will be the next major project for the public works once they finish the work in Hanley Industrial Court. Hopefully within the next two months.

Alderman Wynn asked the Mayor for clarification if he is saying that they will replace it with the stone wall.

Mayor Kelly responded yes. Tie walls do not last.

Ms. Cox stated that she has had issues with yellow jacket and she has called exterminators to kill them. She is to the point where she is terrified to go out there and do anything because they swarm.

Alderman Kramer stated that since it is a safety issue, if they are not going to be able to replace the wall until another 60 days, perhaps someone from public works could go by and address the spikes that are sticking up and/or some other safety items that could be taken care of right away.

Mayor Kelly responded that he would have Street Superintendent Nahmensen look into it.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

Bill No. 5399 – Construction Signs

Alderman Leahy stated that he requested that Bill No. 5399 be placed on hold because he wanted it to go back to committee. The Public Works Committee addressed the issues at their last meeting.

Motion was made by Alderman Leahy, second by Alderman Robertson to remove Bill No. 5399 from hold. All in favor none opposed.

First and Second Readings of Bills

Motion was made by Alderman Wynn, second by Alderman Leahy to give Bills No. 5399 and 5441 first and second readings. 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.

City Attorney Albrecht gave Bill No. 5399, AN ORDINANCE AMENDING CHAPTER 19 OF THE REVISED CODE OF THE CITY OF BRENTWOOD, MISSOURI BY AMENDING SECTIONS 19-3, 19-5 AND 19-10 BY ADDING THE DEFINITION OF “CONSTRUCTION SIGN” IN 19-3; ADDING NEW SECTIONS 19-5(2)a. 10, 11 and 19-5(2)b. 13; REPEALING SECTION 19-10 AND ENACTING IN LIEU THEREOF A NEW SECTION 19-10; ALLOWING TEMPORARY CONSTRUCTION SIGNAGE FOR NEW RESIDENTIAL AND COMMERCIAL DEVELOPMENTS; PROVIDING FOR THE CURRENT MAINTENANCE OF THIS CODE; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES, its first and second readings.

Alderman Leahy stated that he is still opposed to Bill No. 5399 in its current form. In his efforts he does not see where he will have enough votes to cancel or amend it. He thinks that the size of the signage may be too large for the area of Brentwood and that will be why he will vote “no” against the bill.

Alderman Kramer stated that he would echo Alderman Leahy's comments. He feels the same way. The Public Works Committee, at the time that he was actually on the committee, fashioned a proposal that was sent to the Planning and Zoning Commission for their consideration. While he thinks they made some very valuable additions and suggestions for inclusion, they also changed some of the items in terms of measuring and size of signage that some could say was extreme. For that reason they are to entertain this current Bill No. 5399 as it is presented and he too would also be voting "no".

Alderman Wynn stated that when you get to his age the bigger signs are nice.

Motion was made by Alderman Marshall, second by Alderman Robertson to approve and adopt Bill No. 5399. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, no; Alderwoman Krewson, yes; Alderman Kramer, no; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5399 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4127.

Bill No. 5441 – Propositions

City Attorney Albrecht gave Bill No. 5441, AN ORDINANCE TO CALL AN ELECTION TO SUBMIT TO THE VOTERS OF THE CITY OF BRENTWOOD, MISSOURI, PROPOSITIONS A, B, C, D, E AND F, TO AUTHORIZE AN INCREASE IN BUSINESS LICENSE FEES FOR FINANCIAL INSTITUTIONS, ESTABLISHING AN ANNUAL LICENSE FEE FOR AUTOMATED TELLER MACHINES, AND TO AUTHORIZE THE INCREASE OF THE BUSINESS LICENSE FEE ON GROSS RECEIPTS; AND, PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Marshall stated that this issue has been in committee for quite a while. It initially started out as looking to increase the business license fee for the banks. Alderman Leahy had suggested that they look at all the business licenses because of certain situations with larger businesses occupying large amounts of space and was only paying \$50.00 for a business license. Some of these issues were taken care of and this will bring the business license fees up to the surrounding areas.

Alderman Leahy stated that in working this process through with the Ways and Means Committee they have also done extra homework with the banking institutions in Brentwood to get their input and feedback as to what would be appropriate and good. Gary Hindricks with West Community Credit Union has sent him an email in response to keeping abreast of what is being proposed this evening. Alderman Leahy read the email as follows: "Thanks for sending me the updates on the business fee legislation. I appreciate that you and the Ways and Means Committee have put forth a more reasonable fee. However I am opposed to the ATM surcharge fees since they draw traffic from other areas to the city of Brentwood, as well, in light of the benefits of the community in terms

of convenience and the safety that drive up ATMs may provide. Will this fee also be accessed to other owners of ATMs residing in stores, restaurants and bars? Currently the proposed language to the amendment coming up to the voters would affect all ATMs. Again, thanks for your help and the support on this matter. Would you please let me know the outcome of the meeting this evening since I will not be able to attend in light of conflict in my schedule? Sincerely, Gary Hindricks, President & CEO of West Community Credit Union”.

Alderman Kramer read a synopsis of Bill No. 5441 as a Bill that would authorize the placement of six (6) propositions on the August 5th, 2008 ballot. Proposition A would change the annual business license for credit unions and savings & loans in excess of 700 sq. ft. from the greater of \$200 or ten cents a sq. ft. to a flat fee of \$2,500. Proposition B would change the annual business license for banks, trust companies or loan agencies in excess of 700 sq. ft. from the greater of \$500 or ten cents a sq. ft. to a flat fee of \$3,000. Proposition C would change the annual business license fee for credit unions & savings & loans less than 700 sq. ft. from the greater of \$200 or ten cents a sq. ft. to a flat fee of \$500. Proposition D would change the annual business license for banks, trust companies or loan agencies less than 700 sq. ft. from the greater of \$500 or ten cents a sq. ft. to a flat fee of \$500. Proposition E would establish an annual license fee of \$100 for all automated teller machines located in Brentwood. Proposition F would change the license fee for business’s specified in Section 12-24(c) of the Brentwood Municipal Code from the lesser of ten cents per sq. ft. or one dollar & twenty-five cents on each one thousand dollars of gross receipts to ten cents a sq. ft. with a minimum fee of \$50. Each of these propositions would require a simple majority for passage. The Ways & Means Committee reviewed and approved the propositions.

Motion was made by Alderman Marshall, second by Alderman Leahy to approve and adopt Bill No. 5441. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5441 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4128.

Alderman Marshall stated as a point of clarification that the Board voted to put the propositions on the ballot.

Mayor Kelly thanked Alderman Leahy for notifying all the banks. The main concern was expressed by Gary Hindricks about the ATMs at other locations. One of the other comments was the ATM fee for the ATMs on their premises and that the ATM is something they have to provide for their customers. It is expected if you are a bank that you have ATMs on your premises. They understood that the City wanted to have a fee on off site ATMs, but one that is part of a bank they did not understand why that should be separated.

ACCOUNTS AGAINST THE CITY

Motion was made by Alderman Marshall, second by Alderwoman Clements to accept the warrant list dated 5/5/08. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, no; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Mayor's Report

Mayor Kelly stated that Alderman Kramer had some questions with respect to the minutes and that could be addressed under Unfinished Business.

Mayor Kelly stated that they have the official posting for the Post Office. They have made a selection of the sites that submitted proposals to them. They would like to lease the building on City Hall parking lot, the old dentist building. They will have to make significant renovations to it and enlarge it in order to lease it but they thought that was the best option for them at this time. One of the concerns is timing. They have to be out of the Maplewood building by the end of June. The mail carriers have not been at the Maplewood site for about two months. They have been at the Mackenzie location.

Alderman Marshall stated that residents had some concerns that distribution of mail would be affected and he hasn't noticed difference.

Mayor Kelly stated that work at the Meridian at Hanley and Eager Roads is moving forward. The garage is going up. They are getting ready to enclose the smaller office building to the south. They have applied for and received their permits for the interior finish on the building. The two top floors are fully leased and ready from an office standpoint. The other exciting news is they are down to about 50 square feet of available space in the larger office building and have more than four people that are in negotiations to take that space. They expect to have letters of intent and have it fully leased within a month. Some of the other businesses are expanding. If things go as planned, the buildings will be completed by November.

The MLP project is moving along. The condominium sales have slowed a bit. They are just over 100 units sold. About 50 owners have moved in and they are proceeding with closings for the other owners. The hotel has run into numerous problems through their construction process. They are still about four months away from being opened. MLP is not the owner of that property. They sold the property to the Marriott Group. They have let go of their construction manager and hired a new construction manager because of conflicts and problems with the site. Right now it looks like the hotel will be opened mid to late summer.

Mayor Kelly stated that the Committee Appointment list has been distributed. The only thing that has been changed is Alderwoman Clements has been appointed Mayor Pro Tem.

Alderman Leahy asked about the listing for the Ad Hoc Committee for the Recreation Center and if it needed to be listed.

Mayor Kelly responded no. It was established and will end once the project is completed.

Alderman Kramer stated that in the past they had an Insurance Committee and he is aware it was disbanded, but it looks like it is required by the Code.

Mayor Kelly stated that the Insurance Committee is City Administrator Seemayer and Chuck Sanders.

Motion was made by Alderman Leahy, second by Alderman Marshall to accept the Committee Appointment list as submitted. 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.

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 reminded everyone that the Charity Golf Tournament would be held on Friday, June 20th at Paradise Valley Country Club. He invited everyone to participate by donation of gifts or attending and playing in the tournament. The main benefactor is the Crisis Nursery Center, which is the same as Nurses for Newborns.

Excise Commissioner – No report

Library – No report

Municipal League

City Administrator Seemayer stated that the Mayor had mentioned a few meetings ago about two proposed sales tax holidays that are being considered by the general assembly. At that time, there was some damaging language in the legislation. Thanks to the help of

many people they have corrected the language. The first sales tax holiday that they are trying to pass will be in effect in June, it is for the purchasing of any item, and it is to coincide with the issuance of the tax rebate checks. They did not include the cities in that, so it will only be a sales tax holiday from the state's sales tax. Our local taxes are protected. The language for the green sales tax holiday for the energy efficient appliances that is scheduled to be held in November has been amended which would allow cities the option of opting out. The Municipal League is attempting to change that to allow the cities to opt in. Originally it did not give the cities an option of either, so they have been successful at least in allowing the cities to make that decision.

Communication – No further report

Historical Society – No report

Recreation Center Committee

Alderman Marshall stated that he was very happy to get several phone calls and speak to people out in the public over the weekend that stated they had received the surveys. Hopefully they will get some good results from the surveys and be able to move forward with a recommendation. Alderman Marshall stated that there were a couple of comments from people that are assuming that this process is to get rid of the rink. The idea is to find out if the residents want to move forward with fixing what is wrong with the rink or do they want to do something else. The people who are actually paying for it would be using it. There are community centers around Brentwood and the City subsidizes for the residents to use Richmond Heights' facilities. It is important to look at everything and come up with a recommendation.

UNFINISHED BUSINESS

Alderman Kramer stated that he would like to correct some items that were mentioned at the April 21st meeting. He referred to page 10 of the April 21st minutes, shaded area with a portion underlined. The portion underlined is what he is specifically disputing and in fact denying that he said what was implied that he said. He called to the Board's attention the second page, which happens to be page 10 as well of the March 17th minutes, the shaded area and the portion underlined references his statement to the topic regarding the claim. He would like to include in tonight's minutes his correction to what he believes was misquoted in the previous meeting. It reads as follows: "Alderman Kramer had brought up at a recent meeting the fact that Borders is suing the property owners, the property owners are suing the contractors, and the contractors are suing the subcontractor for damages through this process. Alderman Kramer inquired to what extent is the City's ability to sue to get the sales tax revenue". Page 10 of the March 17th minutes, the portion that he believes is correct reads as follows: "Alderman Kramer stated that he continues to get many phone calls about what happened to Borders Books. The other question that has come up after they found out what happened, which was apparently that it was human error, was if there is anything the City can recover in terms of a claim with the insurance carrier of the company that caused the issue". Further on at

that same meeting he went on to discuss and explain his understanding, which came from the Fire Marshal of the City as to what exactly happened at Borders Books on or about February 14th. It is his proposal, as it was at that time, which he believes may get another report this evening, that the City look into whether or not the plumbing company had liability coverage that allows for them to make a claim against that coverage, knowing of course that the City doesn't have its own coverage which he refers to on page 3, which is the email that Mayor Kelly referred to at the April 21st meeting. The portion highlighted reads as follows: This is from a Sunday, April 20th email from Thomas Kramer to Asst. City Administrator Dailey/Director of Planning and Development. "Also, we receive questions regularly regarding Border's Books. It has been nearly ten weeks since closure. Has there been any update given on the timeline for re-opening? On a related issue, I remain peeved that seemingly everyone (Pace, Borders, contractors) is reaping results from the responsible party's (plumbing company's) insurance, for the mishap, except the city. I would like to find out if we can make a claim for lost tax revenue? And, how much have we lost so far? I understand that we could have, and still can purchase "loss of tax revenue insurance" for those times when there is not a responsible party, but this does not seem to be the case in this instance. So, could you please inquire as to if we can bring about a claim?" He submitted to the Mayor that those were his thoughts at the time and that he made those comments in March and on April 20th, which was the day before the April 21st meeting. Possibly the Mayor saw his email of April 20th and when he had spoken April 21st, perhaps came up with a different remembrance of what he thought he (Alderman Kramer) said. He wanted to clear the record and still would like to see if they could get a report if there is one this evening.

City Attorney Albrecht responded that he researched it and unfortunately the City does not have any legal standing to bring any action against the plumber. You would need some sort of privity between the City and the plumber and it just does not exist. The reason for that being is there is a point at which a person's liability has to conceivably stop. You could go all the way down to the paper manufacturers, having a claim by the closure of this store. There are some exceptions to that, none of which would appear to be of any benefit to the City.

Alderman Kramer stated that he did some research over the weekend. Because there is apparently the coverage available for a City or municipality to purchase that would cover in this instance, the research that he had been able to find has shown that there are other municipalities in the country that have gone down this pathway and they have put together a framework of what type of tax revenue was to be recovered where that business, or the term but for that business being out of business. He understands that the City does not have coverage. He wishes that they would. They have stores like Broyhill, Lane and some other operators in the municipality that have for extended periods of time gone vacant and they don't have any way to recover in those situations. He does not know how expensive the coverage is.

Mayor Kelly stated as a point of clarification, the City has insurance for loss of revenue and it only covers in instances of natural disasters or there is terrorist insurance. Typically, at least in this situation and the other municipalities that he is aware of that

have it in St. Louis County; the coverage is not for a specific store. It would be for a center or an entire area if there were a loss of interruption due to a natural disaster and those kinds of things. It is not for coverage because a business goes out of business. Maybe there was some misunderstanding on what Alderman Kramer's intentions were but that reiterates the fact that if they are going to look into these things it's a good reason to take it to committee, so they are all on the same page. If this is something that they want to do it should go through the proper committee, which in this case would be the Ways and Means Committee. At the previous meeting when this was brought up and maybe this is where the confusion came from, Alderman Kramer had asked if the City had insurance and if the City had the right to go after that and he (the Mayor) made the statement that the City does not have insurance. The reason he used those phrases with respect to who is suing who is that came directly from one of the people involved in this situation.

Alderman Kramer stated but not from him.

Mayor Kelly stated that he is just saying what is actually transpiring. Alderman Kramer commented that everyone else is reaping results and the City is not. In order for them to do that, if they were going to tag onto what has actually happened, the City would have to file a lawsuit because that is what they did. The City did not have insurance to make a claim, so he does not know where they would get the right to go after any of the money or what would be their other alternative?

Alderman Kramer stated that he is not a lawyer and he doesn't want to give the Mayor legal advice or replace the city attorney's advice, but his understanding is that there is an opportunity and has been in many cases to take advantage of an insurance policy that is garnered by one of the providers, in this case the plumbing company. He hasn't interviewed the plumbing company and does not know what coverage they have. He does not know that you have to sue someone, just as if you have an automobile accident, to make a claim with their insurance company. If they are at fault you make a claim with their insurance company and they fix your car. In this case, they replace the revenue that the City lost. His intention was to bring this question up so that they could find out the information that could be taken to committee. He was not able to get to that point, but that was his intention.

Mayor Kelly stated that it would clarify a lot of things if it goes to committee first. There was a Ways and Means Committee meeting the week before the April 21st meeting, which Alderman Kramer attended and it could have been brought up then. The Mayor stated that Bill Marshall, a former insurance agent, is in the audience.

Bill Marshall came before the Board and asked how long has the shopping center been open.

Mayor Kelly responded since 2000.

Mr. Marshall stated that the warning period is probably over, so how is the City going to go after them. There is a warning period on every project. The insurance will follow the actual contract and that will be in the contract. The City does not have any right to go after the plumber. You do not have a contractual obligation. You are reaping sales taxes from a business that operates in your city.

Mayor Kelly stated that it was explained to him by one of the parties that Borders is suing the landlord because they have a contract to supply them with space, and the landlord is suing the contractor because he was supposed to build this product for them. The contractor is suing the subcontractor because he was supposed to have put in . . . That is the chain of events that he was outlining when he made those statements.

Mr. Marshall stated that he may go after their errors and omissions or manufacturer's liability, but the City cannot do that, the shopping center can.

Alderman Kramer stated so the comments that the Mayor reported him making on April 21st was an inaccurate statement. He did not make those comments.

Mayor Kelly responded that it was what he had interpreted at the time. If that is not the interpretation he thinks Alderman Kramer has cleared that up.

Alderman Kramer responded so you (the Mayor) agree that he did not make those comments.

Mayor Kelly responded that he would agree that Alderman Kramer restated the comments and he has a clearer picture of what Alderman Kramer said.

Alderman Kramer stated to the Mayor that he would just go ahead and say you are right Mr. Kramer. You did not make those comments. I heard you incorrectly.

Mayor Kelly responded no, he misinterpreted Alderman Kramer.

NEW BUSINESS

Alderman Leahy announced a Ward 3 meeting would be held on Tuesday, May 27th at 7:00 p.m.

Alderman Leahy stated that the Brentwood Fire and Police Departments are organizing a BBQ for the purpose of raising funds for the Backstoppers scheduled for June 14th in City Hall parking lot. They are inviting the residents to partake in some very good BBQ and to help support a very worthwhile cause by these two groups.

Alderman Marshall asked if there is any idea of what restaurant is going in the old Syms property.

Mayor Kelly responded no. Alderman Leahy worked with Culvers and got them out there a couple of times but Culvers has decided it is not big enough for them, both from the corporate level and the franchisee who still wanted to proceed but he believes corporate probably wouldn't allow it. The restaurant that he has heard they are leaning most towards is Burger King. Wendy's has entered into an agreement to build a new store in Rock Hill as part of a development. They have not signed the letter of intent yet, so some alternatives might come into play.

Mayor Kelly recommended the next Board of Aldermen meeting scheduled for May 19th be cancelled. Several members will be out of town. At this point, they do not have any ordinances or pending legislation and P&Z will not have anything for that meeting.

Motion was made by Alderman Wynn, second by Alderwoman Clements to cancel the May 19th Board of Aldermen meeting. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, no; 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 8:15 p.m. All in favor none opposed.

Pat Kelly, Mayor

Attest:

Chris Seemayer, City Clerk