

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

**City Hall
Council Chambers**

**March 21, 2011
7:00 pm**

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

Absent: Alderman Marshall.

Staff present: City Attorney Albrecht, Director of Planning and Development/Interim City Clerk/Administrator Rottjakob, Executive Secretary Williams, Fire Chief Niemeyer.

CONSIDERATION AND APPROVAL OF MARCH 21, 2011 BOA MEETING AGENDA

Motion was made by Alderwoman Clements, second by Alderman Wynn to approve the BOA meeting agenda of March 21, 2011. All in favor none opposed.

CONSIDERATION AND APPROVAL OF THE MARCH 7, 2011 BOA MEETING MINUTES

Motion was made by Alderman Leahy, second by Alderman Robertson to approve the March 7, 2011 BOA meeting minutes. All in favor none opposed.

PROCLAMATION – Arbor Day

Motion was made by Alderman Wynn, second by Alderman Leahy to approve the proclamation for Arbor Day. All in favor none opposed.

BIDS – None

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

Fire Chief Niemeyer, 2201 St. Clair came before the Board and expressed thanks to God, the Mayor, and the Board of Aldermen for not only the dedication and the new firehouse open houses, but for the drawings, he received of city hall and the firehouse from the Mayor and the Board. He stated that his men could not be happier with the new firehouse. They have waited a long time and he really appreciates everyone coming through for them. It is a blessing that on April 9, he will have 49 years with the City, and 29 of those years as fire chief on April 19. The Chief stated that he never thought that he would ever see the new firehouse. It is a great place

in which to serve the community. He was very overwhelmed by the support shown to the fire department by the community, so he thanked everyone and said that they are grateful.

Mayor Kelly announced that as part of Eagle Bank's 100-year anniversary, they would be donating to each fire department, within the boundaries of each branch of Eagle Bank, a thermal imaging camera. He believes that the presentations will take place on April 5 around 11:00 am.

Chief Niemeyer stated that the fire department currently has one camera. The thermal imaging camera will help them find an individual that is trapped in a fire, and it will also help them find the source of the heat, whether it is behind the wall, ceiling or floor. It is a valuable piece of equipment to have and they thank Eagle Bank.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

Bill No. 5594 – Amending Chapter 13, Article XII

Alderman Leahy requested that Bill No. 5594 remain on hold until the full board attends.

Bill No. 5595 – Contract for HVAC

Motion was made by Alderman Leahy, second by Alderwoman Krewson to give Bill No. 5595 first and second readings. All in favor none opposed.

City Attorney Albrecht gave Bill No. 5595, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT ON BEHALF OF THE CITY OF BRENTWOOD, MISSOURI WITH STATE MECHANICAL SERVICES, INC., 10510 LACKLAND ROAD, ST. LOUIS, MISSOURI 63114, FOR A BRENTWOOD RECREATION COMPLEX REFRIGERATION/HVAC/HEAT RECOVERY SYSTEM FOR ONE (1) YEAR COMMENCING ON APRIL 9, 2011; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5595 as a Bill that would extend the contract with State Mechanical Services, Inc. to provide service to the Refrigeration/HVAC/Heat Recovery System for the Brentwood Ice Rink. The Public Works Committee has reviewed the contract and is recommending approval of the Alternate Bid of \$45,718.00. The budgeted amount is \$47,000. The contract covers the period from April 9, 2011 to April 9, 2012.

Motion was made by Alderwoman Clements, second by Alderman Leahy to approve and adopt Bill No. 5595. Roll call: Alderwoman Clements, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes; Alderman Harper, yes.

The Mayor thereupon declared Bill No. 5595 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4276.

ACCOUNT AGAINST THE CITY

Motion was made by Alderwoman Clements, second by Alderman Robertson to approve the warrant list dated 3/21/11. All in favor none opposed.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Mayor's Report

Mayor Kelly reported that Alderman Marshall is doing a lot better and he is planning to attend the next BOA meeting. He started cardiac rehab last week and is getting stronger.

Mayor Kelly announced that the Executive Session, personnel and legal matters would not be held this evening.

Mayor Kelly stated that in light of the resignation of City Clerk/Administrator Seemayer, he would like to request the appointment of Ellen Rottjakob as the interim City Clerk/Administrator.

Motion was made by Alderman Kramer, second by Alderman Wynn to approve the appointment of Ellen Rottjakob as interim City Clerk/Administrator. All in favor none opposed.

Mayor Kelly stated that during this period there would be an adjustment to Mrs. Rottjakob salary for the additional responsibilities.

Public Safety Committee – No report

Public Works Committee – No report

Director of Planning and Development

Special Use Permit/Buck's Good Eats

Director of Planning and Development Rottjakob stated that staff received a special use permit request from Buck's Good Eats and that a site plan of the Brentwood Promenade was included with Mr. Toliver's application. He has requested a different location than what was previously included in his last SUP request. The proposal is to locate the food operation on the grassy area just south of Shane Co. Jewelers. The request includes a tent, some cooking and other items, and a commercial propane grill. The fire marshal is reviewing from a fire code standpoint whether the use would be compliant with the fire code. The special use permit application process was revised a few months ago which is part of the zoning code definitions for temporary uses. As the zoning administrator, she has concerns about the use because it is being requested for every Saturday and Sunday, 365 days a year, from 9:00 am to 7:00 pm. The

length of the request is not consistent with the special use permit requirements. She reviewed the zoning code again just to see if there was any way that Mr. Toliver could apply for a conditional use permit. Currently the code does not have any use that fits, but her recommendation would be to take the request to the P&Z Commission as a text amendment, and if the P&Z Commission wants to include an outdoor food vendor as part of the Brentwood zoning code, then Mr. Toliver could go through that process. Staff reviewed the request and they decided to bring it to the Board of Aldermen because they felt that further consideration was needed.

Alderman Kramer asked Mrs. Rottjakob if there is an original agreement with the owner of the shopping center for the current request as well.

Mrs. Rottjakob responded that it is her understanding that Mr. Toliver has the approval from the owner, DDR.

Alderman Kramer asked if the cart would be located on the grassy area only or on the sidewalk as well.

Mrs. Rottjakob responded that the site plan shows that it will be behind the sidewalk, not at all on the sidewalk. The equipment includes a 10X10 tent, a 3X5 food cart, including a three-compartment sink and a hand washing sink, four 6 foot tables, a commercial propane grill, three fryers, three fire extinguishers, sanitary sanitation of three small tubs and ten gallon water container and various kitchen equipment.

Alderman Kramer stated that there was disagreement last time over the amount of equipment that would be allowed. They thought that they were approving a hot dog cart and it turned out to be a mini setup for an open cookout.

Mrs. Rottjakob pointed out that the revised application has more equipment included with it.

Alderman Wynn stated that one of his concerns is the Promenade was built aesthetically beautiful. He does not know that the setup would be very uplifting to the area on Saturday and Sundays. He thinks it would detract from the Promenade.

Alderman Leahy asked how the green space will be maintained if every weekend there will be traffic on it. Does it figure into the green space requirements that Sansone has to maintain for the facility? They have already had issues with the maintenance and running of the waterfalls.

Mrs. Rottjakob stated that maintaining the grass in the landscaped area would be a concern because it would have a lot of equipment on it for a long period.

Alderman Leahy stated that the intent is that you have a large amount of traffic coming through there for the idea of being a successful business on the weekends. If you use that grassy area

every weekend, that green space will be chewed up to the point that they will no longer have any green space there.

Mrs. Rottjakob responded that the applicant is here if anyone has any questions. There is no provision in the application for the maintenance of the green space but she thinks it would be very difficult to maintain.

Alderman Leahy asked if the Promenade would have enough excess green space if they took that section out of the calculations and would they still be in conformance with the codes.

Mrs. Rottjakob responded that she would have to research it. They are already getting a site coverage bonus but she would have to see what their existing site coverage is to know the exact impact. It would certainly affect the overall maintenance of the landscaping. As far as approval of the special use permit, she would recommend denial. She does not think that it fits the City's special use permit requirements. If the applicant were still interested in pursuing his business within Brentwood, she would be happy to help Mr. Toliver take a zoning text amendment to the P&Z Commission for their consideration, which ultimately would come back to the BOA. It would be adding an outdoor food vendor type of use to the zoning code.

Mayor Kelly asked about the temporary time-period for special uses.

Mrs. Rottjakob responded that it would be a conditional use permit application for a permanent type of use.

Alderman Leahy stated that he is envisioning the group at Home Depot that is inside the building by the door. How is there's allowed?

Mrs. Rottjakob responded that it is ancillary to an existing permitted use. It is not a special use or even considered a restaurant because it is ancillary.

Brady Toliver, 2713 Lyndhurst, St. Louis, Mo 63114 came before the Board and thanked them for allowing him to speak. He apologized to Alderman Kramer for his actions the last time that they met. Mr. Toliver asked that they be allowed to serve the people. He stated that he would admit and take full responsibility for bad placement of the equipment and poor communication with Mrs. Rottjakob regarding the last setup. He mentioned that he has full support of DDR, as well as Sansone Group to allow him to open on that grassy area. He completely agrees with Alderman Leahy about the wear and tear on the grassy area, because he participates in 25 or more fairs every year. He stated that he is willing to work with everyone to do whatever it takes to keep the area nice and neat. Mr. Toliver stated that from the very first meeting, the number one concern was that his cart would be in front of another business. He has eliminated that by going to the grassy area. At the end of the day, his business thrives only with the support of the people that they serve and the people that govern the areas of Brentwood. He asked for the Board's full support and a legitimate shot at serving the people of Brentwood.

Alderman Kramer accepted Mr. Toliver's apology and stated that in comparing the original application with the current application, he thought that they were talking originally about a hot dog cart. He asked Mr. Toliver if he could make a go of the business concept by just having one cart, instead of having to have the other ancillary structures, tent, and everything else.

Mr. Toliver responded that originally they were going to use the cart. They looked at the sidewalk, after the feedback they received from the Board, and realized that they were not going to be able to pull it off. There is too much traffic in that area. One of the reasons they extended the time for operation was because of the traffic. The operation was moved to the parking lot after talking with Sansone Group and DDR, deciding that it might be a better idea, and then they were shut down. It was poor judgment on his part for not disclosing everything they were using because of the public's safety, which is something he takes very seriously. He stated that he could run his operation with just a hot dog cart but that he would not be giving the people of Brentwood the Buck's Good Eats experience. They have three different variations of the hot dog cart, so a cart would be a part of the setup, on the grassy surface. The cart would be used as a holding place. Mr. Toliver stated that he takes what he does very seriously because what he is serving comes from love and it has to be clean, at the best temperature possible, with a fair price.

Mayor Kelly stated for clarification that the request would have to go back to the P&Z Commission because they do not have the authority to approve what has been proposed. In order to vote on the special use permit the motion has to be made in the affirmative.

Alderman Robertson stated that Mr. Toliver is serious about opening his business in Brentwood. He thinks that they could find a way to accommodate him and improve the availability of options at the Promenade. If DDR supports it as professional as they are, he would want to support it too.

Motion was made by Alderman Robertson, second by Alderwoman Clements to approve the special use permit request for Buck's Good Eats as presented. Roll call: Alderwoman Clements, no; Alderman Leahy, no; Alderwoman Krewson, no; Alderman Kramer, no; Alderman Robertson, yes; Alderman Wynn, no; Alderman Harper, no.

Mayor Kelly suggested that Mr. Toliver get together with Mrs. Rottjakob to take the request to the next step.

Ways and Means Committee – No report

City Attorney – No report

City Clerk/Administrator

Interim City Clerk/Administrator Rottjakob stated that the Litzsinger Bridge would be open on Wednesday by 6:00 pm. The contractor will do the final asphalt work on Wednesday and sod

will be laid starting Friday or early next week to finish the project. After that, Public Works will be returning the landscaped areas and trail back to an improved condition and then they will have a ribbon cutting and grand opening. The Enhancement Project at Eager Road and Brentwood Boulevard is coming along nicely in terms of schedule. Staff is working with the landscape architect and putting specifications together for the long-term maintenance of the area. They want to insure that it is maintained at a high quality given the level of investment in that area. The bid process should be completed this summer. The contractor said that they anticipate that the fountain will be open and operational by this summer as well.

Excise Commissioner – No report

Library – No report

Municipal League – No report

Communication – No report

Historical Society – No report

UNFINISHED BUSINESS

Alderman Leahy stated that he has received phone calls from residents wanting to pass along their appreciation to the public works department for the filling in of the potholes. They did a nice job and residents have noticed it.

Mayor Kelly stated that he and Alderman Wynn received phone calls regarding the lack of maintenance to a property on Helen Avenue. In this particular case, the City has cited the renter of the property. Staff has had trouble locating the property owner because they are not sure if the house is in foreclosure. It has gotten to the point that they have arrested the renter for not showing up to court dates. The City has to follow certain procedures in order to get things corrected. In this particular instance, he knows that public works has been planning, through the housing department, to clean up the yard this week, and then the City will put a lien against the property. There is also an issue with a dog as well. He suggested to all residents that if there is an issue with a dog running loose or barking excessively, the best thing to do is to call the police department and make a record of it. In order to make it an ongoing nuisance they have to have documentation, a record of the complaint.

Alderman Wynn suggested that the resident(s) keep a log of the calls with the time and date of the nuisance.

NEW BUSINESS

Alderman Leahy announced that the Ward 3 meeting is scheduled for Tuesday, March 29 at 7:00 pm in the Council Chambers.

Alderman Leahy reminded everyone that the General Municipal Election is Tuesday, April 5. He encouraged everyone to come out and participate. State Representative John Diehl is having a public forum at the Brentwood Recreation Center on Thursday night, April 7 from 7:00 to 8:00 pm and all are invited.

ADJOURNMENT

Motion was made by Alderwoman Clements, second by Alderman Leahy to adjourn the meeting at 7:35 pm. All in favor none opposed.

Pat Kelly, Mayor

Attest:

Ellen Rottjakob
Interim City Clerk/Administrator