

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

**City Hall
Council Chambers**

**November 7, 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 Marshall, Alderman Leahy, Alderwoman Krewson, Alderman Kramer, Alderman Robertson and Alderman Wynn.

Absent: Alderman Harper.

Staff Present: City Clerk/Administrator Akande, Director of Planning and Development/Asst. City Administrator Rottjakob, City Attorney Albrecht and Executive Secretary Williams.

CONSIDERATION AND APPROVAL OF THE NOVEMBER 7, 2011 BOA MEETING AGENDA

Alderman Leahy requested that Bills. No. 5637 and 5638 be placed on hold until the full Board is present.

Motion was made by Alderman Leahy, second by Alderman Marshall to amend the Agenda of the Regular BOA meeting of November 7, 2011 by placing Bills No. 5637 and 5638 on hold until the full Board is present. All in favor none opposed.

Motion was made by Alderman Leahy, second by Alderman Robertson to approve the Agenda of the Regular BOA meeting of November 7, 2011 as amended. All in favor none opposed.

CONSIDERATION AND APPROVAL OF THE OCTOBER 17, 2011 BOA MEETING MINUTES

Alderman Leahy mentioned that the minutes were lengthy, but that he appreciates the citizens input.

Motion was made by Alderman Leahy, second by Alderman Robertson to approve the Minutes of the Regular BOA meeting of October 17, 2011 as submitted. All in favor none opposed.

BIDS

Brentwood/I-64 Water Feature and Landscape Maintenance

City Administrator Akande reported that staff opened bids for the Brentwood/I-64 Water Feature and Landscape Maintenance on October 24, 2011. One bid was received from SFP

Landscaping, Inc. for \$54,937.00. Staff recommends that the Board reject the bid and request that the water feature and landscape maintenance be re-bid as separate items.

Motion was made by Alderwoman Clements, second by Alderman Marshall to accept the bid from SFP Landscaping, Inc. for \$54,937.00. Roll call: Alderwoman Clements, no; Alderman Marshall, no; Alderman Leahy, no; Alderwoman Krewson, no; Alderman Kramer, no; Alderman Robertson, no; Alderman Wynn, no.

Landscape Maintenance Brentwood Pointe TDD

City Administrator Akande reported that staff opened bids for the Brentwood Pointe Landscape Maintenance on October 27, 2011. Six bids were received as follows:

H&R Lawncare	\$23,450
Brake Landscaping & Lawncare, Inc.	\$ 4,575
Outdoor Solutions	\$ 5,930
Bluegrass Landscaping & Maint.	\$ 9,970
Top Care, Inc.	\$ 4,497
Contemporary Landscape	\$ 6,304

The low bid came from Top Care, Inc. at \$4,497. The bids were forwarded to the Brentwood Pointe TDD Board for their approval.

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

Maureen Saunders, resident at 2326 Parkridge Avenue came before the Board and stated that she has attended two meetings and asked the Board to consider changing the way the bills are read, which is to have the first reading at one meeting and the second reading at the next meeting. She has asked twice. It increases transparency, accountability and allows the public to have input on the bills. The residents are also part of the checks and balances and they hold the Board accountable. She has not heard back from the Board on this issue. She has contacted City Administrator Akande and she stated that she does not move forward without a quorum from the Board. Ms. Saunders requested a vote from each of the members of the Board stating that it is a good idea to change the agenda. She stated that the Board discusses the bills and the residents have no input. Then the second reading is done and it is voted on. Doing the first reading at one meeting will allow them to hear the discussion, give them two weeks to get in touch with their alderman, have some feedback, and then the second reading can be done and the bill voted on. Ms. Saunders asked the Mayor if the PR person had written his three-page letter read at the last meeting. Ms. Saunders stated that the Mayor entered into a contract to pay a PR person and City Attorney Albrecht approved it. She asked if the Board signed off on it. She thinks the PR person is wasted money. She has asked to have Attorney Hesse here, which is probably about \$1,000, for a couple of hours, so that they can ask questions directly of him. She has not heard back from anyone on that. Ms. Saunders brought up the Brentwood Library and the missing \$45,000, which she understands is now found. She

stated that on July 18 at the meeting, Mayor Kelly promised her that he was going to investigate the firefighter's unearned overtime. She asked for the exact amount spent, the dates, and the documentation of the firefighter's overtime. She also wants to know has the head of Public Safety determined the exact amount, did the City pay it at time and a half, and was it approved. Ms. Saunders asked Alderwoman Clements, as head of Public Safety, if there is any conflict with her son-in-law being in the Police Department.

Vicki Woods, Director of the Brentwood Library came before the Board to address the \$45,000. She stated that in 2007 the Library had a CD that became mature which was about \$200,000. Half of that amount went into a savings account and the other half went into the budget for operating expenses. In 2008, they borrowed \$75,000 from the City of Brentwood, which is not unusual because they have a cash flow problem, typically in October and November. When the tax revenue comes in January and February, they pay the City back. In 2009, they did not have enough money to do this or it was decided, and she was not with the City at the time, that the money was not going to be paid back in 2009. In October of 2009, the \$100,000 that was in the savings account was transferred into their account, but that amount came in at \$75,000, so she was not sure where that money came from. It turns out that \$25,000 of the money was given back to the City. In January of 2010, \$45,000 was taken out of their budget and paid back to the City, an amount owed from October of 2008. The issue has been solved and the Library Board was notified of the information three days after it was mentioned in the Library Board meeting. Ms. Woods apologized that it even came to the point that it was discussed.

Ms. Saunders came before the Board and asked about the \$1.2 million, the cost taken from the TDD to buy the Public Works facility, which cost \$1.6 million, and where the additional \$400,000 came from. She asked why the City settled the Meridian case when she was assured that the missing funds was the State's fault. She would like the \$200,000 back and she wants her \$1,000 spent on Mr. Hesse's attendance at a meeting, so that she can ask him questions directly. She mentioned Mr. Seemayer and indicated that there were suspicions in June, and the bank called in March, so Mr. Seemayer should have been walked to the door.

Jeff Harrison, resident at 2519 Annalee Avenue came before the Board and stated that it is very clear that they are missing some basic accounting principles in the City and basic accountability. It is just one red flag after another. He has defended the Mayor many times until the past month. He likes the Mayor personally, but it looks terrible. They ask questions and there are very few answers. He asked the Mayor and Board to please help restore some semblance of trust in city government. He thinks Mr. Leahy is a good man, with a good heart, in the right place. He questioned the Board's accounting background and business acumen. He thinks there should be some resignations from the Board.

Paula Martin, resident at 8745 Litzsinger Avenue came before the Board and stated that she never thought that she had to be suspicious about the things that went on at City Hall. She cannot say it any better than Ms. Saunders did. She thinks it is outrageous that they are paying a fat pension to the man who stole from the City and she objects.

Karen Smith, resident at 8930 Harrison Avenue came before the Board and asked what happens next on the Meridian. Are they going to sign another redevelopment agreement and will the bonds be reissued? She asked why the City settled the Meridian lawsuit. She stated that she followed up with City Administrator Akande to find out about the \$13,000 in interest paid to Eagle Bank for the loan the City had to take out to cover the \$400,000 of the missing funds. Ms. Smith stated that she personally does not know if she would have caught what was going on with Mr. Seemayer if she was sitting in those (Board) seats. She does know that she would be acting a lot different had it happened to her. It might have been a well-hidden thing, but if there were better oversight, it would have been caught. How the Board has responded to what happened is really the travesty. It was commented at the last meeting that often times the Board defers to the Mayor's position, that they often disagree and have differences of opinion. She encouraged the Board members to consider that they are supposed to be the oversight function for the city. Stating their concerns, issues and asking questions will result in a better-informed community and things will be more transparent. Bringing bills forward and then voting on it is not transparency. Ms. Smith asked if there have been any actions regarding the employees using the credit cards. There was reference to documents from Attorney Hesse that was brought up in a meeting and it was said that the Board was waiting to get documents. She has requested copies of those documents and the second opinion. At the last meeting, someone said that was privileged information. She has spoken to a couple of lawyers and they said that things that can be closed are personnel and real estate. Privileged is not the same as closed. Privileged, if it is a legal issue, but once it is settled, it becomes an open record. She asked if things to which those documents refer to have been settled and can they be released.

Dennise Harrington, resident at 8542 Rosalie Avenue came before the Board and asked about the status of hiring the new chief financial officer.

Mayor Kelly responded to the question about the Meridian redevelopment agreement by stating that there will be a new redevelopment agreement and the bonds will be issued again. As part of that agreement, they are not allowed to talk about the case or the settlement agreement in public, so that is one of the reasons he did not respond to Ms. Saunders until she had asked a direct question. He stated that he is more than willing to sit down with anybody, at anytime, and answer questions. Ms. Saunders has never called him and asked him questions. With respect to the documents that the attorneys are preparing, anything that is not related to personnel matters could be released. Most of the work that is being done or asked for is dealing with personnel issues. Regarding the loan for the library, he thinks it is great that people want to be involved and know what is going on. The City lends money to the library almost every year, and that has not been an issue before and now because one journal entry is mistaken and someone makes a mistake in mentioning the journal entry, all of a sudden there is a criminal act going on. The library is a separate taxing district from the City. They collect their own taxes and run their own operations. The City received eleven applications for the finance director's position. Those applicants were narrowed to seven. It was requested that the seven applicants submit some supplemental information to be reviewed and then the seven will be narrowed to three candidates. City Administrator Akande is setting up a review board of city administrators to help her interview the finance director, make the selection and then

submit the recommendation to the Board. Regarding the Meridian, the settlement agreement is not far from what the City had agreed to help with more than two years ago before the lawsuit was filed.

Alderman Leahy stated that concerning Ms. Saunders concerns with Mr. Hesse, the Board placed his bill on hold pending getting all the documents. They received three boxes worth of documents. A presentation has been made to the Board and an opportunity has been made available to them in the last two weeks to read the documents. It took him three and a half to four hours to get through every single page of them to the point that this evening he is satisfied enough with the information to allow the hold on that check for Mr. Hesse to be released. Because the City is slow on paying his bill, there has been a little bit of an adversarial relationship with the attorney and he is not so sure that extending the invitation to Mr. Hesse at this point would yield what he hopes that Ms. Saunders would look for at this point. They do not have all the answers. They have yet to hear from the second labor attorney the resolve or the best next step as to his opinion on how they have proceeded. The intent was to get a second labor opinion on what the first labor attorney suggested this Board do on a personnel matter. The request to make first and second readings on opposite nights has been approached a few times. There is no majority of the Board agreeing to change the way they are doing it, but it does not make it a dead issue.

Alderwoman Clements stated that in response to Ms. Saunders question, she does not feel that it is a conflict of interest that her son-in-law is a police officer. He has been a police officer in Brentwood long before he became their son-in-law. She does not directly oversee him and has no oversight of his daily work.

INTRODUCTIONS, READINGS, AND PASSAGE OF BILLS AND RESOLUTIONS

Bill No. 5634 - Five Below - Site Plan and Signage Plan

Motion was made by Alderwoman Clements, second by Alderman Leahy to remove Bill No. 5634 from the agenda. All in favor none opposed.

First and Second Readings of Bill

Bill No. 5636 – Glennon Company

Motion was made by Alderman Leahy, second by Alderman Kramer to give Bill No. 5636 first and second readings. All in favor none opposed.

City Attorney Albrecht gave Bill No. 5636, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT ON BEHALF OF THE CITY OF BRENTWOOD, MISSOURI WITH THE GLENNON COMPANY FOR A SHORT-TERM CONSULTING ASSIGNMENT FOR THE 2011 HOLIDAY SHOPPING SEASON; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE, its first and second readings.

Alderman Kramer read a synopsis of Bill No. 5636 as a Bill that authorizes the Mayor to enter into a professional services agreement or a short-term consulting assignment with Glennon Company for a five-week radio advertisement campaign. The radio campaign will highlight and encourage shopper to the city of Brentwood for the 2011 holiday shopping season. This item was reviewed and recommended for approval by the Communication Committee.

Alderman Leahy asked if there is any statistical data supporting the effectiveness of the campaign over the last two years.

Mayor Kelly responded that the feedback from the businesses and people commenting says it is very positive. They have not done a survey.

Motion was made by Alderwoman Clements, second by Alderman Marshall to approve and adopt Bill No. 5636. Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, no; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes.

The Mayor thereupon declared Bill No. 5636 duly passed and signed same into approval thereof. Said Bill was given Ordinance No. 4313.

ACCOUNTS AGAINST THE CITY

Motion was made by Alderman Marshall, second by Alderwoman Clements to approve the warrant list dated 11/07/11.

Alderman Kramer applauded City Administrator Akande for the extreme level of detail on the warrant list. He asked about the Frederic Company expenditure and which building the roof repairs were done on.

Mayor Kelly responded that the repairs were done on the public works building. It was covered by insurance.

Alderman Leahy asked about the expenditure for McMahon Berger PC and how many hours it takes to generate \$5,700.

City Administrator Akande responded that the Board retained McMahon Berger PC in September, so the expenditure is for the entire month of September and a little bit of October.

Alderman Leahy stated that it was his understanding that during that time the City was trying to get the documents from Mr. Hesse.

Mayor Kelly stated that if you go back and look at the numbers, he believes the expenditure will include the one report that they received.

City Administrator Akande stated that staff has been using McMahon Berger PC for ongoing personnel matters in the City, so it is beyond that one matter. They have assisted with other personnel issues.

Alderman Leahy stated that his initial request for Attorney Foster when he came on board was clarification on what the second opinion is that they are looking for as to what Mr. Hesse's firm has suggested that may not have been the best avenue to follow. He is still waiting for that information and has not seen the second opinion. He is of the opinion that Mr. Hesse has not provided them with a bad course of action and is not sure that the second opinion is justified. He asked if there a timeframe on the availability of the report from Attorney Foster?

Mayor Kelly responded that could be addressed when they get a follow up to their last meeting.

All in favor to approve the warrant list, none opposed.

Regarding the warrant list, Alderman Leahy stated that two months ago the Board made a motion to withhold a \$9,600 check from Mr. Hesse, pending a resolution to the files and records. That has been accomplished to his satisfaction because he has sat and read all the boxes of the report. He would like permission from the Board to release payment for the \$9,600.

Motion was made by Alderman Leahy, second by Alderman Marshall to release payment of the \$9,600 bill to Mr. Hesse.

Alderman Kramer stated that they had a question for City Administrator Akande at the last meeting regarding detail or invoices that were yet to be brought forward. He asked if that has been accomplished.

City Administrator Akande stated that she does not know that holding out will get them that. They are comfortable with what they have at this point.

Roll call: Alderwoman Clements, yes; Alderman Marshall, yes; Alderman Leahy, yes; Alderwoman Krewson, yes; Alderman Kramer, yes; Alderman Robertson, yes; Alderman Wynn, yes.

REPORTS OF COMMITTEES AND DEPARTMENT HEADS:

Mayor's Report

Mayor Kelly stated that they would not need an executive session this evening.

Mayor Kelly requested the appointment of Lynne DeV Vaughan to the Brentwood Library Board.

Motion was made by Alderman Marshall, second by Alderman Leahy to approve the appointment of Lynne DeVaughan to the Library Board. All in favor none opposed.

Mayor Kelly stated that last year there was an effort statewide from Rex Sinquefield, totally funded on his own, to create an initiative for the fair tax. It was an initiative to eliminate the State's income tax for all residents but then implement a statewide sales tax to offset that income to the State. A number of different studies have come out with different amounts but at that time, it was estimated that the statewide sales tax to make up the revenue, combined with local taxes would end up being between 14 and 16%. That initiative included paying sales taxes on things like daycare and doctor's co-pays, prescription medications, all foods and any kind of service that you are not paying sales taxes on now. Now they are coming up with another initiative. They have changed the name and Mr. Sinquefield is funding it again. They have petitioned a Constitutional Amendment to get it on the ballot for a statewide vote in 2012. Under the new initiative, although they would still be taxing all of those new things, they are saying that they will limit the sales tax to 10%. In order to increase the State's revenue, that means they will be rolling back some of the local sales taxes. It is something that the Board and the residents need to pay very close attention to. This sales tax would be on every purchase. It sounds good when you say to people that their income tax will be eliminated, but if you look at all the things that you will end up having to pay taxes on and what it would amount to, it could be scary, and hurt the lower income and the elderly.

Alderman Kramer stated that there have been some discussions in the Municipal League newsletter about the pool cities, St. Louis County sales tax topic.

Mayor Kelly stated that there is a group meeting between the A & B cities; the pool cities and the point-of-sales cities and Brentwood elected to be a point-of-sales city in the 1970's. In 1994, County Executive Buzz Westfall got an initiative passed through the State that allowed a portion to be taken from the point-of-sales cities and allocate the funds to the pool cities. Last year, that amount for Brentwood was almost \$1.3 million of the City's sales tax revenue that went into the pool. The pool cities elected to be bedroom communities years ago and have in his opinion, turned down retail opportunities over the years. For instance, when Crestwood Plaza was being built, the original site that they wanted to build on was at Highway 44 and Elm, and Webster Groves did not want to have that type of development in their community. Now there is talk about trying to readjust the tax so that the point-of-sales cities are not contributing as much to be redistributed to the pool. The issue is that other cities are depending on the income, and to tell a city that it will not be getting a big part of its revenue, how will they pay for their police, fire, and so forth. Mayor Kelly stated that they are trying to come up with an equitable way of redistributing the tax like putting a cap on the amount that cities are contributing. They take the portion out of the one-cent countywide sales tax. When County Executive Westfall initiated the plan, they also gave the cities the opportunity to put to the voters a ¼-cent sales tax to offset the loss given to the pool cities. Brentwood voters approved the ¼-cent sales tax, but 14% of that sales tax is also taken. Mayor Kelly stated that the theory behind that is, with Brentwood being a community with a good retail base, people come from other communities and shop in Brentwood, so they should have a right to some of the taxes.

Brentwood has a population of approximately 8,000 now, but a working population of over 25,000, so Brentwood has to provide services to all those people as well. There is also the maintenance of streets. The bedroom communities that have benefited from the sales taxes, population wise, outnumber the point-of-sales cities. The attitude that the cities have taken over the last seven or eight years, is that they are not going to be able to make it any better. Prior to 1970, municipalities could not even have sales taxes in St. Louis County.

Mayor Kelly announced a blood drive would be held tomorrow from 10:00 to 2:00 pm at the Brentwood Recreation Center. The blood drive is usually held each year on Election Day, but there will be no voting in Brentwood tomorrow.

Mayor Kelly announced a Veterans Day program would be held on Friday, November 11 at 6:00 pm at City Hall.

Public Safety Committee – No report

Public Works Committee – No report

Director of Planning and Development – No report

Ways and Means Committee

Alderman Marshall stated that there was no quorum at the last meeting. A meeting will be held on Thursday.

City Attorney – No report

City Clerk/Administrator – No report

Excise Commissioner – No report

Library

Alderman Wynn stated that there are a number of things being published in the Suburban Journal about the library and the activities.

Municipal League – No report

Communication – No report

Historical Society – No report

UNFINISHED BUSINESS

Alderman Marshall asked for an update on the Helen Avenue sewer project.

Asst. City Administrator Rottjakob updated the Board on the Helen Avenue sewer project by stating that the contractor expects to have the project completed by the end of the year, but there have been delays because of relocating some of the utilities. A survey is being done to see if Missouri American water main needs to be removed as part of the project. As soon as she has any new updates, she will pass it along to City Administrator Akande.

Alderman Kramer stated that there has been some discussion recently about Post Offices closing in parts of the country. Brentwood's is not one of them but there has been talk about the renewing of the lease or extending the lease.

City Administrator Akande stated that she received a letter from the United States Postal Service indicating that they have hired a company to review all their lease agreements. The City collects approximately \$24,000 a year.

Alderman Kramer asked if there is any concern about the City needing to renegotiate, renew or extend the lease.

City Administrator Akande responded that it is not up for renewal yet.

Alderman Marshall stated that a resident had told him that a dog had attacked his wife and their dog last week in the area of Brentwood Forest. This is the third time that this pit bull has attacked somebody. He would like to see the Public Safety Committee look at this issue and possibly have an escalating fine or even surrender the dog if the owner cannot keep it in their back yard. This dog apparently went over a fence. There are substantial veterinarian bills for the dog owner, but the third time is excessive.

Alderwoman Clements stated that she believes the dog is on Lawn Avenue and she received a call from a resident. She had spoken to City Attorney Albrecht about it and his advice, which she will pass along, is that if this happens again to call Animal Control because they might impound the animal, which should be done.

City Attorney Albrecht stated that depending on the circumstances, Animal Control would investigate it.

Alderwoman Clements stated that the police are called for each attack.

Alderman Marshall stated that Animal Control was called and they said they could not do anything until they receive the police report. Alderman Marshall requested that the police report be forwarded to the resident, so he could forward it to Animal Control.

Mayor Kelly suggested that staff could draft legislation that initiates a report once a second claim is made or something along those lines.

NEW BUSINESS

Alderman Leahy stated as the Mayor pointed out, although tomorrow is Election Day, there are no issues on the ballot and there will be no open polling places in the city of Brentwood.

The Boy Scouts of America will be going throughout the city of Brentwood and the Greater St. Louis area on Saturday, November 12 as part of their scouting for food program. This will help bring in food for the food pantries in the St. Louis area. The bags go out on the 12th and the Scouts will be back on Saturday, November 19 to collect them.

The Ward 3 meeting for the month of November will be Tuesday, November 29 at 7:00 pm in the Council Chambers.

Alderman Robertson stated, in response to the comments made by Ms. Saunders, that in his business he has been through several lawsuits over the years. The Board's judgment has been questioned in regards to settling the Meridian lawsuit when they are right. That does not mean a whole lot in court. He has been right several times and not always won those cases and they are very expensive. If you are right and you do all the work, sometimes you win and sometimes you do not. It could be extremely expensive to lose in a situation like this when Brentwood is considered a deep pocket entity. They cannot take that kind of risk, in his judgment. It is easy to say that you would decide differently but it may not be that easy if you were there at the same time, in the same chronology, with all the same facts, and faced with not knowing what was going to happen. He asked for understanding of that. They do most of their work in the open committee meetings and anybody is welcome to attend. If you call him with a question and he does not know the answer, he will try to answer it. He has not been asked any questions specifically by anybody in the room. He does not know as much as the Mayor or the City Administrator about certain things because they do most of the work, especially the City Administrator. He stated that it is a very part time position and that everybody on the Board and the Mayor are doing their best to make it right and make this a better city.

In response to the request to separate the first and second readings of bills, Mayor Kelly mentioned that the Board always has the option to put something on hold and hold it over to the next meeting. For example, in the case of P&Z issues, if there were a petition for a new site plan and you do two separate readings of a bill, that process would make an already lengthy process even longer.

ADJOURNMENT

Motion was made by Alderwoman Clements, second by Alderman Wynn to adjourn the meeting at 8:01 pm. All in favor none opposed.

Pat Kelly, Mayor

Attest:

Bola Akande
City Clerk/Administrator