

Exhibit No.:  
Issues: Unreasonable current street lighting tariffs and actions of Ameren and unreasonable proposed increases  
Witness: Robert Kuntz  
Sponsoring Party: City of Ballwin, Missouri  
Type of Exhibit: Surrebuttal Testimony  
File No.: ER-2014-0258  
Date Testimony Prepared: February 5, 2015

MISSOURI PUBLIC SERVICE COMMISSION

SURREBUTTAL TESTIMONY

OF

ROBERT KUNTZ

ON

BEHALF OF

CITY OF BALLWIN, MISSOURI

*St. Louis, Missouri  
February, 2015*

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE UNION ELECTRIC )  
COMPANY, d/b/a AMEREN MISSOURI'S )  
TARIFFS TO INCREASE ITS REVENUES )  
FOR ELECTRIC SERVICE )

File No: ER-2014-0258

AFFIDAVIT OF ROBERT KUNTZ

STATE OF MISSOURI )  
 ) ss  
COUNTY OF ST. LOUIS )

Robert Kuntz, of lawful age on his oath states: that he has participated in the preparation of the following Surrebuttal Testimony in question and answer form, consisting of 5 pages of Surrebuttal Testimony to be presented in the above case, that the answers in the following Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.

*Robert Kuntz*  
Robert Kuntz

Subscribed and sworn to before me this 5<sup>th</sup> day of February, 2015.



CHRISTINE A. NORTHCUTT  
My Commission Expires  
July 8, 2016  
St. Louis County  
Commission #11425420

*Christine A. Northcutt*  
Notary Public

1 SURREBUTTAL TESTIMONY

2 OF

3 ROBERT KUNTZ

4 FILE NO. ER-2014-0258

5  
6  
7  
8  
9 **Q. Please state your name and business address.**

10 A. My name is Robert Kuntz and my office address is 14811 Manchester Road,  
11 Ballwin, Missouri 63011.

12 **Q. Have you provided direct testimony in this case?**

13 A. Yes.

14 **Q. What is the purpose of your surrebuttal testimony?**

15 A. I have read David Wakeman's and William Davis' rebuttal testimony on behalf of  
16 Ameren. The purpose of my surrebuttal testimony is to: (1) Respond to Mr. Wakeman's  
17 discussion of the Cities of Ballwin and O'Fallon's Complaint filed before the Commission in  
18 File No. EC-2014-0316; (2) Respond to Mr. Wakeman's testimony relative to the issue of  
19 maintenance of fixtures if the Cities owned the street lighting fixtures; (3) Respond to Mr.  
20 Wakeman's apparent assertion that there would be no benefit to Ameren for selling its fixtures to  
21 the Cities; (4) Comment with respect to Mr. Davis' admission that the 5(M) Tariff rates are too  
22 high; and (5) Comment on Mr. Davis' assertion that the City of Ballwin will benefit from an  
23 increase in gross receipt tax revenues.

24 **I. Commission File No. EC-2014-0316.**

25 **Q. Are you familiar with Commission File No. EC-2014-0316?**

26 A. Yes. The Cities of Ballwin and O'Fallon filed a Complaint with the Commission  
27 seeking the intervention of the Commission relative to Ameren's unjust, unreasonable and  
28 discriminatory conduct in refusing to negotiate for the sale of Ameren's fixtures to the two  
29 Cities. While Mr. Wakeman is correct in his testimony that the Complaint was dismissed, an  
30 appeal with respect to the dismissal is currently pending before the Missouri Court of Appeals,  
31 Western District. Further, the Commission in its order of dismissal noted that the City could  
32 intervene in this matter in order to pursue more favorable rates.

33 **II. Maintenance of the Fixtures if the City owned the fixtures.**

1           **Q.     Mr. Wakeman testified that “[a]llowing another party to maintain or service**  
2 **cable powering street lighting would expose the Company’s distribution system to risk as**  
3 **well as exposing that party to dangers associated with the maintenance and repair of low**  
4 **and medium voltage electronic distribution system equipment.” Do you agree with this**  
5 **concern?**

6           A.     No. The City is a public governmental entity that would use competent and  
7 qualified individuals to maintain any facilities that it acquires. Furthermore, the City would also  
8 be interested in only acquiring the light fixtures themselves, which would allow Ameren to retain  
9 control over maintenance of the other parts of the distribution system, if Ameren wished. In  
10 addition, under the 6(M) Customer-Owned Tariff, the cost of maintenance for the light bulb and  
11 eye are included in the rates.

12           Also, it is my understanding that the facilities that form the City’s street lighting  
13 infrastructure, which in some cases attached to distribution poles, are essentially separate and  
14 apart from Ameren’s general distribution system. If I am correct this would further reduce any  
15 concern Ameren asserts with respect to the City being involved with maintenance.

16           Furthermore, on occasion the City has asked Ameren to do tree maintenance when parts  
17 of trees are blocking and, therefore, reducing the effectiveness of the illumination of the street  
18 lights. Ameren has refused to do such maintenance.

19           **Q.     Do you know of any reason why Ameren and the City could not share poles**  
20 **or share space on poles?**

21           A.     No. In fact municipalities and utilities routinely share poles. Further, the  
22 Missouri General Assembly in 2013 enacted legislation codified in Section 67.5104 RSMo,  
23 which required cities to share their poles with some utilities.

24           **Q.     Do you believe that Ameren’s concerns as to maintenance would preclude**  
25 **Ameren from being able to sell facilities to the City?**

26           A.     No. In fact when I was reviewing my files I discovered an exchange of  
27 correspondences between myself and Kenneth Schmidt with Ameren from October of 2009. I  
28 have attached these to my testimony as Schedules RK-S1 and RK-S2. Ameren provided a sale  
29 price of \$4,968.47 for lighting facilities in the Danbury Subdivision in the City. Ameren did not  
30 express any concern in their letter about an inability or impracticality in selling part of its  
31 distribution network. Furthermore, Mr. Schmidt’s letter indicates that Ameren would consider

1 providing an estimate for the City to purchase the City's entire residential street lighting system,  
2 provided that the City was seriously considering such acquisition. Then on November 10, 2008  
3 Mr. Schmidt attended a City Board of Alderman meeting and said that Ameren was willing to  
4 entertain the possibility of selling the street light facilities to the City. Attached to my testimony  
5 as Schedule RK-S3 are the minutes from the November 10, 2008 Board of Alderman meeting.  
6 At the November 10, 2008 meeting Mr. Schmidt stated that the average cost for the City's 9500  
7 lumen post-top luminary would be \$500. At that time the City had 1,883 9500 lumen post-top  
8 luminary fixtures. The City's elected officials wanted more information, and an opportunity to  
9 purchase the fixtures did not materialize.

10 **III. Ameren would benefit from the sale of the fixtures to the City.**

11 **Q. Mr. Wakeman's testimony does not identify any benefit to Ameren from the**  
12 **sale of fixtures to the City, do you believe there is a benefit to Ameren?**

13 A. Yes. In fact the benefit is very similar to that identified by Mr. Wakeman when  
14 discussing File No. EO-2013-004, the Bussen Quarries matter. Mr. Wakeman identified that the  
15 Company would benefit from the sale of a transformer to its customer as it would mean Ameren  
16 would not have to remove the transformer from service. Similarly, the sale of the fixtures to the  
17 City would allow for Ameren to avoid the cost of removing and disposing of the fixtures if the  
18 City was to terminate under the 5(M) Tariff. The City would also benefit from not having to  
19 acquire and install new light fixtures.

20 I also believe that Ameren would see an additional benefit in having the City responsible  
21 for maintenance of street lighting facilities, in that it will allow Ameren to prioritize more urgent  
22 repairs and maintenance with the rest of its infrastructure, while allowing the City to address the  
23 concerns and maintenance that are important to its residents relative to street lighting.

24 **IV. The 5(M) Tariff rates are too high.**

25 **Q. Mr. Davis testified that Ameren's 5(M) Tariff rates are too high. Do you**  
26 **agree?**

27 A. Yes. Mr. Davis indicates that his additional analysis with respect to the Class  
28 Cost of Service Study demonstrates that the 5(M) rates paid by the City are about 11% too high.  
29 However, I believe that the detriment to the City is more than considering simply that the rates  
30 are too high. The 5(M) tariff requires the City to pay the cost of the facilities over and over

1 again. Ameren is enjoying a windfall for those fixtures that the City has paid excessive costs for  
2 over the last several decades.

3 Another important consideration relative to the excessive 5(M) rates is that the City pays  
4 the same monthly rate for each fixture even if a fixture is not working. Only if the City is able to  
5 identify a fixture that is not working, does the City receive any form of discount for the cost.

6 **Q. Even if Mr. Davis was correct and the 6(M) Tariff rates should double,**  
7 **would the City still benefit from changing to the 6(M) Customer-Owned Tariff?**

8 A. Yes. The savings that the City would receive from switching from the 5(M)  
9 Tariff would still be substantial even if the 6(M) Tariff rates were to double. If the 6(M) Tariff  
10 rates doubled, the City would still save over \$300,000.00 per year on street lighting relative to  
11 the rates it currently pays. Furthermore, Ameren is not seeking to double the 6(M) Tariff rates  
12 and as such discussion about doubling the 6(M) rates is something of a red herring.

13 **V. An increase in gross receipt taxes is irrelevant.**

14 **Q. Mr. Davis suggests that the increase in gross receipts tax revenues should**  
15 **offset the fact that the City would see an increase in rates under the proposed tariff. Do**  
16 **you agree?**

17 A. No. Comparing an increase in rates with an increase in gross receipt tax revenue  
18 is like comparing apples to oranges. Mr. Davis indicates that the 5(M) rates are already too high.  
19 As I testified previously, Ameren's requested increase would result in an increased cost to the  
20 City under the 5(M) Tariff of over 8 percent. The fact that the City would be receiving higher  
21 gross receipts tax revenue has no bearing on the excessive utility rates that are being imposed  
22 upon them by the 5(M) Tariff, which would be exacerbated by the current proposed increase. In  
23 fact, the City's residents will be getting doubly punished in that the City, which exists for the  
24 benefit of its residents, will have to expend greater resources on street lighting, and Ameren  
25 presumably will be passing the burden of the increase in the gross receipts taxes on to its  
26 customers, which of course includes the City's residents. The City supports important public  
27 services by means of tax revenues. The City also needs to manage expenses and reduce them  
28 whenever possible. The City is seeking to manage their street lighting costs, irrespective of all  
29 possible up and down changes to its tax revenues.

30 Ameren has previously recommended to the City that it can cut street lighting costs  
31 simply by reducing the number of fixtures. Street lighting forms an important part of the City's

1 public safety efforts, as the increased illumination of streets, in my opinion, helps reduce crime  
2 and promotes the health and welfare of the City's residents, which in turn helps protect property  
3 values.

4 **Q. Does this conclude your surrebuttal testimony?**

5 A. Yes.

Government Center  
14811 Manchester Road  
Ballwin, MO 63011-4617



(636) 227-8580  
Fax: (636) 207-2320  
www.ballwin.mo.us

October 2, 2009

Mr. Ken Schmidt, Manager  
AmerenUE  
500 E. Independence Drive  
Union, MO 63084

Dear Ken:

On September 28, the Board of Aldermen directed me to formally request a price for municipal purchase of our residential street lighting system. If possible, I would like to see a cost plus energy option, as well as a purchase price that includes maintenance.

Although I have not discussed this with the Board, another more limited avenue to pursue might be a partial buy out and conversion. If the numbers were right, we could buy the fixtures in the Danbury Subdivision (for example), convert them and pay you for energy only. After a reasonable test period, this would give us both a pretty good basis for future applications with minimal initial exposure.

Ken, the situation has become critical. We cannot afford to maintain the status quo in light of the current economic crisis and continued rate hikes. I look forward to your prompt response so we can move forward on this issue.

Sincerely,

Robert A. Kuntz  
City Administrator

RK:MC

SCHEDULE RK-S1



October 16, 2009

SCHEDULE RK-S2

Mr. Robert A. Kuntz, City Administrator  
City of Ballwin Government Center  
14611 Manchester Road  
Ballwin, MO 63011-4617

Dear Bob:



I received your formal request for a price to purchase the residential street lighting system in Ballwin. Arriving at a purchase price for these facilities will require a substantial commitment of our resources. In addition, the Missouri Public Service Commission must approve any sale of our facilities. This all will take considerable time. In the meantime, I can provide you information on Danbury Subdivision.

As you requested, we updated the price we provided you in February for the lighting facilities in Danbury Subdivision. The sale price for the facility is \$4,968.47. This price is good for 90 days.

There are 15 HPS 9500-Lumen post top lights in Danbury Subdivision. Under Service Classification 5(M), Company-Owned Street and Outdoor Area Lighting, the City currently pays \$15.91 for each light per month. This cost covers the electric used by the lights and full maintenance of the light, poles and service lines.

If the City were to purchase the Danbury lights, they would be billed on one account under existing Service Classification 6(M), Customer-Owned Street and Outdoor Area Lighting for un-metered service. This rate includes a Customer Charge of \$5.17 per account per month plus \$2.78 for each light per month and covers the energy used and maintenance (bulb and eye) of the light.

The 6(M) rate provides un-metered energy and maintenance to only HPS and Metal Halide lights. If the City were to purchase then replace the HPS lights with another style, Ameren would no longer provide maintenance and the energy used by the lights would need to be metered.

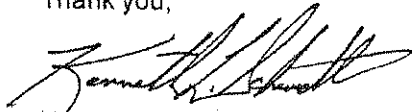
Under Service Classification 6(M) for Metered Service, the city would be billed \$5.17 per month per meter plus 3.49 cents per kWh. How many meters are needed depends on the circuitry of the lights.

The monthly comparison charges per light for 5M current billings vs. 6M Customer Owned and 6M Metered Service are as follows:

<b>Rate</b>	<b>Cost</b>	<b>Maintenance</b>
5M (Current)	\$15.91	100% Ameren provided
6M Customer Owned	\$5.17/account \$2.78/light	Ameren maintains Light bulb & eye
6M Metered	\$5.17/account 3.49¢/KWH	Ameren provides no maintenance

In closing, I would like to state once again that we will work with the City in any way possible within the boundaries of approved tariffs. However, because of the magnitude and scope of the City's request, I would want to ascertain that the City fully intends to pursue purchasing our facilities before proceeding.

Thank you,



Kenneth L. Schmidt  
AmerenUE  
Manager - Twin Rivers Division



SCHEDULE RK-S3

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**Board of Aldermen Meeting Agendas & Minutes**

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The Board of Aldermen meet on the second and fourth Mondays of each month at 7:00 p.m. in the Board Room of the Ballwin Police Department, 300 Park Drive. Schedule and place subject to change. Meetings are open to the public. All citizens are urged to attend.

**Board of Aldermen Budget Work Session and Meeting**

**Meeting Agenda**

**MEETING NOTICE**

A Budget Work Session will be held on November 10 at 6:00 p.m. , preceding the regularly scheduled Board of Aldermen meeting, in the Board Room of the Donald "Red" Loehr Police & Court Center, 300 Park Drive.

In the event that the discussion is not concluded by 7:00 p.m., it is proposed that the work session be reconvened after the conclusion of the Board meeting.

All meetings are open to the public and the building is handicapped accessible.

Robert Kuntz, City Administrator

Residents of Ballwin are afforded an equal opportunity to participate in the programs and services of the City of Ballwin regardless of race, color, religion, sex, age, disability, familial status, national origin or political affiliation. If you are a person requiring assistance, please call (636) 227-8580 (V) or (636) 527-9200 (TDD) or 1-800-735-2966 (Relay Missouri) no later than 5:00 P.M. on the third business day preceding the hearing. Offices are open between 8:00 A.M. and 5:00 P.M. Monday through Friday.

[Meeting Agenda click here](#)

**Meeting Minutes**

**MINUTES 2009 BUDGET WORK SESSION**

City of Ballwin  
November 10, 2008

The Budget Work Session for 2009 was called to order at 6:03 p.m. by Mayor Young. In attendance were Aldermen Pogue, Terbrock, Buermann, Suozzi, Robinson, Fleming, Lembke and Boerner. Also in attendance were City Administrator Kuntz, Assistant City Administrator Aiken, Finance Officer Loehr, Chief of Police Schicker, Director of Parks and Recreation Bruer, and City Engineer Kramer.

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City Administrator Kuntz presented revisions to the Capital Improvements Plan and Operating Budget based on previous Board Work Session comments. Mr. Kuntz explained that Department Heads have attempted to address the Board's concerns and issues, and have revised both budgets accordingly. He noted that the surplus in the 2008 budget resulting from the relatively low bids for the Government Center ramp improvement will be rolled into the 2009 Capital Budget as additional roadway work. This is equal to about \$200,000.

Mr. Kuntz explained that there has been some difficulty putting together the 2009 budget because of the format changes in the Capital Improvements Plan. He acknowledged that it has been difficult to follow expenditures in the 2009 budget from previous years because of the format change. Many expenditures that were previously in the Capital budget have been relocated to the Operating budget to more accurately reflect the cost of programs. Approximately \$500,000 of expenses have been moved to the Capital budget in this manner. He noted that no revenue sources were moved from the Capital budget to offset this expenditure, so additional revenues in 2009 coming to the Operating budget primarily from the utility tax increase are being used to offset this transferred expenditure. The movement of these expenses has freed up funds in the Capital Improvements Plan for additional street work. As a result of these changes, approximately 50% of the increased revenues coming to Ballwin as a result of the 2% utility tax increase will be spent on roadway improvements in 2009.

Finance Officer Loehr gave an overview of revenues and expenditure changes in the 2009 budget. More precise numbers have come available since the previous Board budget work sessions. She repeated the observations of City Administrator Kuntz noting that approximately \$550,000 in capital expenditures were moved into the Operating budget without a relocation of capital revenues. She noted that as a result of expenditures not being made and additional revenues in 2008, no draw on reserves will be required in 2008. As a result, all of the money anticipated for such a reserve draw can be rolled forward into the 2009 budget and utilized for roadway work.

Finance Officer Loehr went over the notes that she had included in the Board packets explaining the revenue and expenditure situation as it is anticipated for 2008 and budgeted for 2009. She noted that the information provided is not budget documents, but is intended to explain in more detail the comparison between the two years, the increased revenues, and new budget formats. For simplicity, these notes have combined certain types of expenditures that will not be combined in the budget documents. She noted that Ballwin is on target year to date in 2008 on sales tax revenues. Ballwin does not seem to be experiencing the drop off in revenues that other cities have experienced in the region.

Finance Officer Loehr noted that it is the Board's policy to maintain a reserve in the Operating budget equal to 15% of the Operating budget. She noted that Ballwin is well above this target and is expected to complete 2008 with an approximately 64.55% reserve, and is budgeted to complete 2009 with a 52.45% reserve.

Alderman Pogue noted that the Public Works budget contains \$5,000 for skidsteer repair. He asked how much a new piece of equipment is worth and what the life of such equipment is. City Engineer Kramer noted that a new skidsteer costs approximately \$40,000, and generally has an 8 - 10 year life expectancy. He noted that the \$5,000 repair is typical for this piece of equipment, given the nature of the work it is expected to do.

Alderman Pogue asked about the value of heat applied roadway paint. City Engineer Kramer explained that the department is currently doing a test of this material at the Park Drive/Holloway Road intersection. The success of this experiment will be measured in 2009 and on that basis, a determination will be made whether or not this type of paint is more economical than conventional paint for crosswalks, stop bars, and similar roadway markings.

City Administrator Kuntz stated that he would like to recommend annual leases for pieces of equipment, such as a skidsteer, but that type of lease arrangement is very expensive. City Engineer Kramer noted that the skidsteer scheduled for repairs in 2009 is an 8-year old piece of equipment with 2,100 hours of operating time. He believes that the additional repairs will give this piece of equipment another 2 - 3 years of life.

Alderman Buermann asked if it is the plan of the Administration Department to review the fee schedules for permits and inspections. Assistant City Administrator Aiken stated that he intends to conduct such a study in 2009, but noted that it's not purely a matter of setting rates to recoup costs. He noted that comparisons are made with other surrounding municipalities and St. Louis County regarding the fees they charge for similar permits. It has been Ballwin policy to try to keep its fee rates consistent with those charged by surrounding municipalities.

Alderman Fleming asked if the road inspection consulting fee proposed originally in the Public Work's budget had been taken out. City Administrator Kuntz stated that it has and the funds were placed into the budget for additional roadwork. Alderman Fleming stated it is his intention to recommend all out-of-town travel be eliminated from the 2009 budget, except for travel associated with training that is necessary to maintain certifications. He stated it is also his intent to recommend that no golf carts be purchased in 2009, and that no funds be put into the 2009 budget for window cleaning.

City Employees Only

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Alderman Fleming then moved to eliminate cart acquisition and window washing from the 2009 Parks budget. Alderman Buermann asked if these expenditures could be reconsidered later in 2009 when there is a better understanding of the revenue situation. City Administrator Kuntz said that it would be better to simply not include the expenditures in the budget. There is no suitable mechanism to consider additional expenditures at a later date that are not included in the budget. Alderman Buermann expressed concern about including this in the budget with the possibility of the Board not approving the expenditure, because it has been his experience, that if it is in the budget, the Board will not subsequently deny the expenditure when it is brought forward for consideration. Alderman Terbrock expressed disagreement with that position stating that it is within the Board's ability to deny an expenditure if it feels that it is unnecessary or ill-advised on the basis of the City's revenue position. Alderman Fleming stated it does not make sense in his mind to include something in the budget unless the Board is prepared to make the expenditure.

Alderman Fleming's motion was seconded by Alderman Buermann. Alderman Lembke noted that this motion will remove approximately \$15,000 of expenditure from the budget, but it will also remove approximately \$6,000 in revenue from the sale of the used golf carts. Each golf cart has to make approximately 300 rounds to generate revenue equal to the cost of its purchase. He is concerned that having old and less reliable golf carts will negatively impact golf cart revenues and golf course utilization rates.

Mayor Young asked if the golf cart purchase was deferred until 2010, what the value of the trade-in golf carts will be by that time. Director of Parks & Recreation Bruer said it's difficult to tell what the trade in value will be at that point, but she can guarantee an increase in maintenance in 2009 when the old carts are retained.

Alderman Boerner asked if the motion can be tabled until the end of the discussion to allow every Alderman to ask questions and make their points prior to votes on removing items. Aldermen Fleming and Buermann did not object to the motion to table their proposal until the end of discussion.

Alderman Boerner stated that he is concerned about Ballwin's financial situation, not in 2009, but in 2010. He noted that there is a 14% increase in the Operating budget for 2009 and an 8.8% increase in capital expenditures for 2009. This is being done by a planned expenditure of reserves. He is concerned that it will not be possible to sustain such expenditure levels through reserve draws in future years. He believes that Ballwin is a little high relative to the number of employees for the size of its operation, and believes that building and equipment maintenance are growing faster than is sustainable with revenue changes. He noted this may be partly due to one-time expenses on equipment costs, but acknowledged a lack of long-term understanding as to what one-time costs may be incurred in 2010 and future years.

Alderman Lembke asked City Administrator Kuntz, in his time as City Administrator, how many times was it necessary for the City to make a draw on reserves that had not been planned. City Administrator Kuntz said this had never happened.

Adjourn: A motion was made by Alderman Lembke and seconded by Alderman Terbrock to adjourn the budget meeting at this time to allow the regular Board meeting to begin, and to have further discussion on the budget and any proposals to eliminate expenditures under Aldermanic Comments at the regular meeting. The Board voted unanimously to accept this motion. The meeting adjourned at 6:56 p.m.

Walter S. Young, Mayor

ATTEST:

Robert Kuntz, City Administrator

MINUTES OF THE BOARD OF ALDERMEN MEETING

CITY OF BALLWIN - 300 PARK DRIVE

November 10, 2008

The meeting was called to order by Mayor Young at 7:03 p.m.

PRESENT  
 MAYOR WALT YOUNG  
 ALDERMAN TIM POGUE  
 ALDERMAN JIMMY TERBROCK  
 ALDERMAN KEN BUERMANN  
 ALDERMAN JANE SUOZZI  
 ALDERMAN JAMES ROBINSON  
 ALDERMAN FRANK FLEMING  
 ALDERMAN RAY LEMBKE  
 ALDERMAN RICHARD BOERNER  
 CITY ADMINISTRATOR ROBERT KUNTZ  
 CITY ATTORNEY ROBERT E. JONES

ABSENT

The Pledge of Allegiance was given.

#### MINUTES

The Minutes of the October 27 Operating Budget Work Session were submitted for approval. Alderman Fleming amended page 5 to eliminate the statement to put a 27 cent property tax on the ballot in April 2009. He said the statement should be "Alderman Fleming asked if a 27 cent property tax should be considered. City Administrator Kuntz said this is not advisable at this time." A motion was made by Alderman Buermann and seconded by Alderman Terbrock to approve the Minutes as amended. A voice vote was taken with a unanimous affirmative result and the motion passed.

The Minutes of the October 27 Board of Aldermen meeting were submitted for approval. A motion was made by Alderman Buermann and seconded by Alderman Suozzi to approve the Minutes. A voice vote was taken with a unanimous affirmative result and the motion passed.

#### PRESENTATION

None.

#### CITIZEN COMMENTS

Ted Hoog, 1150 Richland Meadows: Mr. Hoog spoke in favor of the 20 mph speed limit on Richland Meadows. He said that of the residents contacted on Richland Meadows, 88% were in favor of the speed limit reduction. This was reflected in the signed petition that Mr. Hoog described. He said that there is a brochure in the Police Department lobby regarding pedestrian safety. He said the brochure states, "Protect your child across your community by petitioning for more traffic calming measures to lower vehicle speed." He said this is what has been done for the past three weeks. He said this is a safety issue and asked for the Board's passage of Bill #3547.

Karen Dodd, 454 Westglen Village Drive: Ms. Dodd said that in Castle Pines Subdivision, on Westglen Village Drive, there is also a speeding problem, even with traffic calming devices. She said that trees in the front yard have been hit, including the mail box, retaining wall, and there are hub caps in a front yard. She has been told that speed bumps are not an option. She said there are many children in the neighborhood and requested that the 20 mph speed limit be applied to all residential areas, not just Richland Meadows.

Frank Karr, 457 Westglen Village Drive: Mr. Karr said that the traffic suppressors have been on this street since 2002. The purpose of this program was to slow traffic. This does not always slow the traffic. He requested another speed study be done on Westglen Village Drive.

Michael Wind, 626 Castle Meadows Ct., President of the Castle Pines Homeowners Association: Mr. Wind said he supports the reduction of the speed limit on Richland Meadows and all of the residential areas in Ballwin. He said that there are drivers who pass stopped school buses while loading and unloading children. He suggested changing the speed limit on all streets that are currently double-fine zone, and are currently 25-miles per hour to 20 mph. He also suggested having the Police conduct a study on the issue for the whole city and present a report on how to resolve the bigger issue to the city. He also said that he opposes the speed limit moratorium.

Jackie Benedict, 1427 Richland Meadows: Ms. Benedict said that parked cars have slowed traffic, but the traffic is not slowed when the parked cars are not there, therefore, the Police should not assume that there is no speeding problem. She supports the 20 mph speed limit.

Ken Schmidt, AmerenUE: Mr. Schmidt said that Ameren is willing to entertain the possibility of selling the street light facilities to Ballwin. He said the average cost of the 9500 lumen post-top luminary would be \$500. He said that half of this cost is for the cable and half for the light fixture and pole. He said that there are 1,833 lights of this type in Ballwin. He said that there are approximately 500 service calls per year in Ballwin. About 10% of these calls are for cable failures.

Mayor Young said that \$500 per light is too high. He said that for 40-year old lights, anything over \$1 is too much. Ballwin has been paying for these lights for many years. Mr. Schmidt said that he figures the cost based on 1988, which is a 20-year old light. Mayor Young said that a prorated cost based on age is more appropriate.

Mr. Schmidt said there are various options that he is willing to discuss. Mayor Young asked City Administrator Kuntz to evaluate the options and cost.

City Administrator Kuntz asked about Ameren's position on LED street lighting. Mr. Schmidt said the LED lighting is not an option at this time. He said that the reason for this is that the upfront cost of LED lighting is considerably higher. This higher cost has to be considered in the rate. Ameren has considered this, but decided not to offer LED lighting at this time.

Alderman Terbrock asked could the cost of transfer be split among the residents for a monthly fee. Ameren would have control of the cost. Mr. Schmidt said that some cities and homeowner's associations do this. Alderman Terbrock said that Ameren could use their monthly billing list and charge a monthly street light fee.

Alderman Lembke asked about the cost of each trip to repair a street light. He said the estimated cost is approximately \$400 or more per light.

Alderman Fleming said that AmerenUE is not offering any options that are more energy efficient. Mr. Schmidt said that mercury vapor lighting was replaced with high pressure sodium lighting because it is more efficient. At this time, LED lighting has a high up front cost. He said that the Public Service Commission does an analysis and approves rate charges. Ballwin utilizes some of the most efficient lighting. Alderman Fleming asked if the lights could be set to be on for a specific number hours and then shut off. Mr. Schmidt said the schedules and costs would have to be determined, and the proposal submitted in the next rate case to the Public Service Commission. He said this is a long lengthy process.

Mr. Schmidt said that right now, Ameren's cost per light is 5% lower than in 1987. Alderman Fleming said that the invoices do not reflect this. Mr. Schmidt said this is because Ballwin asked for more lights to be installed. He said in the last two years, Ballwin has asked Ameren to install 50 additional lights. Right now, the City is paying \$14.75 per month per light. In 1987, the cost was \$15.53.

Alderman Boerner asked would Ameren have to charge too much in order to recover cost to make LED a viable alternative. Mr. Schmidt said that the upfront cost difference is so high that this cannot be offered as more economical to the customers that the current lighting. Alderman Boerner said, assuming that Ballwin can save \$235,000 per year, is Ameren going to charge more than \$235,000 per year to install the LED lights? With 50% less usage, would this be a viable alternative to install. Mr. Schmidt said yes. As more people use LEDs, the upfront cost will come down.

Alderman Robinson said the amount due on an actual bill is \$34,281.48 per month. He asked what portion is for the pole rental, electricity, and maintenance. He said that of the \$14.75 per month for a standard light, the electricity cost for the one unit is \$1.25. Mr. Schmidt said that is correct if you own the light and Ameren supplies energy only to the light. This is for lights installed before 1988.

Mr. Schmidt said that calculations would be made for the whole area that Ameren serves. Alderman Robinson said that Ballwin's poles that have been installed since 1985 are being charged based on what it costs Ameren to put up new poles in other areas. Mr. Schmidt said that is correct. He said this could also be based on a new pole in Ballwin what was damaged by a storm, tree, car, etc. Part of the \$14.75 per pole that Ballwin pays each month includes Ameren's maintenance. Alderman Robinson said that this is like an insurance policy. The risk factor is not being calculated based only on the Ballwin area, but on the entire AmerenUE service area. Mr. Schmidt said that is correct. Alderman Robinson asked does Ballwin has a lower risk and replacement factor than the entire AmerenUE service area. Mr. Schmidt said he does not have that information. He said a cost of service study would be necessary to provide that information.

Mr. Schmidt said there were about 500 service calls last year in the Ballwin city limits. About 10% of those were cable failures. The rest are mostly bulbs and photocell eyes.

Alderman Robinson said that \$14.75 per month is for the pole, energy, and maintenance. Mr. Schmidt said yes. He said that Ballwin does not pay any maintenance charges to Ameren. Alderman Pogue said that the schedule shows for energy and maintenance \$2.58 per month, which consists of replacing lamps, washing lamps, luminars, adjustment and replacement of control mechanisms. He asked what does the remaining \$12 or \$13 per month pay for, other than the 10% of the cable costs. Mr. Schmidt said that this rate is set up to cover the cost of buying and amortizing the equipment and the installation costs, labor, overhead, and profit.

Alderman Pogue said if Ballwin buys the lights at \$500 each, which are lights that Ameren controls and maintains, is it correct that we can get energy and maintenance for \$2.58 per month for one light? Mr. Schmidt said yes, that's what the rate would change to. He said that Ballwin will have to take the risk of the actual mechanism of the light, pole, and the photo cell. The starting circuit would be the responsibility of the city.

Mayor Young said that Mr. Schmidt should meet with City Administrator Kuntz to further discuss the options in addition to a report to the Board of Aldermen at the December 8 Board meeting. Mr. Schmidt agreed. Alderman Pogue requested that printed information be provided at least several days prior to the next Board meeting to give more time to review.

Mayor Young said that AmerenUE sent letters regarding tree trimming in his neighborhood. He said that the subdivisions in his area all have underground electrical wiring. Money could be saved by not sending these letters to residents who have underground electric. Mayor Young suggested that this information be relayed to the officials in charge of the mailings.

Alderman Robinson said that the Board is counting on AmerenUE to help provide a more efficient lighting service for the residents. Mr. Schmidt said that the high pressure sodium cost is less than anything else on the market at this time. Alderman Terbrock asked what makes this more efficient. Mr. Schmidt said the light cycle is the determining factor. It

may not be more efficient than the LED, but the other components of the light cycle make the high pressure sodium more efficient.

Alderman Lembke asked, does the high pressure sodium cover a bigger area than mercury vapor lights? Mr. Schmidt said yes. There is a larger illuminated area for each bulb. Mr. Schmidt said yes. Alderman Lembke said that perhaps some of the lights are not needed that will not cause safety concerns.

#### PENDING ISSUES

BILL # 3547 - AN ORDINANCE PROVIDING FOR A SPEED LIMIT OF 20 MPH ON RICHLAND MEADOWS DRIVE AND ALVERSTON COURT.

City Administrator Kuntz said that the curve and hill on Richland Meadows should be enough traffic calming for most people, but this does not seem to be effective. Installing medians is not a good option on this street. A traffic study has been done.

Police Chief Schicker said there are 118 miles of roadway in Ballwin. He said it is not possible to cover every roadway based on every complaint. He said that from the traffic counts, specific time frames were determined when most of the violations take place. He recommended targeting those time frames with heavy saturation patrols and enforcement, as well as education.

Alderman Lembke said that he is in favor of approving the 20 mph speed limit for Richland Meadows for one year. If this has been effective after one year, the possibility can be considered for a city-wide 20 mph residential speed limit change. He said that this is an experiment that the results may be known after only 6 months.

Alderman Suozzi asked about the percentage of signatures. Ted Hoog said that they were able to contact 70% of the homeowners on Richland Meadows. There were 22 residences that could not be reached. He said that 51 homes of the 73 answered the door when contacted. Of the 51 that were contacted, 45, which is 88%, said yes. (Editor's Note: 45 yes signatures equals 62% of the homes on the street). Alderman Suozzi asked what percentage of the total subdivision population does this represent. Mr. Hoog said that this does not represent the whole subdivision because the speed limit reduction applies only to Richland Meadows. Alderman Suozzi said that in previous similar situations, petitions were submitted from the entire subdivision because residents of the entire subdivision use the street. She said that the submitted petition regarding Richland Meadows may not rise to the level of what the Board should be looking for.

Alderman Suozzi said that speed limits are not traffic calming. Traffic calming consists of physical items that are placed in the street. She said there is still a perception that the trailers placed on the streets are the mechanism that is counting and measuring the speeds of the cars. The trailers are informational items that are placed on the street for the purpose of raising awareness to the driver of their speed. It is not measuring the speed. The speed measurements are being taken by the tubes that are placed in the street. She said that the traffic calming on Spring Meadows is very effective. She said that Mr. Karr stated that the traffic calming in Castle Pines has worked, but it needs to be revisited because people have become comfortable at driving around the traffic calming measures.

Mr. Hoog said that they were told to present a petition, and then told to obtain more signatures. He said they have done this. The issue on the agenda is not about traffic calming devices. It is about reducing the speed limit from 25 mph to 20 mph. He said the majority of the residents on Richland Meadows want this. He said he does not understand why there is difficulty in granting this request for one year to determine the effectiveness.

Alderman Suozzi said that she does not have a problem with enforcing the double-fine speed zone that is currently in place. She said that the Police Department conducts studies on many streets in Ballwin. She does not want to abandon the process based on perception. She said she is willing to lower the speed limit for a period of time under the condition that we are going to monitor to determine the effectiveness. She said if the speed limit is lowered to 20 mph, the residents will also want the police to write tickets when someone is driving over 20 mph. The law is not being broken based on the numbers. She said there is a process to follow. She agreed with Police Chief Schicker that enforcing the current speed limit is what should be done. She wants the Police to make this determination.

Alderman Terbrock said that this is a common problem and reducing the speed limit on Richland Meadows can be used as a study. He said that this street has all of the characteristics of all of the streets in our city. It's narrow, the setback is light, downhill grade, curvature, and the traffic calming items cannot be used because of the narrowness of the street. He said that this study is the perfect opportunity to obtain this information. He said that it is foolish to consider lowering the residential speed limit city-wide if this does not work. He said the moratorium allows this to be used as a study.

Alderman Robinson said the Richland Meadows speed limit should be reduced to 20 mph. He does not agree with the moratorium. He said if other residents want the 20 mph speed limit, he has no problem in doing this. The number one complaint that he hears is regarding speeding. He said the duty of an alderman is to be responsive to the requests of the residents. He does not see a good reason not to be responsive on this issue. He said if we rely on the Police



Department's data, it won't make much difference if the speed limit is 20 or 25 because most of the people are driving between 20 and 30. It won't be that much of a change. Enforcement of this will not change because we won't be adding a lot of police officers on the streets. He said those arguments are not valid as reasons to contest the reduction to 20 mph. He said the only valid argument is that the data shows that this is the way we have always done this. He said he does not think that Chief Schicker is getting the number of calls that the aldermen are getting.

Alderman Robinson said that a moratorium is not a good idea. If we rely on one mile to determine the result, this is a sample group of less than 1%. That is not sufficient in order to determine policy. The scope should be broadened to determine policy. He said we don't know if other residents are going to request a lower speed limit. The door should be open find out if this happens. If it turns out to be a floodgate of requests, the Board will have misunderstood the importance of the lower speed limit. He said that the aldermen are elected servants of the people who live in the subdivisions, and have a duty to be responsive to their requests. He said this Board should have a change of thinking.

Alderman Fleming said that in Bill #3547, Section 2, referring to Alverston Ct., should this street be included in this bill, since no numbers have been presented. Alderman Lembke said that there are 11 houses on Alverston Ct. that also experience the speeding.

Alderman Fleming asked does Ballwin have a speed limit policy. City Administrator Kuntz said that there is not a separate speed limit policy. Alderman Fleming said he will vote in favor of the Richland Meadows speed limit reduction. The residents have obtained a majority of the signatures of the residents on the street. He said that there should be a standard of consistency throughout Ballwin. He said that some adjoining cities have 20 mph speed limits.

Alderman Buermann said that he does not want to discriminate against all of the other residential streets in Ballwin. He does not want to restrict the 20 mph speed limit to one street. He said that perhaps the moratorium could be limited to 6 months. He said he will not support the 1 year moratorium. This is a separate issue. He said that the double-fine zones should not have been established if it was not going to be enforced. Test data can be obtained from more than one street. He said that Richland Meadows is not different from other streets in Ballwin. He suggested that all of the double-fine streets that are applicable be considered for additional test data instead of one street.

Alderman Pogue said that not all streets qualify to have 20 mph speed limits. He believes that a 6-month moratorium would be sufficient to determine effectiveness.

Alderman Terbrock said that a 6-month moratorium will not provide a proper traffic scope because the moratorium would end in May. Traffic characteristics change after students are out of school for the summer.

Alderman Boerner said that if any group of residents presents a petition requesting their street speed limit be lowered to 20 mph, and has the same determination as the residents of Richland Meadows, this should be granted. If there is a groundswell of residents that make the same request, all of the streets can be changed at one time. He said that this is not discriminating.

Alderman Robinson said the moratorium is separate from Bill 3547 and is not binding on future Boards. He said he is not in favor of the moratorium, but is in favor of the sunset provision in Bill 3547.

Mayor Young said that City Administrator Kuntz suggested that instead of changing the speed limit, use zero tolerance. That would mean a ticket would be issued at 21 mph. Mayor Young said that not giving the Ballwin Police an opportunity to do their job is not right. If the Police Department does not come up with an effective solution in two months, the speed limit could be reduced at that time. Alderman Terbrock said that more police officers assigned to this project to enforce zero tolerance is not possible.

Alderman Robinson said that zero tolerance is not what is being requested. Also, with zero tolerance, we cannot control the judge, the prosecutor, and the police officers should not be micro-managed by the Board. He said that it's ridiculous to tell a police officer to issue a ticket to someone for driving 21 mph in a 20 mph zone.

A motion was made by Alderman Robinson and seconded by Alderman Terbrock for a second reading of Bill No. 3547. A voice vote was taken with a unanimous affirmative result and the motion passed. Bill No. 3547 was read for the second time.

A roll call was taken for passage and approval of Bill No. 3547 with the following results:  
Ayes - Boerner, Suozzi, Pogue, Lembke, Terbrock, Fleming, Buermann, Robinson. Nays - None.  
Bill No. 3547 was approved and became Ordinance No. 08-36.

Clayton Road Medians: City Administrator Kuntz said that Aldermen Terbrock and Lembke requested another discussion on this issue.

Alderman Buermann said that he does not understand how Ballwin public funds can be spent in Chesterfield. He does not think these medians serve the Ballwin residents. The medians are extremely long, back up to fences, many are solid

fences, and he is not sure how this will benefit the Ballwin residents. He said in discussions regarding accepting maintenance for medians, he always assumed that this was for medians in the City of Ballwin.

Alderman Pogue agreed with Alderman Buermann and asked for a legal opinion on this issue. City Attorney Jones said that this is no different than other inter-governmental agreements that the Board has entered into under Missouri Statutes. He said an example is the Great Streets Initiative. The Board has contracted with five other cities to perform work under an inter-governmental agreement which is allowed by Missouri law. If that program comes to fruition and all of the improvements are made, there could be Ballwin funds that are spent in another city. He said this is allowed under State law. Alderman Buermann said that an agreement must be in place and there is no such agreement at this time. City Attorney Jones said an agreement could be prepared. He said that Board approval of this expenditure effectively is an inter-governmental agreement. He said that legislation can be drafted and presented at the next Board meeting.

Alderman Terbrock said it is perceived that this area is in Ballwin. He said that Ballwin residents use this roadway and it is beneficial to our city. City Administrator Kuntz said that the City of Chesterfield has been appraised of the reconsideration and has indicated that any maintenance responsibility would be absorbed by Chesterfield. The design standard was formally adopted for Clayton Road which would be different than Clarkson Road.

Alderman Suozzi said that when the reconstruction of Clayton Road was discussed in Public Hearings, there was extensive discussion regarding the medians. There was a cooperative understanding on the part of Ellisville, Chesterfield, and Ballwin, that MoDOT was not going to maintain the medians; it was going to be up to the municipalities. She said that we need to get along with our neighboring cities and this is a way of doing this. Other cities are asked to help with the Great Streets Initiative, and the Clayton Road medians is on a smaller scale.

Alderman Lembke said that he is in favor of this issue because inter-governmental cooperation is important.

A motion was made by Alderman Robinson and seconded by Alderman Lembke to accept the expenditure for the Clayton Road medians with the City of Chesterfield. A voice vote was taken with the following result: Aye: Terbrock, Suozzi, Fleming, Robinson, Lembke, Boerner. Nays: Pogue, Buermann. The motion was approved by a vote of 6-2.

#### PUBLIC HEARINGS

None.

#### NEW BUSINESS

#### LEGISLATION

##### A RESOLUTION ESTABLISHING A MORATORIUM ON RESIDENTIAL SPEED LIMIT CHANGES.

A motion was made by Alderman Terbrock and seconded by Alderman Lembke to approve the Resolution.

Alderman Pogue presented an amendment to change the expiration date to May 30, 2009. Alderman Terbrock opposed the amendment and it failed for lack of a second.

A voice vote was taken with the following result: Aye: Terbrock, Pogue. Nay: Buermann, Suozzi, Fleming, Robinson, Lembke, Boerner. The motion failed by a vote of 2-6.

CONSENT ITEMS: (Budgeted items which are low bid and do not exceed expenditure estimates and/or items which have been previously approved in concept.)

A. None.

#### MAYOR'S REPORT

Planning & Zoning Commission Vacancy: Mayor Young said there is still a Ward 2 vacancy on this Commission.

Special Use Exception Transfer - Claymont Shell, 15401 Clayton Road:

A motion was made by Alderman Pogue and seconded by Alderman Buermann to accept the transfer of the Special Use Exception. A voice vote was taken with a unanimous affirmative result and the motion passed.

Great Streets Initiative: Mayor Young said that he received letters from the Cities of Wildwood and Manchester agreeing to participate in the Great Streets Initiative, in addition to the other two letters already received.

Old School House Fund: Mayor Young said that Callier's Deli contributed \$100 toward the fund.

#### CITY ADMINISTRATOR'S REPORT

Allied Waste Contract: City Administrator Kuntz said that Allied Waste is proposing a 5-year extension of the contract to be effective January 1, 2009. This is a non-exclusive residential solid waste collection contract for once per week

curbside, with all services including yard waste and bulky pickup. He said that the last contract expired on December 31, 2007. The 2007 rates have been in effect during 2008.

Alderman Terbrock asked if recycling containers are going to be provided for the parks. Tony Lamantia, Allied Waste Municipal Account Representative, said that there are intentions of this happening. It has been tried in several areas, but there is still a lot of contamination. After this is solved, it will be presented to Ballwin staff.

Alderman Pogue said that Ballwin leaf collection is linked with whoever subscribes to Allied Waste trash collection. He asked if the subdivisions who do not use Allied Waste can be moved to the city contract. These subdivisions do not benefit from the city leaf collection because they are not using Allied Waste. City Administrator Kuntz said that if residents are putting a can at the curb or a blue container, it is supposed to be picked up by Allied. Alderman Pogue said those not using Allied Waste are receiving the exact same service that Allied provides, but he's not sure if they are getting yard waste pickup. Mr. Lamantia said that yard waste pickup is part of the base service package that is paid for in Ballwin. City Administrator Kuntz said the yard waste pickup is part of the unit cost that is built in to Allied providing the large containers to contain the leaves. He said this makes the yard waste service in Ballwin unique. Chesterfield has voluntary yard waste pickup as an add on. He said the logic has always been that residents are paying for the curbside leaf collection disposal. People that use another company are not paying for the Allied truck to provide the large container and haul it away.

Alderman Pogue said that some areas, including Kehrs Mill Crossing, use Allied Waste, but they are under a private contract, not the city contract. Mr. Lamantia said that some areas use associations that receive city pricing, but they pay from one bill.

Alderman Buermann said it is beneficial to have a long-term contract. He said he is not happy with the starting price of the new 5-year contract. He said that there are other communities that are paying less than \$18.26. He said a long-term contract should provide a better financial deal. Mr. Lamantia said that with a 65-gallon container, including trash, recycling, and yard waste, there has not been a bid in the last two years that has been under \$19.00 that he is aware of. He said that the new contract presents a fair price. Fuel cost is currently going down, but for the past 4 - 5 years, Allied has not increased the rate due to fuel cost. There is a fluctuation in recycling because at this time, it costs more to recycle than to take the materials to the landfill. He said that this is a fair price.

Alderman Fleming said that considering that fuel costs and disposal costs could increase, he believes that a 4% increase is as good or even better if the service was rebid. He is in favor of approving the 5-year contract.

Mr. Lamantia said that the 65-gallon recycling carts will be delivered prior to January 1.

Alderman Terbrock said that there are Ballwin residents that do not pay for Allied Waste trash collection but are getting the leaves picked up. Alderman Suozzi suggested a 3% rate increase instead of 4% since this is a 5-year contract. Alderman Terbrock asked if there is a means to determine who are not using the Allied Waste service. Mr. Lamantia said that this is possible, however, the Ballwin ordinance would have to be changed to an exclusive contract with Allied. City Administrator Kuntz said the contract is non-exclusive, however, other trash haulers have to meet the same terms and conditions. They must apply for a franchise, be authorized by the City, bonding, fleet capabilities, insurance, etc., but can charge a different price. Alderman Terbrock asked if it would be beneficial to have an exclusive contract. City Attorney Jones said that he is not aware of municipalities that have exclusive contracts when the city does not pay for the trash service. Mr. Lamantia said that the City of Ferguson helps collect the fees with a letter to the residents, if payment is not made, the city refers it to the court system. City Attorney Jones said that this method involves additional problems. Mr. Lamantia said the rate would not be affected.

Alderman Terbrock asked if residents, condominiums, etc. can contract with any company, not restricted to Allied Waste, for service, provided that the company proves to be reputable. City Attorney Jones said that we do not have an ordinance that prohibits this; it's not an exclusive contract with Allied. The contract is non-exclusive. Other companies have to have a franchise with the City. City Administrator Kuntz said this is correct, but there are no other companies that have residential franchises in Ballwin. Single family residential is what the contract is for.

A motion was made by Alderman Fleming and seconded by Alderman Buermann to ask City Administrator Kuntz to negotiate an agreement with Allied Waste to present to the Board at the next meeting for consideration. A voice vote was taken with a unanimous affirmative result and the motion passed.

Mr. Lamantia said that until he has the signed contract, Allied cannot pay for the recycling carts. This could delay the delivery of the carts. Alderman Lembke said that when this Board approved the last extension, Mr. Lamantia said based on that approval, he would obtain the grant, and the carts would be delivered in September or October. Mr. Lamantia said they still have to go through a process of an RFP and pick a provider. He said that all of the carts will be delivered prior to January 1. He needs the agreement signed as quickly as possible if the City is going to extend with Allied.

Clayton Road Street Lights: City Administrator Kuntz there are some Clayton Road street lights that are on State right-of-way that Ballwin is being billed for. He suggested maintaining the intersection lights, but eliminating payment of six mid-block fixtures.

A motion was made by Alderman Robinson and seconded by Alderman Lembke to accept the recommendation. A voice vote was taken with the following result: Aye: Pogue, Robinson, Lembke, Suozzi, Buermann, Boerner. Nay: Terbrock, Fleming. The motion was approved by a vote of 6-2.

Alderman Pogue said that in a letter from AmerenUE, it is his interpretation that we are being billed for street lights in Coachlight Subdivision. Assistant City Administrator Aiken said that these are public streets. One year's operating cost was paid to the City of Ballwin when lights were installed. These are public rights-of-way that were dedicated to the City. The lights in the alleyway are paid for by the association.

Government Center Ramp: City Administrator Kuntz said it is recommended that the contract be awarded to Wright Construction Services, with the alternate to replace the railroad tie steps on the lower lot with the wooden rail, and to eliminate and replace the ramp that is falling off the back of the parking lot. The bid price is \$154,550. With Board approval, a meeting will be held with the contractor to do an access plan for the building. The project can be started within the next couple of weeks and completed before winter.

A motion was made by Alderman Buermann and seconded by Alderman Suozzi to accept the bid from Wright Construction Services in the amount of \$154,550. A voice vote was taken with a unanimous affirmative result and the motion passed.

Holidays: City Administrator Kuntz said that since the Christmas holiday is on Thursday, he recommended that the city offices be also closed on Friday, December 26, without being a paid holiday. The employees would be required to use vacation time or unpaid leave.

A motion was made by Alderman Buermann and seconded by Alderman Suozzi to authorize the closure of City offices on Friday, December 26, as presented. A voice vote was taken with a unanimous affirmative result and the motion passed.

City Administrator Kuntz also recommended the traditional cancellation of the December 22 Board of Aldermen meeting. A motion was made by Alderman Suozzi and seconded by Alderman Terbrock to cancel the December 22 Board of Aldermen meeting. A voice vote was taken with a unanimous affirmative result and the motion passed.

Financial Work Session: City Administrator Kuntz suggested the Board consider conducting a Fiscal Emergency Plan Work Session in January to consider certain financial scenarios on an organized comprehensive basis. The Board agreed.

#### CITY ATTORNEY'S REPORT

None.

#### ALDERMANIC COMMENTS

Budget: Alderman Fleming said if certain purchases can be made on a 4-year cycle instead of a 3-year cycle, this should be done if this is to be accomplished with reserves. He said that he didn't find a lot of these items in the budget that he thought could be reduced or eliminated. City Administrator Kuntz recommended eliminating the \$8,000 geese control program. Alderman Robinson agreed.

A motion was made by Alderman Fleming and seconded by Alderman Robinson to eliminate the expenditure for golf carts and window washing in the Parks & Recreation Budget.

Alderman Suozzi asked if the windows have not been washed in four years, is this budget item planned to be used this year? Director of Parks and Recreation Bruer said that this is in the 2008 budget but winter is not a good time to do this. Spring is a better time for this. Alderman Suozzi said that this is \$1,500 for an item that has not been done in four years.

Alderman Fleming and Alderman Robinson agreed to separate amendments to the motion.

#### Golf Carts:

A motion was made by Alderman Fleming and seconded by Alderman Robinson to eliminate the expenditure for golf carts in the 2009 budget. A voice vote was taken with the following result: Aye: Pogue, Terbrock, Fleming, Lembke. Nay: Suozzi, Robinson, Buermann, Boerner. After a 4-4 vote, Mayor Young voted Nay. The motion failed by a vote of 4-5.

#### Window Washing:

A motion was made by Alderman Fleming and seconded by Alderman Lembke to eliminate the window washing in the amount of \$1,500 in the 2009 budget. A voice vote was taken with the following result: Aye: Fleming, Buermann, Lembke. Nay: Suozzi, Terbrock, Pogue, Robinson, Boerner. The motion failed by a vote of 3-5.

**Out-of-town Travel:**

A motion was made by Alderman Fleming and seconded by Alderman Terbrock that all out-of-town training not required for certification maintenance be eliminated from the Budget including Board travel. City Administrator Kuntz asked of this includes all out-of-town travel outside of the St. Louis metropolitan area. He assumes that memberships in professional associations are a separate category and are not included in this motion. The National League of Cities conference would be included. He said that there is an administrative policy that no employee will attend a national conference or an out-of-state conference other than on alternate years.

The motion was withdrawn by Alderman Fleming.

**Hiring Freeze:**

A motion was made by Alderman Fleming and seconded by Alderman Boerner to enforce a hiring freeze in all departments in that if a position becomes open, the City Administrator shall bring it to the Board for permission to fill the position. He said the Board should consider vacant positions to determine if the money can be better spent in another area. A voice vote was taken with the following result: Aye: Fleming, Boerner, Pogue, Buermann. Nay: Robinson, Suozzi, Terbrock, Lembke. After a 4 - 4 vote, Mayor Young voted Nay. The motion failed by a vote of 4-5.

**Street Trees:** Alderman Fleming asked if a policy has been considered to shift the cost regarding street trees to a different budget category. City Administrator Kuntz said that he has talked to the insurance company. He said that we cannot delegate legal responsibility or liability within the public right-of-way. If a tree damaged a parked car or other private property, the city can count on receiving an insurance claim. He said that policy modifications of the program are being considered. He said the insurance carrier stated that we cannot legislate out of a street tree claims for insurance purposes or liability.

**Street Lights:** Alderman Terbrock said that \$1 million to purchase the lights is not so far out of the question. Considering the savings, the electricity and maintenance for the year would be \$57,152. The current bill for those lights is \$27,000 for one month. We would be saving almost \$300,000 per year.

**AT&T:** Alderman Terbrock said that on his recent cell phone bill, with AT&T as the carrier, he noticed a section called Other Charges. The municipal surcharge is \$6.95. The municipal sales tax was \$.95. He inquired about this and asked what is this charge. He said that in the Ballwin budget, there are no revenues that we are accruing from AT&T to cause this to be charged. The AT&T representative said that in August, 2006, something happened where monies were appropriated. In February, 2007, this was enacted. He asked if AT&T is back-charging for the back sales tax that it failed to collect. He said that this would be an improper charge. He should not have to pay back sales tax charges on service that AT&T should have collected at that time. He said he didn't even have AT&T service back at that time. He said this affects many people. He asked City Attorney Jones for an analysis.

City Attorney Jones said that AT&T was a settling defendant. They have no right to reimburse themselves with a surcharge. They have a right to collect it on a prospective basis and pass it through, which all of the companies are going to do. They have no right to reimburse themselves for taxes or gross utility fees that they did not collect. He said he will give a report at the next meeting.

**Geese Control:**

A motion was made by Alderman Robinson and seconded by Alderman Lembke to eliminate the geese control program from the 2009 budget. A voice vote was taken with the following result: Aye: Pogue, Terbrock, Buermann, Robinson, Lembke, Boerner. Nay: Suozzi, Fleming. The motion passed by a vote of 6 - 2.

**Double-Fine Zones:** Alderman Lembke asked if the Board wants to consider changing all of the double fine streets to 20 mph. Alderman Fleming suggested that this be discussed by the Public Health & Safety Committee.

**Capital & Operating Budget for 2009:**

A motion was made by Alderman Suozzi and seconded by Alderman Lembke to draft legislation approving the Capital and Operating Budgets for 2009. A voice vote was taken with the following result: Aye: Pogue, Terbrock, Buermann, Suozzi, Robinson, Lembke, Boerner. Nay: Fleming. The motion passed by a vote of 7 - 1. Alderman Fleming said the budget has not yet been reviewed by the Planning & Zoning Commission. City Administrator Kuntz said that this is only to draft the legislation. The Capital plan will not be taken to the Board without being reviewed by the Planning & Zoning Commission. He said the Planning & Zoning Commission does not approve the budget, just review it.

**Adjourn:** A motion was made by Alderman Buermann and seconded by Alderman Suozzi to adjourn. The motion passed unanimously and the meeting was adjourned at 9:48 p.m.

WALTER S. YOUNG, MAYOR

ATTEST:

ROBERT A. KUNTZ, CITY ADMINISTRATOR

MC