

AGENDA

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Approval of Minutes**
 - [a.](#) October 25, 2021 Board of Aldermen Meeting Minutes
- 5. Citizen Comments**
- 6. Presentations**
 - a. JEMA/Navigate - Police Department Building
- 7. Old Business**
- 8. Legislation**
 - [a.](#) 4105 - Clayton Ridge and Clayheath Ct Stop Sign
 - [b.](#) Opioid Resolution
- 9. Consent Items**
- 10. Mayor's Report**
- 11. City Administrator's Report**
- 12. City Attorney's Report**
- 13. Staff Reports**
 - [a.](#) SR - Use Tax
 - [b.](#) SR - Banking Services 2021
- 14. Aldermanic Comments**
- 15. Closed Session**
- 16. Adjourn**

NOTE: Due to ongoing City business, all meeting agendas should be considered tentative. Additional issues may be introduced during the course of the meeting.

CLOSED SESSION: Pursuant to Section 610.022 RSMo., The Board of Aldermen could, at any time during the meeting, vote to close the public meeting and move to closed session to discuss legal matters, personnel/employee matters, and/or real estate, as provided under Sections 610.021(1) RSMo., 610.021(2) RSMo., 610.021(3) RSMo.

ADA NOTICE: 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 one requires an accommodation, please call (636) 227-8580 V or (636) 527-9200 TDD or 1-800-735-2466 (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.



**BOARD OF ALDERMEN
Meeting Minutes**

October 25, 2021

7:00 PM 1 GOVERNMENT CTR. BALLWIN, MO 63011

THE MINUTES ARE PREPARED IN SUMMARY TO REFLECT THE OVERALL DISCUSSIONS, NOT VERBATIM QUOTES.

The meeting was called to order by Mayor Pogue at 7:02 p.m.

ROLL CALL

Present

Absent

- Mayor Tim Pogue
- Alderman Mike Utt
- Alderman Michael Finley
- Alderman Kevin M. Roach
- Alderman Mark Stallmann
- Alderman Frank Fleming
- Alderman Jim Leahy
- Alderman Ross Bullington
- Alderman Raymond Kerlagon
- City Administrator Eric Sterman
- City Attorney Robert Jones

The Pledge of Allegiance was recited.

MINUTES

The minutes from the October 11, 2021 Board of Aldermen meeting were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Finley to approve the minutes from the October 11, 2021 Board of Aldermen meeting as submitted. A voice vote was taken with unanimous affirmative result and the motion passed.

The minutes from the October 11, 2021 Board of Aldermen closed meeting were submitted for approval. A motion was made by Alderman Fleming and seconded by Alderman Kerlagon to approve the minutes from the October 11, 2021 Board of Aldermen closed meeting as submitted. A voice vote was taken with unanimous affirmative result and the motion passed.

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CITIZEN COMMENTS

David Siegel, 573 Golfwood, addressed the Board regarding the staff report on tonight's agenda. He believes doing a lottery for Ballwin police officers to purchase department weapons which would otherwise be disposed of is a great idea, but he also feels Ballwin residents should be included as these are city owned property.

PRESENTATIONS

a. PROCLAMATION – GINNY HALLORAN

Mayor Pogue presented Ginny with a proclamation in honor of her work with Ballwin Days and volunteer work throughout the community. Ginny has been involved with Ballwin Days since its inauguration and has served on the Ballwin Days committee since 1978. She has also been active in Parent Teachers Association and is heavily involved at the Senior Center. She has donated many hours of tutoring time through OASIS at Westridge Elementary School. The Board and entire community commends her for her volunteer work and dedication to the City of Ballwin.

b. MSD – FUTURE FUNDING

Saad Amir and Bruce Litzinger from Metropolitan Sewer District (MSD) made a presentation regarding future funding for MSD. They shared information about MSD's mission. They also talked about MSD providing two separate services: waste water and storm water and how these services are funded. Funding which is dedicated for waste water services cannot be used for storm water services. Storm water events can be overwhelming causing flooding and erosion and these events are a growing problem. There is a need for new storm water solutions. There was discussion about how to educate the public regarding storm water issues/events such as promoting virtual town hall meetings (11 are scheduled at this time), distributing public education materials through the City's social media and newsletters and the opportunity to go to specific neighborhoods to meet with residents about problems in their areas. The scheduled town hall meetings may be found at msdprojectclear.org/townhalls. Mayor Pogue asked City Attorney Bob Jones if there would be any issue for us to post information on our social media as a way to help MSD get information out to residents; Mr. Jones stated it would not be an issue.

MAYOR'S REPORT

Mayor Pogue noted that the Police and Parks departments were very busy over the past weekend as there were two events happening in the City: Trunk or Treat and Witches Night Out. He stated the Trunk or Treat event was well attended and he thanked staff for doing such a great job.

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CITY ADMINISTRATOR'S REPORT

City Administrator Sterman reported on the Holloway Rd. closure between Manchester Rd. and Target. The majority of this part of the roadway is being replaced with concrete and repairs are being done on water lines as well. The rest of Holloway Rd. has new asphalt, making it a much smoother road to drive on.

Mr. Sterman also reported that annual leaf pickup started today.

Lastly, Mr. Sterman reported he had been contacted by the Missouri Attorney General's office regarding the national opioid settlement. A certain number of states and localities have to opt in to it in order for it to take effect and will also dictate how much money the settlement will be. In Missouri, cities with a population of 30,000 or more are eligible to receive direct funding to be used for opioid education and for us to opt in, there has to be a resolution adopted. Mayor Pogue recommended that we opt in for the funding. City Attorney Jones will review the information and bring his recommendation/resolution to the next meeting.

CITY ATTORNEY'S REPORT

Nothing to report

STAFF REPORT

Police – Rifle and Shotgun Sales

Staff is requesting an exception to the policy on Surplus Property Disposal to allow for surplus rifles and shotguns to be sold, via lottery, to officers within the Ballwin Police Department.

Discussion:

Chief Doug Schaeffler stated that, as part of the modernization of a police department, new equipment including firearms, is necessary. Rifles purchased years ago are aged. As part of this year's budget, it was decided that every officer would be trained on the AR-15 rifle, which has been accomplished. The department has already purchased seven AR-15's and has included six more in next year's budget; all vehicles will be outfitted after the six are purchased next year. This has created a surplus of firearms that we don't want on the street so the department is requesting an exception to the Surplus Property Disposal policy to allow Ballwin police officers to be able to purchase them via lottery. There would also be a stipulation that they must keep the firearm in their possession for seven years. Alderman Finley asked what makes the weapons unique; Chief Schaeffler replied that they are lethal weapons, but otherwise, nothing in particular. Alderman Finley also asked if there would be any issue with opening this to retired officers who still live in Ballwin; Chief Schaeffler replied that it would be a consideration. Mayor Pogue asked what we would do with the weapons otherwise; Chief Schaeffler responded that they would



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likely sell to a local firearms store. He also stated any funds received would go to future firearms purchases. There was discussion about Federal Firearms Licensing in order to sell the weapons; Mayor Pogue asked City Attorney Jones to further investigate that issue. Alderman Fleming asked if all the weapons did not sell, would they be of use to other agencies; Chief Schaeffler replied they are older models and would require maintenance; dealers may want to purchase them for resale. Alderman Finley asked if we would change our policy; Mayor Pogue replied we would waive the requirement for this particular item. Mayor Pogue directed City Attorney Jones to review this request further and bring his recommendation to a future meeting.

ALDERMANIC COMMENTS

Alderman Bullington shared that Betty Caswell has passed away. Betty was a longtime volunteer with Ballwin Days and Ballwin Methodist Shriners and will be missed. City Attorney Jones said her visitation would be at Schrader Funeral Home on Tuesday evening and a memorial service was planned for November 5 at Salem in Ballwin United Methodist Church.

Alderman Stallmann stated that Saturday’s Trunk or Treat went really well and was a great event. He also shared that he and Mayor Pogue had met with the Wolf Café managers and subdivision trustees in the area regarding the parking issues at Clayheath Ct. and Clayton Ridge. He stated he would be asking the City Attorney to draft legislation for a stop sign to be erected at Clayheath Ct. Mayor Pogue stated the stop sign will help alleviate traffic issues. He also stated the property owner is putting up a stop sign at the plaza exit to the public roadway. Alderman Finley asked if a stop sign was the best solution and not the removal of parking spaces. Alderman Stallmann stated speeding is the biggest issue and this is the first step to alleviating the problems. A motion was made by Alderman Stallmann and seconded by Alderman Bullington to have the City Attorney draft legislation for the stop sign. A voice vote was taken with unanimous affirmative result and the motion passed.

A motion was made by Alderman Fleming and seconded by Alderman Finley to adjourn. The motion was passed by unanimous affirmative voice vote and the meeting adjourned at 8:01 p.m.

_____ TIM POGUE, MAYOR

ATTEST:

_____ POLLY MOORE, CITY CLERK



Section 8, Item a.

Bill No. 4105

Ordinance No. _____

INTRODUCED BY
ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE AMENDING SECTION 15-480 (SCHEDULE E) OF ARTICLE XII OF CHAPTER 15 OF THE ORDINANCES OF THE CITY OF BALLWIN WITH RESPECT TO A NEW STOP SIGN.

WHEREAS, the Board of Aldermen adopted certain ordinances that are codified as Section 15-480, Schedule E of Article XII of Chapter 15 of the Ordinances of the City of Ballwin with regard to stop intersections on certain streets; and

WHEREAS, the Board of Aldermen deems it necessary for public safety to amend the aforesaid schedule to include an additional stop sign.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The listing of streets within Section 15-480, Schedule E of the Ballwin Code of Ordinances shall be amended to add a stop sign at the following intersection:

Intersection or Location	Traffic on Street, Road, Highway or Alley Listed Below Shall Stop
Westbound Clayton Ridge Drive and Clayheath Court	Clayheath Court

Section 2. This Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this ____ day of _____, 2021.

TIM POGUE, MAYOR

APPROVED this ____ day of _____, 2021.

TIM POGUE, MAYOR

ATTEST: _____
ERIC STERMAN, CITY ADMINISTRATOR

Resolution

City of Ballwin, Missouri

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF NATIONAL OPIOID SETTLEMENT AGREEMENTS

A. General Principles

1. WHEREAS, the residents of the City of Ballwin, Missouri ("Ballwin") have been harmed by a national and state-wide opioid epidemic caused by fraudulent marketing and licit and illicit opioid use and distribution; and
2. WHEREAS, Ballwin and the State of Missouri ("the State") share a common desire to abate and alleviate the local impacts of the opioid epidemic in Ballwin and throughout Missouri; and
3. WHEREAS, Missouri and other states have entered into national settlement agreements with certain pharmaceutical supply chain entities currently facing litigation and investigation relating to the opioid epidemic; and
4. WHEREAS, Ballwin wishes to participate in the national settlement agreements;
5. NOW, THEREFORE, the Ballwin Board of Aldermen hereby approves and authorizes execution of the National Settlement Agreements, subject to the following terms and conditions:

B. Definitions

6. "J&J National Settlement" means a national settlement agreement with Johnson & Johnson and its related corporate entities concerning alleged misconduct in the manufacture, marketing, promotion, distribution, and dispensing of opioids.
7. "Distributor National Settlement" means a national settlement agreement with pharmaceutical distributors AmerisourceBergen, Cardinal Health, McKesson, and their related corporate entities concerning alleged misconduct in the marketing, promotion, distribution, and dispensing of opioids.

- 8. "National Settlements" refers collectively to the J&J National Settlement and the Distributor National Settlement.
- 9. "Settlement Funds" refers collectively to funds from the J&J National Settlement and the Distributor National Settlement.
- 10. "Settling Defendants" refers to the pharmaceutical supply chain entities who are parties to the J&J National Settlement and/or the Distributor National Settlement.

C. Execution of National Settlement Agreements

- 11. Upon passage of this resolution by the Ballwin Board of Aldermen, Ballwin shall be authorized to execute the necessary documentation to join the J&J National Settlement and the Distributor National Settlement on behalf of Ballwin. Ballwin shall further be authorized to execute the documents necessary to join the National Settlements electronically by using Docusign.
- 12. Ballwin acknowledges that the National Settlements require it to release its claims against the Settling Defendants as a condition of its participation and entitlement to Settlement Funds.
- 13. Ballwin is further authorized to cooperate with the State to fulfill all requirements necessary to qualify Ballwin for participation in the National Settlements and entitlement to Settlement Funds.

D. Applicability

- 14. This Resolution does not automatically apply to future national settlements with opioid manufacturer, distributor, or other opioid-related Defendants not named herein.
- 15. Ballwin acknowledges that this Resolution does not excuse any requirements placed upon it by the terms of the National Settlement Agreements.

THEREFORE, BE IT RESOLVED by the Board of Aldermen that the City of Ballwin is authorized to enter into a National Opioid Settlement Agreement.

PASSED this ____ day of _____, 2021.

TIM POGUE, MAYOR

ATTEST: _____
CITY CLERK





Staff Report

Subject: Use Tax

Department/Program: Administration

Explanation:

The largest revenue source for the City’s budget is sales tax, comprising of 40.1% of the City’s revenue in fiscal year 2021. Historically sales taxes have only been collected on goods purchased within the City limits of the City of Ballwin, i.e. at local stores such as Schnucks or Lowe’s. In recent years online sales have grown significantly. In the early 2000’s online sales represented less than 5% of sales overall. However, in recent years that percentage has grown significantly, and is expected to continue to do so moving forward. The Covid-19 pandemic has accelerated the trend to online sales. Currently, online sales represent approximately 15% of all sales overall¹.

In the early days of online sales no sales tax was collected on online purchases. That began to shift with some sales taxes being collected on web sites that had a physical presence, or “economic nexus” in a particular state. Finally, in 2018 the United States Supreme Court issued a ruling in the case of South Dakota vs. Wayfair that overturned previous rulings requiring a physical presence in order to collect sales tax. This opened the door for states and localities to begin implementing policies to collect sales tax on online purchases.

As of 2021, 48 states had passed legislation authorizing the collection of sales tax on online purchases. The two remaining holdouts were Florida and Missouri. As a reminder, in Missouri cities can only collect sales taxes that are authorized in state statute. Finally, in 2021 the State of Missouri passed SB 153² which made several changes to taxation in the state. The most significant change was authorizing cities to enact, with voter approval, a sales tax on online purchases. This new tax, if authorized by the voters, would begin collection on January 1, 2023.

It should be noted that SB 153 also implemented a phase down of the gross receipts tax on cable, which will go from its current level of 5% down to 2.5% in 2027. This could result in a net loss of \$168,000 per year in revenue starting in 2027 based on current numbers. Therefore, if the City does not implement an online sales tax, we will actually lose revenue from SB 153. In addition, as more sales transition to online purchases, the City’s overall sales tax receipts could begin to shrink significantly in the future without passage of an online sales tax.

1 https://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf

2 https://www.senate.mo.gov/21info/BTS_Web/Bill.aspx?SessionType=R&BillID=54245348

In Missouri, sales taxes on online purchases are collected via a “use tax”. The use tax has existed for many years (though not in Ballwin). This has historically been a tax on out of state purchases made in the state, and had primarily applied to businesses making purchases of goods or supplies across state lines. With the passage of SB 153 the use tax will now be evolved into a sales tax on online purchases as well. It is important to note that a use tax can only be implemented in a municipality with approval by the voters. There is currently no use tax in the City of Ballwin.

With the implementation of SB 153 and the use tax in Missouri, cities across the state are now deciding whether or not to put a use tax before their voters. There are currently over 250 cities in the state where the voters have already authorized a use tax, including many in St. Louis County such as Kirkwood, Webster Groves, Hazelwood, Sunset Hills, Olivette, and others. In addition, in advance of the 2023 implementation, numerous other cities are placing the use tax on the ballot in April of 2022. This group will include many if not all of our neighboring cities, including Ellisville, Chesterfield, Manchester, Wildwood, and Town and Country. As of this writing both Ellisville and Chesterfield have already voted to put it on the ballot and the others are deliberating it.

It is important to note that a ballot initiative in the City of Ballwin would only apply to collection of the City’s local option sales taxes, which are a ½ cent sales tax for capital improvements and a ½ cent sales tax for parks. The City’s other sales taxes, the 1 cent general sales tax and ½ cent public safety tax are both County-wide taxes. As such, in order for those taxes to be collected on online purchases, the voters across St. Louis County will need to approve a use tax as well. In addition, the City would not receive additional funding from the County-wide sales tax pool either until the County voters approve a use tax. At this time it is unclear whether or not St. Louis County intends to place a use tax on the April ballot.

Prior to placing this question on the ballot, the Board may want to consider how it will impact the City of Ballwin financially. As previously mentioned, sales tax typically makes up 40-45% of the City’s revenues. For FY 2022, it is anticipated that the City will generate total sales tax revenue of \$10,159,000. Of that, the two local option taxes are expected to bring in \$1,511,000 (capital sales tax) and \$1,771,000 (parks tax). If we apply the 15% multiplier to those numbers based on the percentage of online sales, we expect that we could bring in approximately \$492,000 in the first year of the use tax, based on the local option taxes only. That number would increase should the use tax also be approved by County voters, allowing us to capture the countywide general and public safety sales taxes. Additionally, as more sales are shifted from brick and mortar stores to online purchases, we expect the number to increase each year.

Should the ballot measure be placed before the voters, the actual ballot language is established in SB 153. The language must be substantially similar to the following: “Shall the City of Ballwin impose a local use tax at the same rate as the total local sales tax rate, provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action?”

Neither SB 153 nor the required ballot language place any restrictions on the use of funds. Cities are allowed to use them for any purpose they see fit. As such, the use of these funds does not have to be decided now. However, should this issue be placed before the voters, it may be appropriate to determine a proposed use for the money as rationale to the public for needing the tax. This can be discussed in the future but one suggestion would be to put some or all of this additional funding towards the public works department and specifically, to increase spending on street repair in the City. You may

recall that the City did a budget survey in 2021. In that survey streets were at or near the top of areas that the public rated of high importance and also areas where they thought the City could improve. Having this additional funding to take better care of our streets each year does seem to align with the public's wishes. Again, this decision does not need to be made today and more public input could be sought if so desired.

In order to put this measure before the voters at the April 2022 election, the Board would need to have a final vote on this issue by the first meeting in December, due to the filing deadline to place issues on the ballot.

If the Board is interested in placing this issue before the voters, there are some advantages to doing so during the April election. The first is cost. As the April election is a municipal election, we will already have candidates on the ballot. Therefore, there is no additional cost to the City of placing a tax question such as this before the voters. In St. Louis County, costs for running the election are shared equally by any entity that has items on the ballot. Since so many entities have items on the April ballot, the cost is usually relatively low, \$17,000 or less. Conversely, if this were to be brought forward during August or November or one of the other election windows, the City would have to bear a much higher share of the costs since typically fewer entities have items on those ballots. The cost of holding this vote during one of those windows could easily run from \$50,000 - \$100,000.

In addition, with so many cities placing this question on the April ballot, there is opportunity for shared education and wider public understanding of the issue. This is similar to a ballot initiative of several years ago regarding sales tax on motor vehicles purchased out of state. Having multiple cities and/or the County communicating on the same issues helps raise voter awareness. The Metro St. Louis Municipal League has indicated that they intend to help with awareness efforts as well, since this issue is so important to so many cities.

Recommendation:

Staff recommends the Board consider drafting legislation to place a use tax before the voters on the April 2022 ballot.

Submitted By: Eric Sterman

Date: 10/28/21



Staff Report

RE: Depository Services

Department/Program: Finance

Explanation: The City has been banking with Busey for ten years. The branch currently located on Clayton Road near Henry Avenue has announced that it will close on November 17th. Busey’s next closest location is in Chesterfield and is a 16 minute drive from the Government Center. In addition to daily deposits of checks, currency and coin, staff from the Golf Course and the North Pointe make multiple trips to the bank throughout the week to make change. Given the frequency of our in-person banking transactions this drive is not an efficient use of staff time.

An RFP was issued to fourteen banks and posted on the City’s website. Quotes for services for a period of three years were requested. Responding banks were required to have a branch in close proximity to Ballwin. Three banks declined to quote. Responses were received from UMB Bank (located at Kehrs Mill and Clayton Road), J.P. Morgan Chase Bank (located on Manchester east of Highway 270) and First Bank. This bank has two branches that are each a mile or less outside of the Ballwin municipal borders. One is on Manchester Road next to Ellisville Square and one is in Town & Country in Lamp & Lantern Village. Busey did not submit a bid. J.P. Morgan Chase is not being considered because of its location, which is a 14 minute drive from the Government Center.

The cost of banking services can be offset by earnings credits on investable balances. The net annual fees bid by UMB Bank and First Bank were \$11,408.15 and \$8,392.97 respectively. The interest earnings were evaluated under scenarios of high and low deposit balances as well as current interest rates and elevated interest rates. First Bank offered the most favorable proposal on earnings, which should exceed fees under most scenarios.

Additionally, safe deposit boxes were requested and only First Bank offers them.

Recommendation: Staff recommends entering into a contract with First Bank for depository services.

Submitted By: Denise Keller, Finance Officer

Date: November 3, 2021