

BOUNDARY COMMISSION
ST. LOUIS COUNTY, MISSOURI
MEETING MINUTES

May 25, 2004

ROLL CALL

Commissioners Present: Matt Armstrong, Ted Armstrong, Christine Bredenkoetter, Bob Ford, Tom Hayek, Greg Kloepfel, Betty Marver, Mary Schuman, Johnnie Spears, Don Wojtkowski. Commissioners Absent: Marvin Gelber.

Commission Staff Present: David Hamilton, Boundary Commission Legal Counsel.
Others Present: Lori Fiegel, St. Louis County Planning Department.

CALL TO ORDER

Mr. Hayek called the meeting to order at 6:30 p.m., May 25, 2004. The meeting was held at the County Government Building in Clayton, Missouri.

ROLL IS CALLED – QUORUM DECLARED

Roll was called and a quorum declared by Mr. Hamilton.

APPROVE AGENDA

Mr. T. Armstrong motioned to approve the agenda. Mr. Spears seconded the motion.
Voice vote: Ayes, All. Nays, None. *The motion passed.*

APPROVE MINUTES

Mr. Spears motioned to approve the meeting minutes from February 24 and March 23, 2004 and the public hearing minutes from March 23, 2004. Mr. Kloepfel seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENTS AND COMMUNICATIONS

Mr. Hayek welcomed new Commissioner, Christine Bredenkoetter. Mr. Hayek said the Commission received several pieces of correspondence, contained in the meeting packets.

STAFF REPORT

Mr. Hayek said there are no other proposals at this time but several cities, including Charlack and Wildwood, called the office and may submit proposals.

NEW BUSINESS

There was no new business.

OLD BUSINESS

Chairman Hayek opened the floor for discussion of BC0401, the Florissant Area 9 Simplified Boundary Change annexation proposal. Mr. Hamilton said the Commission may vote to approve the proposal with a vote, approve the proposal without requiring a vote, or may disapprove the proposal.

Mr. Wojtkowski said he would like everyone to think about the purpose of the simplified boundary change which is to provide a mechanism for a neighborhood or small community to become annexed or incorporated into another municipality when there is an overwhelming consensus to do so. He said when dealing with a large area such as Area 9, a very large petition drive is required which requires a lot of volunteers. As the number of volunteers increase, the ability to control the information disseminated in the petition drive lessens. The probability of misinformation and anecdotal information being disseminated increases. Mr. Wojtkowski said he did not understand why this area was approached as a simplified format and wished it had been approached as an annexation put to a vote. He said he felt if the Commission should choose to move forward with this simplified boundary change, it should require a vote. He said the Commission may wish to recommend to State Legislature that there be guidelines drawn with regard to simplified boundary change requirements for the good of the communities, which discuss when it is appropriate or inappropriate to use that procedure. Mr. Wojtkowski said he applied the best interest test and believes annexation is appropriate and should be done with a vote. He said he believed there were signatures on the petition where husbands and wives signed for each other, therefore invalidating the petition. He said he would like to hear other views and is torn between disapproving and approving with a vote, this proposal.

Mr. Hayek said the first signature on the petition was dated May 7, and 280 days after May 7 is February 11. He said the last signature date he saw was January 30 and he did not understand why people were saying the petition came in on the last day. Mr. Hayek said he struggled with this proposal. He said he looked at the statute and found no guidance for when you should require an election versus just approving the petition. He said there must be a reason that the option to require a vote exists otherwise that option would not be available when a 75% signature petition has been collected. He said the option to approve with a vote exists for some reason and he tried to investigate some history of the statute but did not find anything useful. He said he does not want to take the easy route and require a vote and just not deal with the issue of the 75% petition, which, if one feels is valid, approval without a vote is a valid option to take. He said the Elections Board has signed off on the petition as valid and he accepts that.

Mr. Hayek said he personally does not care for the petition because with it, you are having the citizenry choose their elected official through a petition drive rather than a vote and he did not know of any other governmental function where a decision is made through a petition drive rather than by going to the polls. He said there was a lot of talk of people getting signatures saying they were very fair about it as well as people saying petitioners came repeatedly and would not leave. He said the truth probably lies somewhere in the middle and an individual's perspective on whether they liked the proposal or disliked the proposal could govern how they perceived the petition process. He said there was a

consistency of people being contacted four times total in visits and/or telephone calls. He said he agrees that this is a good proposal. He said he is not sure in an area with over 1,000 residents that it is appropriate by petition drive to be under different jurisdiction.

Mr. Hayek said he also takes into account the request by St. Louis County that approval should require a vote. He also expressed concern with revenue leaving the County and when it will become too great a loss because with each annexation the County loses revenue and it all adds up. He said the County still needs to maintain their parks and provide services and this is a concern. He said he is also concerned with the petition and the number of people which could create “head butting” and he likes the anonymity of the vote procedure. Mr. Hayek said it seems odd to have the public hearing after the petition drive is completed because residents often gain more information at the public hearing which could help them decide whether to sign a petition.

Mr. T. Armstrong said he is very sensitive to the impact annexation has on the County. He said this specific proposal makes great sense. He believes the option to approve with a vote does have to do with the size of an area. He said he thinks it should be suggested to State Legislature that the simplified boundary change annexation option be limited in size by population. He said he believes the process has created a problem for the Boundary Commission, for the residents in the area and for the County. He said it makes sense for this area to be included in Florissant and it also makes sense for this proposal to go to a vote because the area is very large and because they have heard there was pressure which hangs like a pall over the whole process. He said that if the time limit was not to the exact day on completing the petition, it was close and he said we know that Florissant stopped the petition exactly at 75%, not one person beyond that number. Mr. Armstrong said it makes sense to foster the process to see that Area 9 can be a part of Florissant if that is what the people want and it makes sense to require a vote to make sure the populace affected by this really wants that kind of a result.

Ms. Schuman said she thought that a petition drive with a small number of people would be a very effective method and would be a powerful statement with 75% of the signatures of voters and would save everyone time and cost of an election, but when dealing with large numbers it is problematic and maybe the Legislature had in mind that this Commission would need to look at those types of things and if there were questions about the petition drive itself, maybe the Legislature in their wisdom was giving the Commission the discretion to address that. She said it is difficult to gauge the sentiment of a population in this particular instance and it is also the second time she is aware of that these kinds of concerns about petition drives have been raised and even if there is only an appearance of impropriety, feels the Commission needs to be concerned about it. She said from a logical standpoint it seems the area would be better off as a part of Florissant. She said she also thinks that St. Louis County will lose revenue but adjacent unincorporated areas may be better served because there are built-in inefficiencies to serving a patch of unincorporated area, such as Area 9. Ms. Shuman said it is a shame there is a cloud over this proposal. She said she favors approval with a vote.

Ms. Marver said she feels strongly that there should be a vote to remove the issue of intimidation. She said petitions are often used to get something on a ballot and as a part of a process, not as a final decision. She said a vote would allow people to make a decision privately and without any pressure whatsoever.

Mr. Ford said during the last petition drive annexation proposal, there were indications of intimidation and no evidence of those rumors. He said in this situation there are written documents to say people felt intimidated and there is the question of the signatures even though the Board of Elections certified the petition. He said he wonders how many people signed the petition just to get rid of the signature collectors. He said because of this he wonders how valid the proposal really is. He said he questions strongly how many of the 75% were really dedicated to the issue as opposed to signing out of intimidation. He said it should go to a vote.

Mr. Wojtkowski said one issue not yet addressed is the need to make a decision one month following the public hearing because it is a simplified boundary change. He said it is valuable to have the regular annexation procedure with a nine month total time frame to better evaluate a proposal. He said one month after the public hearing is not enough time.

Mr. Wojtkowski made a motion to disapprove BC0401 on the basis that the time frame provided to the Commission to act on the proposal is not in the best interest of any of the parties involved. Mr. Ford seconded the motion.

Mr. T. Armstrong said he feels disapproval would be the wrong way to go about correcting a problem with the time allotment. Mr. Hayek said he thought disapproving the proposal would not be appropriate because it would disregard the merits of the proposal. Mr. Wojtkowski said the whole point of his motion was merely to bring it before the Commission that at some point in time they should draw the line. He said if the method of bringing plans of intent before the Commission is in a massive petition drive simplified boundary change, the Commission cannot act in the best interest of all communities because the time provided is not enough to weigh all the factors involved.

Ms. Bredenkoetter said it is easy to say no to a petition signature collector. She said it is an awesome task to collect signatures of 75% of the registered voters. She said it was her understanding that a group of people approached the City of Florissant asking to be annexed and they were told this would be the easiest way to do it. She said she found the letters from residents opposed to annexation to be very similar in tone and found it interesting that one letter sent out from a gentleman strongly opposed to annexation was turned over and written on by people saying they were not intimidated into signing in any way. She said that if people felt so intimidated, she did not see anything to indicate that the County received telephone calls prior to the public hearing saying that people felt intimidated, which she would have expected if there had been intimidation. She said she felt that requiring a vote would be every expensive and not in the best interest of the tax payers. She said she looked at the letters received by the Boundary Commission and more people wrote in favor of annexation than in opposition to it. She said the required 75% of voter signatures in favor of annexation were obtained and the Election Commission

certified the signatures therefore it seems it should be approved without requiring it to go to a vote. She said if the Legislature needs to put numbers on a simplified boundary change annexation proposal, then they need to do so. She said that she personally did not think 1,048 residents was that large, but was impressed by the 75% signatures gathered. She said with regard to intimidation, she did not see a strong case of that happening. She said she did not see any police records to indicate it. She said she thinks it is a vocal minority who is opposed to annexation and in some ways intimidated this Commission.

Mr. Kloepfel said he feels that a 75% petition approval by the Election Board should be taken as valid, however, the Commission is not dealing merely with numbers but with peoples' lives and neighborhoods and it is the Commission's job not just to deal with numbers but to do what is in the best interest of both communities. He said he thought Mr. Wojtkowski had valid points: you cannot act in the best interest of both communities when you have a short time to decide. Mr. Kloepfel said normally at a public hearing you see a lot of individuals either for or against annexation. Here he had presented to us 75% of individuals in this area. He said he looked at the signatures on the petition and found even more questionable signatures than what was presented. He said he took notes of every individual who spoke at the public hearing and it was in no way a small minority speaking out. He said he would agree that a majority spoke in favor of annexation but it did not seem to be a 75% majority.

Mr. Kloepfel said he was impressed by the number of people motivated to write letters to the Commission after the public hearing. He said he is also impressed by the achievement of the petition. He said he is certain a lot of individuals said, no thank you, and did not sign the petition, and a lot of individuals said they would sign in order to be left alone. He said he is personally willing to sign a petition to get an issue on the ballot even if he is not in favor of it in order to let the people speak through voting. He said he finds it disheartening to hear of an individual who felt any type of pressure or intimidation or coercion in these petition drives and suggested the Commission should possibly set up some rules or guidelines as to how to conduct a petition drive. If an individual says they are not interested, do not come back a second time, for example, do not telephone them and try to convince them otherwise. He said in his opinion this simplified boundary change may be a logical extension, but in no way should the Commission approve it as a simplified boundary change without a vote.

Mr. M. Armstrong said the issue seems too close and should go to a vote of the people.

Mr. Ford said that at the public hearing, in St. Louis County's presentation, they said they received a number of calls against annexation.

A roll call vote for the motion to disapprove BC0401 was held with the following results: Commissioner M. Armstrong, nay; Commissioner T. Armstrong, nay; Commissioner Bredenkoetter, nay; Commissioner Ford, yea; Commissioner Hayek, nay; Commissioner Kloepfel, nay; Commissioner Marver, nay; Commissioner Schuman, nay; Commissioner Spears, nay; Commissioner Wojtkowski, yea. *The motion failed by eight nay votes to two yea votes. There was one Commissioner absent.*

Mr. T. Armstrong motioned to approve BC0401 as an approved boundary change with a vote. Mr. Spears seconded the motion. A roll call vote was held with the following results: Commissioner M. Armstrong, yea; Commissioner T. Armstrong, yea; Commissioner Bredenkoetter, nay; Commissioner Ford, yea; Commissioner Hayek, yea; Commissioner Kloepfel, yea; Commissioner Marver, yea; Commissioner Schuman, yea; Commissioner Spears, yea; Commissioner Wojtkowski, yea. *The motion passed with nine yea votes and one nay vote. There was one Commissioner absent.*

There was some general discussion about the possibility of having a representative from the Elections Board attend a meeting to explain their processes to the Commission.

ADJOURNMENT

Mr. Wojtkowski made a motion to adjourn. Ms. Schuman seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed and the meeting was adjourned.*

Respectfully submitted,
Kim Miller
Executive Director

Approved: