

BOUNDARY COMMISSION
ST. LOUIS COUNTY, MISSOURI
MEETING MINUTES

December 14, 2004

ROLL CALL

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

Commission Staff Present: John Young, Boundary Commission Legal Counsel. Others Present: Lori Fiegel, St. Louis County Planning.

CALL TO ORDER

Chairman Hayek called the meeting to order at 6:30 p.m., December 14, 2004. The meeting was held at the St. Louis County Government Building in Clayton, Missouri.

ROLL IS CALLED – QUORUM DECLARED

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

APPROVE AGENDA

Mr. Ford made a motion to approve the agenda. Mr. Spears seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

APPROVE MINUTES

Mr. T. Armstrong suggested changing the phrase “full quorum” to “full Board” in the fourth paragraph of page 3. Ms. Schuman noted the misspelling of “statute” in the third paragraph of page 3. Mr. Wojtkowski made a motion to approve the minutes as corrected for November 16, 2004. Mr. Spears seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

FINANCIAL REPORT

Mr. T. Armstrong noted an error on the Year End Budget Report. The Insurance for the 2004 Expected Actual column showed a zero dollar amount. The error also changes the Expected Actual grand total.

Mr. Hayek asked Mr. M. Armstrong to discuss the 533-6030 account. Mr. M. Armstrong explained that this account is based on the Municipality Application Fee Income. He said that he and Ms. Irwin spent an afternoon investigating and balancing this account. Ms. Irwin, he said, inherited a time bomb because there had not been a sophisticated tracking system for this account’s balance. He and Ms. Irwin took the only prior balance that was on record for 2004 and worked from there. In all the time the account has been open, the Commission has collected \$19,537 in municipality fees. Ms. Kim Miller had spent \$5,312 leaving a current balance of \$14,225. Ms. Irwin, not knowing that the 533-6030 account existed, spent \$1,403 from the Commission’s overhead account (the money the

County allocates to the Commission) for municipality public hearing notices. Ms. Irwin was told by the County that she could transfer the \$1,403 into the overhead account from the 533-6030 account. Mr. T. Armstrong agreed that the money should be transferred, but the Commission's year end budget report must reflect the transfer of funds.

Mr. T. Armstrong wondered why the expenses the Commission incurred is so much less than what is being charged to the municipalities. Mr. Hayek answered that there had been reluctance by the Commission to take on the expense of the mailing notices. He said the Commission had not decided to engage in any type of activity which incurred a significant expense because they did not know whether or not what the Commission was collecting would off-set their expenditures. Mr. Hayek stated that collecting the municipality fees justifies mailing out the public hearing notices. He also said that perhaps the Commission should do more to notify citizens in the future. Mr. T. Armstrong asked if the municipality fee should be re-examined and Mr. Hayek said it was in the Statute to collect one dollar per person. Ms. Bredenkoetter suggested publishing the notices, in addition to The Countian, in a local paper like the Suburban Journal.

PUBLIC COMMENT

Mr. Kevin Cole, residing at 995 St. Paul Road, spoke out against his land being annexed by Wildwood. He does not think it would be in the best interest of his family, as well as six other families who live in the proposed area. Mr. Cole provided maps, photos and a letter from Esley Hamilton of the St. Louis County Historic Buildings Commission. It stated that the Cole family owns the Bakemeier Farm which has been recognized as County Landmark since 1970. The letter concluded by asking the Boundary Commission not to split the Bakemeier-Cole property.

ANNOUNCEMENTS AND COMMUNICATIONS

Chairman Hayek sent a letter to the Commissioners, County Executive Dooley, the County Municipal League and County Planning stating that he would not seek reappointment to the Boundary Commission. Mr. Hayek is being placed on active duty for the next six months with the United States Air Force in Afghanistan. The Commissioners expressed their sadness at Mr. Hayek's departure, as well as their gratitude for his service to the Commission and to the United States. Mr. Hayek thanked the Commissioners for their well-wishes.

A letter from County Executive Charlie Dooley was passed out to the Commission. Executive Dooley's correspondence was in response to a November 19, 2004 letter from Florissant Mayor Robert Lowery.

STAFF REPORT

There were no comments about the Staff Report.

NEW BUSINESS

A. Election of Officers for the Year 2005

At the November Boundary Commission meeting, Mr. Hayek was re-nominated as Chairman, and Mr. M. Armstrong was nominated as Chairman by Mr. Wojtkowski in the event that Mr. Hayek was not re-appointed to the Commission. Since Chairman Hayek announced his resignation, he opened up the floor to more nominations for Chairman, in addition to Mr. M. Armstrong. As a matter of full disclosure, Mr. M Armstrong stated that he was toying with the idea of running for School Board, but that he would be happy to serve as Chairman if only for three **months**. Mr. Ford made a motion to accept all of the Officer Nominations. Mr. Spears seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

Mr. Wojtkowski asked Mr. Hayek for a moment of discussion. Mr. Wojtkowski said, for the benefit of the new Commissioners, that Mr. M. Armstrong has always stepped up to the plate and shown a great deal of leadership relative to personnel matters, the replacements of the Executive Director and dealing with budget issues. He said that Mr. M. Armstrong has volunteered for tasks and never failed to get them done. For those reasons, Mr. Wojtkowski felt that Mr. M. Armstrong would make an outstanding Chairman. Mr. M. Armstrong thanked Mr. Wojtkowski. The Commissioners then filled out their ballot forms. *Mr. Hayek counted the vote as 8-0 in favor of electing Mr. M. Armstrong as Chairman of the St. Louis County Boundary Commission for 2005.*

Mr. Hayek, in keeping with tradition, then opened up the floor for nominations of the First Vice-Chairman, in addition to Mr. Spears' re-nomination. There were no other nominations and a motion to close all other nominations was made by Mr. T. Armstrong and seconded by Mr. Ford. Voice vote: Ayes, All. Nays, None. *Mr. Spears was re-elected as First Vice-Chairman for 2005.*

Mr. Hayek stated that Mr. Spears has been an outstanding Vice-Chairman. He has filled in when Mr. Hayek was unable to attend meetings, he has helped out with all the Commission matters and has been very knowledgeable. Mr. Hayek thanked Mr. Spears for his service and Mr. Spears thanked him for his kind words.

Mr. Hayek opened up the floor for nominations of the Second Vice-Chairman, in addition to Mr. Kloepfel's re-nomination. There were no other nominations and a motion to close all other nominations was made by Mr. Ford and seconded by Mr. Spears. Voice vote: Ayes, All. Nays, None. *Mr. Kloepfel was re-elected as Second Vice-Chairman for 2005.*

B. Vote to Approve 2005 Budget

Mr. Ford expressed concern over the County's lowering of the Permanent Salaries category for 2005. He said the Commission budgeted a potential 7% increase for 2005 in the salaries category and was not granted that amount. Mr. T. Armstrong disagreed saying that the County did not deny the Commission's salary request. It was his understanding that the County accepted what the Commission submitted for the 2005 budget. Mr. T. Armstrong also noted that there was plenty of room to transfer funds. Mr. Wojtkowski pointed out that the Statute does not limit the municipality fee account from being used just for public communication. If there is an excess in that account, he

interpreted that excess to be used completely at the Commission's discretion. Mr. T. Armstrong made a motion to approve the 2005 Budget. Voice vote: Ayes, All. Nays, None. *The motion was approved.*

C. Discussion of Overlapping Proposals (Ellisville, Ballwin, Wildwood)

Mr. Hayek said that an issue had arisen concerning the population of the overlaps between Wildwood and Ellisville, and Ellisville and Ballwin. As Mr. Hayek understood it, according to the statute, the Commission is able to defer the decision on a certain proposal when there are competing proposals for a piece of real estate. This is applicable, as long as the entity whose population in the area that they want to annex gets the higher percentage of the overlap. He used the example of City A and City B. For instance, City A's annexation area has 1,000 people and City B's annexation area has 2,000 people. Between the two of them they are sharing an overlap of 100. The Commission can allow City A to be voted on first because the overlap area is 10% of their proposal, whereas City B is 5% of their proposal. Mr. T. Armstrong asked if it was discretionary or mandatory. Mr. Hayek answered that it is discretionary to defer final action on it, but it is not discretionary as far as the order. This is stated in subsection 10 of section 72.405.

Mr. Hayek said the population numbers from the three municipalities and the County do not merry up. He asked Ms. Fiegel to explain to the Commission what the County has been doing with the demographics to figure out how many people are in each area and what is going to be difficult about it. The municipalities, he said, are using census tract figures and the census tract figures do not merry up to the exact population.

Ms. Fiegel said the jurisdictions are using census data, but that they were also looking at block levels and census geography. The annexation geography has absolutely nothing to do with the census geography. She said they can attribute dwelling units easily, but attributing the population to the area is more difficult. It becomes more of an estimating process and, yes, everyone is using the same data, but it is very problematic in how it gets treated. Mr. T. Armstrong said that should only be the case if it causes a difference and it may turn out that being precise is not necessary. Ms. Fiegel agreed. Mr. T. Armstrong asked if Ms. Fiegel was going to start by estimating all of the numbers and then send that data to the cities to see if they agree. Ms. Fiegel said there are various ways to do it, but the County could work with the other jurisdictions to come up with an agreed upon methodology.

Mr. Hayek suggested that the St. Louis County Demography department tell the municipalities what their sources of documents are. The cities will have to talk to the demography department, who may have better maps and better information, and try to come up with agreed upon figures for this population, so that the Commission has some available information for the January meeting.

Mr. T. Armstrong asked if the Commission was better off asking the County to make a judgment as to what the populations are for these various areas. Step one, he said, would be to let the County make the judgment first. Mr. Hayek disagreed and said, in fairness

to the cities, the municipalities need to have their own input. Mr. Armstrong continued saying step two is to find out if there is a difference and step three is to give that information to the cities and ask them to examine how it was done and whether they agree with it. Mr. Hayek said it would make sense for the County to do that –give the information to the municipalities –and ask them if they agree with it regardless of whether or not it makes a difference. Mr. T. Armstrong said the point of it would be to lessen the review of it by the cities.

Ms. Fiegel asked for clarification on population. She said that in one area the problem is going to be that there are actually more people living there that are going to show up on the census data because it is a developing area. She asked if the Rules require the use of 2000 census or does the Commission really want to know what the population is? She said the County does population estimates based on permits for built housing units, then they look at the typical median household size for a dwelling unit in that particular block group. The County comes up with an estimated current population that will be different than the 2000 population. It will be higher when looking at how dwelling units estimate population.

Mr. T. Armstrong asked if 72.405 of the rules referred to census data. Mr. Young explained that the rules for annexation hold that just generally, given the population of the area to be annexed, population would be most recent census available.

Mr. T. Armstrong asked for a brief recess while Mr. Hayek excused himself from the meeting. **Ms. Schuman also departed at 7:20 p.m.** Mr. Spears then carried on the meeting.

Ms. Bredenkoetter added that one could spend numerous hours and great expense trying to come up with a definitive number that may vary by 50-60 people. Ms. Fiegel said her only point is that it sounds like the spirit of the statute is to maximize the voice of the residents who are there now.

Mr. T. Armstrong asked Mr. Young if he was alright with using census data. Mr. Young replied that the only issue is that the census data applicable will not follow municipal lines and that is how the Commission got into some of the discrepancies. The biggest and most glaring one that Mr. Young came across was with Ballwin and Ellisville. Ellisville is stating, citing the 2000 census, that their entire proposal only includes 601 people in the population. Ballwin, however, has stated that in just the overlap area they have with Ellisville that there are 690 people.

Mr. T. Armstrong repeated his earlier suggestion that the County figure out the populations of the overlapping areas, provide that data to the cities, and let them refute it or bring better evidence. Mr. Wojtkowski pointed out that the development has been relatively consistent in that area. Whether the Commission uses current data or census data, the ratios are going to be relatively the same and should give the Commission the same answer either way. Ms. Fiegel said the County would map the

figures, so that the Commission could see the geography. It was not going to be helpful for the County to just give numbers.

Mr. M. Armstrong asked Mr. Young what would happen if one city went first in an election and it was approved. Was that the end of the overlap or does the other city get a shot at an election? Mr. Young replied that for the overlapping area it would go to the city, if the preferred city wins the election, then the preferred city would have that area annexed. The remaining portion, the deferred city, has an option to modify its proposal to only include that particular area. The proposing agent may modify the proposal in accordance with the results of the election. They can not add any additional property and would narrow down their plan of intent.

Mr. Young noted that this entire process is contingent upon the possibility of approving Ellisville. Ms. Bredenkoetter stated that she had some difficulties with the whole Ellisville proposal to begin with and asked if the Commission should even look at the value of the three proposals. Mr. T. Armstrong said it may make a difference, if this procedure determines that one would go first as opposed to the other, how the Commission feels about approving it.

Mr. Wojtkowski said the issue of the overlapping areas was really kind of disappointing. The Commission went through the whole map plan process and that was an effort to require the municipalities to work together and plot their strategies together to avoid these kinds of events. Based upon the map, if Ellisville is not approved then only the Wildwood annexation makes sense. If Ballwin is approved, he said, then that creates little pockets which would be a negative reflection on the Commission's ability to choreograph and organize a process.

Mr. Ford stated that there are going to be difficult decisions to make, but the Commission has to present a decisive decision. He agreed with Mr. Wojtkowski's previous statement that the map plan cycle is a time for the cities to get together and submit plans, so that they will not have these problems in the future. Ms. Bredenkoetter noted that in some of the proposals there were copies of letters to Ellisville asking them to cooperate in the process. However, Ellisville rejected any handout from either Wildwood or Ballwin in this whole matter.

Mr. Spears said the issue was going to be on the agenda for the January meeting. He asked if the Commission was still tied to the time frame on these proposals. Mr. Ford said everything had to be approved or disapproved by March 1st. Mr. Young said, yes, except for the deferral and then final action on the deferred proposal would be within 45 days of the election.

Mr. Ford asked why the issue of deferment did not come up when the Commission had proposals by Florissant and Hazelwood for the same area. As he understood it then, if the Commission approved one they had to disapprove the other. Mr. Young noted the recent statutory amendment in 2000.

Mr. Spears asked if there was any other discussion about the overlapping annexation proposals. He asked the County to follow-up with the population information before the next meeting.

OLD BUSINESS

A. Discussion of possible second hearing for Valley Park

Mr. Spears asked Mr. Young to bring the Commission up-to-date about the possibility of a second Valley Park public hearing. Mr. Young said the Boundary Commission Rules state that a second public hearing would be required if there is a significant financial impact on the City. Regardless of that, the City can require a second public hearing under their own rules. The Rules give the Commission discretion for the requirements of a public hearing and based on the modifications between the proposals that would be a recommendation.

Mr. T. Armstrong gave the following reasons for why the Commission should hold a second public hearing. First, he was upset with Valley Park for making this modification after the September public hearing. Second, he felt that there certainly was a financial impact because of the TIF. Finally, he stated that this proposal was liable to end up in a lawsuit. If the Commission ends up turning it down, he did not want Valley Park to come back against the Commission and accuse them of not granting them another public hearing.

Mr. Wojtkowski wondered who would be interested in attending a second public hearing. Ms. Bredenkoetter said that at least the Commission will have made the effort to let the people speak. Mr. Wojtkowski said that there are no residents in the area who are going to oppose it, because they are all getting free parking lot maintenance. Mr. Ford argued that there might be Valley Park residents who will speak out against money being spent on the sewer system. Mr. M. Armstrong said that there was only one way to find out what they people want and that is to listen.

Mr. Ford asked Mr. Young if he had reviewed the County Council's letter claiming that the various promises made by Valley Park, such as putting in sewer lines, is illegal. Mr. Young replied that he had not reviewed it substantively. Mr. Ford said that as he understood it, it changes the TIF situation which involved Drury Corporation. It promised a sewer line in the area to be annexed to lure people into the city. Mr. Young said he did read part of it and knew that there was a comment made as to insuring the zoning request. He said in terms of the zoning requirements that would be a legislative decision. Legislative authority cannot be contracted away.

Mr. Ford then asked if the Commission were to approve Valley Park's proposal, could the Commission be held liable. Mr. Young said he did not believe the Board would be liable, but that he would look into it further. Mr. Wojtkowski said that he did not think the Commission could be held accountable for agreements a municipality makes. He said it is the Boundary Commission's charge to exercise its authority over putting this proposal on the ballot. On the other hand, he wondered if there is a responsibility to inform the residents of the condominium complex that perhaps all of these promises are

null and void because they are illegal. Doing so might effect whether people would be for or against the proposal in a vote. Mr. Wojtkowski said that in Valley Park's best interest summary, they have five paragraphs explaining why it is in the best interest of Valley Park, but no basic dialogue relative to the best interests of the community or the annexed area. He felt that the whole thing is **fraught** with problems.

Mr. Ford made a motion for Ms. Irwin to establish a second public hearing for Valley Park, sometime during the first week of February. Mr. T. Armstrong seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

Mr. Spears asked Mr. Young to coordinate with Ms. Irwin about setting up the date.

B. Review of Web Design Proposals

Mr. Spears said that he would like to put this item on the January agenda, when Ms. Irwin is present to discuss it. Mr. Wojtkowski suggested that Ms. Irwin draw up a comparison chart and make a recommendation to the Commission. Mr. M Armstrong said that one of the submitted proposals came from a gentleman who worked on his firm's website. Mr. Ford also stated that he works with a woman from Tangibility Design who also turned in a proposal.

Respectfully submitted,
Courtney K. Irwin
Executive Director

Approved: January 25, 2005