

BOUNDARY COMMISSION
ST. LOUIS COUNTY, MISSOURI
MEETING MINUTES

March 8, 2011

ROLL CALL

Commissioners Present: Bob Ford, Thomas Freesmeier, Frank Ollendorff, Bill Sauerwein, John Schuster, Kathleen Schweitzer and Don Wojtkowski. Commissioners Absent: Jack Schwartz

Commission Staff Present: Michelle Dougherty, Executive Director, David Hamilton, Legal Counsel.

Others present: Lori Fiegel, St. Louis County Planning Department; Glenn Powers, St. Louis County Planning Department; John Hessel Sovereign Bank; Eric Martin City Attorney, Valley Park; Steve Krauss, Krauss Farms

Chairman Schuster called the meeting to order at 6:48 p.m., March 8, 2011. The meeting was held in the 8th Floor Conference Room, 41 S. Central in Clayton, MO 63105.

ROLL IS CALLED – QUORUM DECLARED

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

APPROVE AGENDA

Mr. Ollendorff made a motion to approve the agenda. Mr. Ford seconded the motion.

Voice vote: Ayes, All. Nays, None. *The motion passed.*

PUBLIC COMMENTS

Ms. Fiegel wanted to clarify some information regarding the Valley Park Southwest Equestrian Area that was discussed at the previous meeting that seemed to be confusing. The discussion on the annexation agreement in the previous meeting she wanted to make sure that everyone on the Commission understood that was from an annexation that took place in 2004. She explained that the references to Drury and a TIF was related to a TIF that St. Louis County inherited when Peerless Park disincorporated and the reason it didn't come out in the public hearing was because it was from the 2004 annexation. The only reason it was brought up was as a result of questions from the Commission seeking clarification on comments regarding flooding from St. Louis County during the public hearing. Ms. Fiegel stated that Ms. Flotron who spoke at the hearing had positive comments regarding St. Louis County. The comments regarding the two properties excluded from the annexation proposal being part of the park land were incorrect. Ms. Fiegel stated that those are two privately owned properties (one of which is an owner in the annexation area). She reiterated that St. Louis County was opposed to the annexation. She stated that St. Louis County's report had issues with boundaries, flood plain regulations and were concerned about Hillsboro Road, no property owner support at the public hearing or in the 21-day comment period.

Ms. Fiegel also provided the commission with an updated map regarding the Grantwood Village proposal.

Mr. John Hessel spoke on behalf of Sovereign Bank in opposition to the Grantwood Village annexation. He stated he wanted to clarify information regarding the proposal and its impact on the property owner. Sovereign Bank owns 85+ acres and that the proposal would divide the property between two jurisdictions. The property immediately adjacent to Cor Jesu (not included in the annexation proposal) is part of Sovereign Bank's 85 acres. Mr. Hessel remarked that in addition, a single lot west of Musick Road is also not included in the proposal. He stated that this annexation proposal has the effect of dividing his client's property between two jurisdictions. Mr. Hessel stated that in his experience before the Boundary Commission, it has never allowed a single property to be split between two jurisdictions, nor has it allowed a proposal to move forward when it is opposed by a majority of the people in the area. He remarked that this time that majority is one property owner who is opposed to the annexation. Mr. Hessel also stated that in a prior annexation proposal by the city of Florissant, it was denied, in part, because it had leapfrogged across Lindbergh Road. Mr. Hessel said that Grantwood Village was essentially doing the same thing, leapfrogging across Gravois Road. He also remarked that Florissant's proposal was denied because the Commission wasn't convinced that Florissant had the financial ability to handle the annexation. Mr. Hessel repeated his points stated in the public hearing that Grantwood Village had presented no financial evidence anywhere that they could handle the development of 85+ acres. Mr. Hessel stated that Grantwood Village's reasoning behind submitting this proposal, to control zoning & future development, did not meet the standards of the Boundary Commission.

OLD BUSINESS

A. BC1001 – Florissant “Area 13”

Chairman Schuster reviewed that the previous votes on this annexation have failed to get the required six votes to pass the motion. Mr. Ollendorff made a motion to re-open discussion on BC1001. Mr. Freesmeier seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

Mr. Ollendorff proposed that the Commissioners work to get to a decision and that those in the minority change their votes to go with the majority in order to render a decision. He encouraged the commission to get to six votes to get to a legally valid decision.

Mr. Sauerwein made a motion to approve BC1001 Area annexation proposal and send it to the election authority. Mr. Ollendorff seconded the motion.

Bob Ford – No
Thomas Freesmeier – Yes
Frank Ollendorff – Yes
Bill Sauerwein – Yes
John Schuster – Yes
Kathleen Schweitzer – Yes
Don Wojtkowski – No

5 in favor, 2 opposed. *The motion fails.*

Mr. Ollendorff encouraged the Commission to consider changing their votes to get to a six-vote valid decision versus a non-decision. Mr. Wojtkowski replied that everyone has

been asked to serve on the Commission to bring their views, do the due diligence and participate. Mr. Wojtkowski stated that there are three vacancies on the commission and that the outcome of this vote is a reflection upon the fact that those who are obligated to do the due diligence in appointing a full commission need to do their job. He stated that this annexation proposal's inability to get six affirmative votes may have been a non-issue if the Commission did not have three vacancies. Mr. Wojtkowski stated that fact there is not a full commission was not going to weigh on his personal vote regarding this annexation.

Mr. Ford asked if the 9-month expiration was March 18, 2011. Mr. Hamilton stated that the Commission had 9 months to render a decision but that technically the proposal expires on January 1, 2012. He stated that the Rules and Statute require the commission to make a decision within 9 months but that it leaves a bit of a no-man's land between now and January 1. The rules and the statutes provide that any interested party could bring appropriate legal action, to file suit to try to force a decision within the period between now and January 1. Mr. Hamilton stated he had strong questions whether the Commission had the authority to bring it up on its own motion after the 18th of March because of 9-months requirement. Chairman Schuster stated that BC1001 would not be on the agenda next month.

B. BC1002 – Valley Park Southwest Equestrian Area

Chairman Schuster reviewed the discussion from the previous meeting. He identified some items that were of interest: the isolated two parcels at the edge of the proposal excluded from the annexation proposal, questions about logical boundaries, questions about flood plain ordinance, a better understanding of raising Meramec road to the 100 year flood plain. He stated that the Meramec Road issue was related to an earlier annexation proposal and wasn't necessarily germane to BC1002. Chairman Schuster opened the floor to discussion. There was no discussion.

Mr. Ollendorff made a motion to approve BC1002 Southwest Equestrian Area annexation proposal and send it to the election authority. Mr. Freesmeier seconded the motion.

Bob Ford – No

Thomas Freesmeier – Yes

Frank Ollendorff – Yes

Bill Sauerwein – Yes

John Schuster – Yes

Kathleen Schweitzer – Yes

Don Wojtkowski – Yes

6 in favor, 1 opposed. *The motion passed.*

C. BC1004 – Grantwood Village “Area B”

Chairman Schuster summarized the discussion from the previous meeting: logical boundaries, development of the area, and consideration of property owner's position on the proposal. Chairman Schuster asked if there was discussion.

Mr. Wojtkowski reviewed the best interest test. He stated that clearly it is in the best interest of the residents of Grantwood Village because they want to control the development. He stated that it was debatable whether it is in St. Louis County's best interest, but clearly it is not in the best interest of the property owner. He stated since it failed the one piece of the best interest test, it could not go forward.

Mr. Sauerwein asked what the transcript reflected concerning their reasoning regarding that section of Gravois Road that is included in the proposal. Mr. Ford stated the Village's response was to control curb cuts. Mr. Ollendorff stated he felt that controlling curb cuts was a valid reason for including that portion of Gravois Road. Mr. Sauerwein asked what the real impact was for a property owner who has property in two jurisdictions, did it affect the value of the property, an affect on how it can be developed, and was it just an issue of two sets of regulations? Mr. Ford replied that the example in this annexation was Cor Jesu's opposition initially to being included because they did not want to be split between two different jurisdictions. Mr. Wojtkowski stated that the parcel that remains in St. Louis County becomes dependent upon the zoning applied and the enforcement of the zoning regulations in the annexed area. He stated that whatever restrictions that Grantwood Village would have on the annexed property would extend to this parcel because it is only accessible through the Village and the owner may end up with an undevelopable, unusable property.

Mr. Ollendorff replied that there are at least thousands of properties in St. Louis County that are in multiple jurisdictions and that although it might require more visits by the developer to multiple cities, it is not a roadblock to development. He gave examples of Washington University and the Ritz Carlton. Chairman Schuster replied that the issue is not that it is unworkable but rather would the Commission be unnecessarily complicating the issue. Mr. Ollendorff stated the Commission would be giving more people a voice. Mr. Ford replied that it was his interpretation that the Commission was formed to alleviate those issues of properties in multiple jurisdictions in future annexations. Mr. Freesmeier clarified that Washington University and the Ritz were already present and that this is undeveloped land that the Commission would be placing a burden on the current property owner by splitting the parcels and possibly making the one parcel behind Cor Jesu undevelopable in the long run.

Mr. Wojtkowski asked Mr. Ollendorff how he would rationalize the best interest test in respect to this proposal. Mr. Ollendorff replied that both jurisdictions convinced him that both had rational zoning ability and authority. He stated that it was not a case of depending upon who had the property impacted the capacity for it to be developed. Mr. Ollendorff asked if the definition of best interest was how to make the most money or to maximize the highest amount of income. Mr. Ford replied that income had nothing to do with it.

Mr. Ford stated the people of Grantwood Village were the most passionate at any public hearing. Mr. Ford stated he felt the Village rapidly threw the proposal together by not following property lines, didn't do the due diligence necessary before submitting the proposal. Mr. Ford suggested that Grantwood Village go back, do the due diligence, put the plan together and go after it then. Mr. Ford stated that as the proposal currently

stands it is not a good one and it is hard to say that knowing how passionate the people were.

Ms. Schweitzer stated that the property as it sits currently is being split by the annexation proposal. She said that although it is not difficult to develop property in multiple jurisdictions, it certainly makes it more onerous. Ms. Schweitzer stated that she had thought that property outside the annexation proposal was to have been purchased by Cor Jesu but that she was not hearing that that in fact had been done, so this proposal does split the property.

Mr. Freesmeier brought up the issue of splitting the property to the south, Affton Athletic Association that would be also be affected by this annexation proposal.

Mr. Ollendorff reminded the group of the need to be mindful of the unincorporated area who came out at the public hearing spoke in favor of Grantwood Village annexing the property because they would do a better job of controlling the development.

Mr. Ford made a motion to deny BC1004 Grantwood Village Area B annexation proposal. Mr. Wojtkowski seconded the motion.

Bob Ford – Yes

Thomas Freesmeier – Yes

Frank Ollendorff – No

Bill Sauerwein – Yes

John Schuster – Yes

Kathleen Schweitzer – Yes

Don Wojtkowski – Yes

At the conclusion of roll call, Mr. Ollendorff changed his vote to Yes.

7 in favor, none opposed. *The motion passed.*

ADJOURNMENT

Mr. Sauerwein made a motion to adjourn. Mr. Freesmeier seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.* The meeting was adjourned at 7:32 p.m.

Respectfully submitted,
Michelle Dougherty
Executive Director

Approved: March 22, 2011