

**BOUNDARY COMMISSION
ST. LOUIS COUNTY, MISSOURI**

**MEETING MINUTES
JANUARY 6, 1998**

ROLL CALL

COMMISSIONER	PRESENT (P)/ ABSENT (A)
ED BRUER	A
JULIUS FRAGER	A
AGNES GARINO	P
DENISE HADDOCK	P
SCOTT MIDDELKAMP	P
JACK REHAGEN	P
CHARLES SAULSBERRY	A
JACK WIESEHAN	A
ANNA MARIE WINGRON	P
DON WOJTKOWSKI	A
LARRY YOUNGBLOOD	P

OTHERS PRESENT:

Carl Ramey - Executive Director
Steve Martin - Legal Counsel
Libby Rohlfing - Administrative Assistant

CALL TO ORDER

The meeting was called to order by Chairperson Garino at 6:00 p.m. on January 6, 1998. The meeting was held at the office of the Boundary Commission, 1516 S. Brentwood Blvd., Brentwood, MO 63144.

ROLL IS CALLED - QUORUM DECLARED

Carl Ramey called the roll and a quorum was declared.

APPROVAL OF AGENDA

Mr. Rehagen made a motion to approve the agenda as submitted. Ms. Wingron seconded the motion. Voice Vote: Ayes - All Nays - None *The motion passed.*

APPROVAL OF MINUTES

Ms. Wingron made a motion to approve the minutes from the meeting of December 2. Mr. Middelkamp seconded the motion. Voice Vote: Ayes - All Nays - None *The motion passed.*

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENTS/COMMUNICATIONS

Mr. Ramey referred to the memo he sent to update the Commission regarding the activity to be anticipated in the coming months. The memo listed the cities that intend to submit proposals in the next several months. He mentioned that Mr. Booher, of the Committee to Incorporate Sappington Concord, represents the only active incorporation effort in the County. Mr. Ramey also noted the conclusions reached in the litigation over the voting procedures for an unincorporated pocket in the Area West annexation. Finally, he mentioned the brief, year-end budget summary which projects that the Commission will have 17% of their budget remaining instead of the 15% earlier predicted.

Mr. Rehagen asked more specifically what areas Ballwin, Manchester, and Crestwood are proposing to annex. Mr. Ramey responded that he has only met with the City of Ballwin which is considering a substantial area near the southwest quadrant of the City that adheres to the informal boundary agreements made with the City of Ellisville. The City indicated they would prefer to approach the annexation through a series of simplified boundary changes. Mr. Ramey stated that he does not anticipate anything in the first quarter from Ballwin. He has received no direct communication from Manchester or Crestwood, the only information he has received has been through news articles. It would appear that Crestwood is contemplating an annexation of territory south of Eddie and Park Road towards Gravois Road. This could create conflict because it involves territory proposed for the incorporation of Sappington Concord. Mr. Youngblood added it is the same area that Crestwood attempted to annex a few years ago and failed.

Mr. Rehagen requested that the areas which have been annexed in the past year be marked on the map of the County for clarity. Mr. Ramey agreed to indicate where boundary changes have been approved.

Mr. Youngblood asked if Florissant intends to annex only part of golf course, the portion in St. Louis County. Mr. Ramey confirmed that the City of Florissant has been unsuccessful in reaching an agreement with the City of Black Jack regarding a transfer of jurisdiction.

Mr. Ramey questioned whether the Commission's meeting schedule, set for 6 p.m. on the first and third Tuesday of each month, remained feasible for the majority. He also asked whether they want to stagger the public hearings if they receive a flurry of proposals in the coming months. In the past, they attempted to hold a regular meeting before the public hearings at 7 p.m., but it tended to prove difficult for most members. Mr. Rehagen suggested that they consider making the second and fourth Tuesday available for public hearing dates. Mr. Youngblood agreed to that idea. Ms. Garino asked what is the minimum quorum for a public hearing because some members have problems meeting the second and fourth Tuesdays. Mr. Ramey responded four is the minimum. Ms. Wingron stated that she prefers a 7 p.m. hearing time without the 6 p.m. business meeting.

Mr. Ramey stated that the Annual Report was mailed out December 29 to all municipalities, the County Council, all State Representatives, the press, and those individuals who requested a copy. He has yet to receive any response on the report, and nothing to his knowledge has been pre-filed in the Legislature.

NEW BUSINESS

A. Request of the Committee to Incorporate Sappington Concord to limit costs for Official Submittal

Mr. Ramey stated that Jim Booher, who is in attendance at the meeting, has requested that the Commission limit the costs of submitting a proposal for incorporation. The Rules require certification from a proposing agent that they agree to pay for all costs involved in the official submittal. The statute mandates the proposing agent pays for the cost of publication of legal notice and notification of the clerks and other affected jurisdictions, but the rules state additional notifications and costs. Several meetings ago, Mr. Booher asked the Commission to detail what costs would be associated with his committee's efforts to incorporate. The major cost is notification of all property owners in the affected area, which the Commission elected to administer after the first two public hearings they held. What would initiate this notification is the submittal of a legitimate and complete proposal, after it has been received and filed, and a public hearing date, time and place has been set. The notice is mailed out ten days prior to the hearing, and in the past the Boundary Commission office has prepared the notice, but the proposing agent has paid to mail it. But in the past, the Commission has dealt with municipalities, which are taxing bodies with the resources to pay for such a mailing. In dealing with an incorporation, which under the law must include a minimum population of ten thousand, a citizens' group would be required to pay upwards to \$1800 in order to send notice to approximately six thousand parcels. Additionally, a proposing agent in an incorporation does not face the potential gain involved in an annexation that would allow them to recuperate those costs. The residents would have to collect and pay for those expenses.

Mr. Ramey summarized that there are two issues for the Commission to resolve: first, the request to cap the amount of the fee the proposing agent is responsible to pay under the Rules, to \$175, and second, the broader issue involved in limiting that cost, which entails waiving the cost of postage or finding an alternative method. In terms of the costs, Mr. Ramey stated that the two issues are closely related. This issue will also impact subsequent proposing agents. In the past, the County has accepted the expense of mailing notification to the residents involved. Ms. Fiegel explained that the County notification was only in the absence of a Boundary Commission, for example in Wildwood and Green Park.

Mr. Youngblood stated that he has a fundamental problem with a rule that only requires notice be given to property owners and not all registered voters in the area. He stated the freeholder situation resolved the issue constitutionally in favor of registered voters. The property owners are not the only people in the area, and some of them do not live in the area affected. He referred specifically to the area in question where there a number of apartment complexes; the residents would essentially be excluded from notification because they are not property owners. In his opinion, the Commission would be in error to exercise this practice without including registered voters by neglecting previous rulings by the courts. He continued to say that if the Commission requires a municipality, as a proposing agent, to assume these costs, than a group of citizens, as a proposing agent, should accept equal responsibility.

Mr. Rehagen agreed that the costs have been borne by the proposing agent in the past. He asked in how many proposals the Commission has applied that cost to the proposing agent. Mr. Ramey replied all but the first two which were prior to the Commission deciding to prepare such a notice. Mr. Rehagen asked if they would be obligated to reimburse the proposing agents who paid those costs in the past, if this establishes a fixed policy, and if it would require a Rule change. Mr. Ramey stated that exempting this payment would require the Commission to initiate a Rule change. As they are not obligated to waive the payment in all instances, the Commission needs to decide if it wants to distinguish between types of proposing agents.

Ms. Wingron asked if Chesterfield and Maryland Heights funded their own mailing. Ms. Fiegel stated she is unfamiliar with that history.

Mr. Booher commented that the petition applies to a different segment of population than property owners, as it requires 15% of registered voters. Under the statutes, they need 1303 valid signatures from the approximately 8000 registered voters in the area in order to submit a proposal. They are only required to provide enough space for 200 people at the public hearing, yet the size of the mailing could generate attendance of up to 12,000 people. Mr. Booher continued to say that based on the statutory review factor

regarding "extraordinary effect" on the tax resources of the County, everyone in St. Louis County should be notified, and anybody could attend the hearing.

Mr. Ramey asked that the situation be put in perspective; the statute only requires that notification be made in a paper of general circulation, in addition to the County Clerk, etc. The Commission decided that a better means of notifying the public would be beneficial. He agreed Mr. Youngblood offered a valid point, especially in view of the number of apartment dwelling units in the area that need to be notified. The important issue is how best to broadly inform the public so that the affected parties are informed and have an opportunity to speak on the issue. Mr. Youngblood emphasized the point that registered voters are as important as property owners and ought to be equally informed. If the Rules mandate proposing agents to pay reasonable costs, than an incorporation effort should be handled the same to avoid problems that could potentially result from being inconsistent in implementing policies.

Mr. Ramey read the specific rule, on page 14 under *Official Submittal*, number 7, *Binding Statements*. The notification to property owners by mail is not specified in the rules, rather it represents a practice they have established. Mr. Rehagen clarified that it is an administrative policy. He added that since the Rules do not specify that the notice be delivered by mail, then a proposing agent can consider alternative options to save costs. Since the office already prepares the copies, then a proposing agent could save costs significantly if they chose.

Ms. Wingron stated that she does not want to support a cap on the costs to a proposing agent because those are somewhat variable, and inevitably the burden of the cost would fall on the Commission, which receives its funding from the County.

Ms. Garino stated there are two decisions to make: on providing a cap and on exempting the costs of mailing notice. Mr. Martin suggested they could decide in this instance not to mail notice by first class postage. Ms. Wingron questioned whether that excludes the guarantee that the residents receive the notice. Mr. Middelkamp stated that the Commission trusts the proposing agent to distribute the notice whether it is run through a postage meter or delivered by hand.

Mr. Booher stated that he received a devastating letter from Mr. Ramey dated December 22 which implied that their petitions do not need to include any information about the proposal. He asked what the notice sent to the residents will say. Mr. Ramey responded that the notice is intended to inform the people in the area that a public hearing will be held. It provides a general description of the area and states where copies of the proposal are available for review. Mr. Booher responded that the standard for petitions which they have followed in the past includes the data from the plan of intent. He continued to say they have not received all of that information from the County, and the Boundary Commission remains silent on that matter. The Commission may not require the information for the petition, but he needs to present the petition to the County Council also. Mr. Youngblood asked how the County Council is involved. Mr. Booher responded that eventually the petition will need approval from the Council.

Mr. Rehagen stated there is an issue on the floor. Ms. Wingron made a motion to deny the Committee's request to place a cap on the costs of submitting a proposal. Mr. Rehagen seconded the motion. Voice Vote: Ayes - All Nays - None *The motion passed.*

Mr. Youngblood made a motion that this proposing agent be required to meet the same requirements of all proposing agents submitting a boundary change proposal. Mr. Rehagen seconded the motion. Voice Vote: Ayes - All Nays - None *The motion passed.*

Mr. Youngblood requested that in the future registered voters be notified and not just property owners. Mr. Martin stated that by law, the notice in a newspaper of general circulation is considered sufficient for notice; the Commission's policy goes a step beyond that standard. The letter is to ensure a better process, and extends beyond the legal requirement. Mr. Youngblood asked since the Commission has taken that extra step, they should go a step further and notify registered voters also. Mr. Martin agreed it is a policy decision for the Commission to make.

Mr. Middelkamp asked if they could notify all residents. Mr. Ramey responded that the advantage to property owners is that commercial property owners receive notice as well as those owners who do not reside in their property. Mr. Rehagen asked, on average, what percentage of the residences are occupied by property owners. Mr. Ramey responded that generally 85% are property owners in the proposals they have reviewed. Mr. Rehagen stated that apartment dwellers notoriously do not vote, and they should consider

what extra work would be involved in notifying every unit resident considering the office does not have a database with this information. Mr. Ramey stated there are a variety of options to examine, such as bulk-carrier-sort for apartment buildings. They could also cut the cost approximately 40% by using a card sort.

Mr. Youngblood stressed that it is the intent of the Commission to notify as many people as possible of a potential boundary change at the cost of the proposing agent. Ms. Garino requested Mr. Ramey investigate the alternatives.

B. Discussion re: Rules and Procedures for Boundary Changes involving Disincorporations

Mr. Martin explained that the County Council received a petition requesting the disincorporation of the City of Peerless park. He received a courtesy call from County Counselor, John Ross, to discuss the two competing disincorporation statutes involved, the Boundary Commission Statute, and §72.490-5 RSMo which addresses the disincorporation of fourth class cities. Mr. Ross indicated that he reviewing the issue and would contact Mr. Martin before he reports back to the Council at their meeting on Thursday. Mr. Martin summarized that he will explain the Boundary Commission's interpretation of the statute and how they have been functioning under the statutes. At this point, the Commission needs to wait to see whether the petitions are sent to the Commission.

Mr. Rehagen asked what would be involved in quickly developing a set of Rules to address disincorporations. Mr. Ramey responded that the Rules require a plan of intent from every proposing agent, but this presents a unique situation and the rules should be formatted accordingly to be fair to everyone involved. They would also need to be applicable to all cities in the County, and not just fourth class cities. Mr. Rehagen asked whether they should place a moratorium on disincorporations until they are able to write Rules that the Commission is comfortable with.

Ms. Haddock asked who the proposing agent would be. Mr. Martin replied that is one of the many questions this issue raises. Generally, a city provides the plan of intent, but in this instance it would be a group of citizens.

Mr. Youngblood asked how this is different from an incorporation effort. Why should a group of citizens for disincorporation not have equal legal standing as a proposing agent? Mr. Martin responded that he is not questioning the validity or legal standing of the proposing agent, rather how best to handle their request. For example, the Commission needs to decide whether or not they will require a full plan of intent. Mr. Ramey continued that the petition for an incorporation only requires 15% of registered voters (from the last gubernatorial election) which is much laxer than the statute on fourth Class cities which requires 2/3 of registered voters in a city with a population under 100 for the County Council to approve a disincorporation without a vote.

Mr. Youngblood asked why they do not have rules on disincorporation, when other cities could present similar requests. He suggested the Commission act to create a consistent set of rules. Mr. Ramey agreed that the Rules would need to be reasonably applicable to the different types of cities that exist. He stated that he found only three references to disincorporation in the statutes: the section were the section on fourth class cities, a section on Times Beach, and in the Boundary Commission statute.

Mr. Middelkamp questioned whether the Commission can or should follow the standards outlined in the statutes for a fourth class city. Mr. Rehagen asked if the Commission has exclusive authority over boundary changes in St. Louis County, should their statute nullify the other statutory provision? Mr. Ramey replied that is the question at hand.

Mr. Rehagen asked if they can vote to place a moratorium on disincorporations. Mr. Middelkamp responded that it is not an item on the agenda, but they could vote to place it on the next agenda.

Ms. Haddock asked what distinguishes a fourth class city from the other types of cities, and how is that category relevant? Mr. Ramey replied that it represents the way the government is set up, and entitles cities to different standards based on that form.

Mr. Youngblood questioned whether the St. Louis County Council would approve the request immediately in order to place the issue on the April ballot. He also pointed out that if the issue came to the Commission, it may not reach a ballot until the August elections. Mr. Middelkamp asked whether they should place a moratorium on a proposal for disincorporation. Mr. Ramey answered that if the County determines they do not have jurisdiction and forwards the petition to the Commission, it will not meet the

current requirements for a boundary change proposal under the Rules. The statutes mandate a proposal include a plan of intent, and that the Commission review the eleven factors. Therefore, applicable rules will need to be prepared. In the past, they did not implement a formal moratorium, rather they warned proposing agents to wait for the Rule change to be complete.

Mr. Middelkamp asked if there is 27 days notice before any rule change takes place. Mr. Ramey answered there is, but the proposing agent in this instance would not meet the rules without a change. Mr. Middelkamp concluded there is no need for a formal moratorium if they can't accept a proposal.

Mr. Youngblood asked if the County Council could approve this petition if it meets the 2/3 requirement under the law, and if they do not have 2/3, but they have over 50%, would the issue be placed on the ballot? He also questioned whether the Commission could establish rules along the same guidelines as that portion of the law, or if they could return the matter to the County Council. Mr. Middelkamp replied that they do not have that authority.

Mr. Rehagen asked if there is an applicable County ordinance that would provide the jurisdiction to approve this request. Mr. Martin stated that if 2/3 signed the petition, the same chapter of the statute that requires an election if 50% of registered voters sign the petition, also allows the County the option to waive the vote in a city with under 100 residents. Mr. Rehagen asked why the County would not just resolve the issue then. Mr. Ramey replied that generally, the Boundary Commission law takes precedent over all others related to boundary changes, in which case, the County may not have jurisdiction. Mr. Youngblood recommended the Commission begin drafting a set of Rules to address this issue. Ms. Garino agreed, and requested the regulations apply to all cities, not just fourth class cities.

Mr. Rehagen made a motion to defer a decision to the next meeting after Mr. Martin has discussed the issue with the County Counselor. Mr. Middelkamp seconded the motion. Voice Vote: Ayes - All Nays - None *The motion passed.*

Mr. Martin agreed that it is uncertain what conclusion the County Counselor will make presuming they do not want to assume responsibility for a possibly controversial ruling outside of their jurisdiction. Ms. Garino suggested that this should not preclude staff from preparing a draft outline of applicable rules.

C. Discussion re: Office Space

Mr. Ramey stated that it remains possible that another offer will be made to buy the office space currently occupied by the Commission. The decision would be made before March. Mr. Youngblood asked how much they pay per square foot for the space. Mr. Ramey approximated \$12 per square foot; they pay \$1000 a month which includes surface parking.

Mr. Rehagen explained that they chose the current site because of the cost, and because it is centrally located, yet separate, from the County. It was decided that the Commission would hold their public hearings near the site of the proposal and not at their offices. He asked for a list of preferences from the Commission to guide the search committee in their endeavors. He identified the three main components as location, lay-out, and cost.

Mr. Middelkamp asked how much they budgeted to spend in fiscal year 1998. Mr. Ramey stated that they allowed for \$1300 with another \$1000 to cover the costs of moving, though this would be absorbed by the TIF plan if the building is condemned. The locations discussed included Clayton, Brentwood, Richmond Heights, Creve Couer, Westport and Des Peres, but it was agreed the office should remain close to the seat of government because the Director needs to make frequent visits to the County. Mr. Rehagen stated that access is the key issue, and the most relevant criteria is location near a major transportation route such as Highway 40 or Interstate 270 or 170.

Mr. Middelkamp stated that they may want to consider a slightly larger office which laid out the space more efficiently, as the present location offers a second office that is only used for storage. He suggested they look for a space with at least a 1000 square feet. Mr. Youngblood stated that most office spaces are built to dimensions of 1200 square feet. The key components are the conference room, a reception area, one main office, and a minimum of storage space.

The office also needs to have ample parking, for at least three or four cars during the day, and 25 part-time spaces available for evening meetings. In addition, the parking must be well-lit and handicap accessible, with a functioning sidewalk.

Ms. Garino asked when the lease ends. Mr. Ramey responded September 30, but it is possible the place could be sold before then. Ms. Garino asked Mr. Rehagen how they would implement their search. Mr. Rehagen stated that he would contact some leasing agents for the preliminary searches, describe their preferences, and see what they have available. He said he would also look at the type of lease to determine whether utilities, cleaning, etc. was supplied.

Ms. Garino clarified that the Committee included Ms. Haddock, Mr. Wojtkowski, and Mr. Rehagen. Ms. Haddock asked why they did not occupy space in the County government building. Mr. Middelkamp explained that they chose to be separate in order to maintain a greater sense of independence.

ADJOURNMENT

Mr. Youngblood made a motion to adjourn. Ms. Wingron seconded the motion. Voice vote: Ayes - All
Nays - none *The motion passed.*

This being a memorandum of the activities at this meeting.

Respectfully submitted,
Carl E. Ramey
Executive Director

Approved January 20, 1998