

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

**MEETING MINUTES  
November 17, 1998**

**ROLL CALL:**

<b>COMMISSIONER</b>	<b>PRESENT (P)/ ABSENT (A)</b>
<b>JULIUS FRAGER</b>	<b>P</b>
<b>AGNES GARINO</b>	<b>P</b>
<b>GWENDOLYN GERHARDT</b>	<b>P</b>
<b>DENISE HADDOCK</b>	<b>A</b>
<b>PAT MERRITT</b>	<b>P</b>
<b>SCOTT MIDDELKAMP</b>	<b>P</b>
<b>JACK REHAGEN</b>	<b>P</b>
<b>CHARLES SAULSBERRY</b>	<b>A</b>
<b>ANNA MARIE WINGRON</b>	<b>P</b>
<b>DON WOJTKOWSKI</b>	<b>P</b>
<b>LARRY YOUNGBLOOD</b>	<b>P</b>

**OTHERS PRESENT:**

Carl Ramey - Executive Director  
Steve Martin - Legal Counsel

**CALL TO ORDER**

The meeting was called to order by Chairperson Garino at 6:00 p.m. on November 17, 1998. The meeting was held at the office of the Boundary Commission, 1516 S. Brentwood Blvd., Brentwood, Missouri.

**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. The motion was seconded by Mr. Middelkamp. Voice Vote: Ayes: All Nays: None *The motion passed.*

## **APPROVAL OF MINUTES**

**A. *Approval of minutes of Public Hearing BC9812 - Southwest Annexation - City of Ballwin - October 20, 1998***

A motion was made by Ms. Wingron to approve the minutes of the Public Hearing held October 20, 1998 regarding BC9812 - Southwest Annexation. The motion was seconded by Ms. Gerhardt. Voice Vote: Ayes - All Nays - None *The motion passed.*

**B. *Approval of minutes of Public Hearing BC9813 - Greenbriar Estates Addition Annexation - City of Des Peres - November 3, 1998***

A motion was made by Mr. Middelkamp to approve the minutes of the Public Hearing held November 3, 1998 regarding BC9813 - Greenbriar Estates Addition Annexation. The motion was seconded by Mr. Youngblood. Voice Vote: Ayes - All Nays - None *The motion passed.*

**C. *Approval of minutes of Boundary Commission Meeting - November 3, 1998***

A motion was made by Mr. Youngblood to approve the minutes of the Boundary Commission meeting held November 3, 1998. The motion was seconded by Mr. Middelkamp. Voice Vote: Ayes - All Nays - None *The motion passed.*

## **PUBLIC COMMENT**

Mr. John Omvig, 915 Hazelfalls Drive. Mr. Omvig indicated that his area is located within the proposed annexation area of the City of Manchester. He indicated since July he had been in contact with the Executive Director and has been provided with the necessary materials and information regarding unincorporated zones. He stated his purpose for attending the meeting was to go over several points with the Commission. The area involved in the unincorporated zone is bounded on the west by Hanna Road, Highway 141 on the east, the City Manchester on the north and the Village of Twin Oaks on the south. The population in this area is approximately 2,600. Mr. Omvig distributed a draft copy of information to be contained in their proposal. He stated that petitions were circulated and they had been certified by the Board of Election Commissioners. He indicated there are a sufficient number of signatures to qualify the petition.

Mr. Omvig stated there are two items which needed to be addressed. First, the Boundary Commission Rules require an ordinance from County Council indicating this area could be served. Mr. Omvig stated the County has indicated to him there already are ordinances on the books requiring the county to provide municipal type services. He stated the county has told him there is no need to adopt such an ordinance because of what is on the books already. Second, Mr. Omvig indicated the reason they had not officially submitted their

proposal is because there is a need to set a public hearing. In order to set the public hearing under the rules, he needs a date for a public hearing from the Commission. Their submittal date is dependent upon the Commission setting a public hearing. Mr. Omgig asked the Commission to hold any vote on the Manchester proposal, to allow him to officially submit a proposal for an unincorporated zone.

Mr. Ramey asked the Commission to address the request for a public hearing date, stating the rules spell out the timing for the public hearing. Because the public hearing is to be held within the first fourteen days after official submittal, the proposing agent would come before the Commission to obtain a date for the hearing. Once the Commission gives the proposing agent the date they are available for a public hearing, the proposing agent will publish notice of the hearing.

Mr. Rehagen asked what dates would be available for a hearing. Mr. Ramey indicated the first Tuesday in December is already scheduled for a public hearing in Ballwin. If this matter is to be placed on the ballot, the Commission has until the third or fourth week of January to submit the proposition to the Board of Election Commissioners. Other dates in December would be the 8<sup>th</sup> and 15<sup>th</sup>. Chairperson Garino asked the Board which date was best. It was the consensus of the Board that the public hearing will be set for December 15<sup>th</sup> at 7 p.m., at a location to be determined. Mr. Ramey pointed out that at this time of the year, it may be difficult to obtain a location.

Mr. Ramey also pointed out the other question asked by Mr. Omgig was whether the Commission would require an ordinance from the County. Mr. Frager stated that if the County already has something that would satisfy our rules, all that they would have to do is submit it. Mr. Omgig stated the difficulty in obtaining an ordinance, if one is needed, is how long it would take to obtain it from the County Council. The Commission discussed whether the proposing agent could submit their proposal and during the time period for completeness review obtain the ordinance. Mr. Ramey pointed out the issue may not be one of completeness, if the proposing agent indicates under the rules that such an ordinance is not applicable. It then becomes a matter of substance for the Commission to consider.

Mr. Frager asked whether it would be valuable to obtain in advance for the Commission's review a copy of what the County feels meets the requirement of the rules. He stated it may be what is being considered would provide blanket coverage for this and other proposals of the same kind. Mr. Ramey indicated a pre-submittal conference might be used for such a review. From a timing stand-point such a conference would work on December 1<sup>st</sup>. However, if the Commission requires something different than what is offered, practically, it would be impossible to have it finalized for a public hearing on December 15. The dilemma is that for a public hearing on December 15, Mr. Omgig will have to have published the notice of public hearing before the Commission's December 1 meeting. Ms. Garino asked for clarification as to the reasoning why they were not attempting to get an ordinance. Mr. Omgig stated there were two reasons; timing and the County already believes there are ordinances and charter requirements which obligate them to provide the service without the need for an additional ordinance. Mr. Wojtkowski pointed out the statute requires the Commission to determine the area can be reasonably served. He felt if the county provides a letter to the Commission stating they can reasonably serve the area, based upon the ordinances in place, this should be sufficient. As a result of the discussion, it was suggested that they cite the ordinances and charter provisions to satisfy the requirement.

## **OLD BUSINESS**

### **D. Discussion and Decision re: BC9806 - Carman-Dougherty Ferry Annexation - City of Manchester**

Mr. Youngblood stated that with the petition for an unincorporated zone coming forward and time remains before a decision has to be made, it would be appropriate to table the matter. Mr. Rehagen felt that they could go forward with a decision, because a proposal for an unincorporated zone would take precedence over their sending the Manchester proposition to the voters. Mr. Middelkamp asked Mr. Martin what impact a vote on Manchester that night have on a subsequent proposal for an unincorporated zone. Mr. Martin stated that even though it was within the Commission's right to make a decision on Manchester that night, if a proposal for an unincorporated zone came forward, as was suggested that night, it would take precedent. The Commission would not be able to submit it to the voters. Mr. Wojtkowski asked whether it would be cleaner simply to table, since there is time to wait. Mr. Ramey reviewed the timing for review and decisions on both the unincorporated zone and the Manchester proposals, in relation to placing either matter on the ballot for April. Ms. Wingron asked whether the Commission could vote to approve the Manchester proposal, pending the outcome of the submittal for an unincorporated zone to the voters in April. Mr. Martin responded that a conditional approval would not work, because to approve it pending on another action which may not be finalized by the time of the vote for Manchester. Mr. Frager asked what happens to the Manchester proposal if the proposal for an unincorporated zone fails. Does it too fail, because their time expired? Mr. Martin indicated that the recent changes in the statute did not alter the nine month period for the Commission to make a decision. Therefore, he indicated that the time period for a decision would have expired and the proposal would have to be resubmitted.

A motion to table BC9806 was made by Mr. Youngblood. The motion was seconded by Mr. Wojtkowski. Mr. Frager asked whether there is a date for removal from table. It was agreed that a date was not required. It could be removed from the table at any meeting. Mr. Ramey indicated for public notification, the matter would appear on the agenda, without the expectation that it would be removed. Roll Call Vote: Ayes: Frager, Gerhardt, Merritt, Middelkamp, Rehagen, Wojtkowski, Youngblood  
Nays: Garino, Wingron *The motion passed.*

### **B. Discussion re: BC9811 - Westridge Parc Annexation - City of Ellisville**

Ms. Garino indicated that the normal process the Commission follows is to allow the Commission to engage in their deliberations; however, there were a number of interested people wanting to speak on the issue. She indicated she would take the public comment first and then open it to Commission discussion.

Mr. William Eads, 811 Salem Way. He recommended that the Commission not approve the simplified boundary change as submitted by the City of Ellisville. He feels the information received from Ellisville is insufficient and incomplete. Mr. Eads stated there has been a change in the level of support, based upon the submission to the Commission of a petition subsequent to the submittal of the

proposal. He believed the issue is one of communication. He recommended this proposal be placed before the voter.

Mr. Bob Fanning, 826 Surrey Meadows Ct. Mr. Fanning submitted a letter to the Commission in support of the proposed annexation and proceeded to read the letter.

Mr. Jeff Rippe, 822 Salem Way. Mr. Rippe indicated he was involved in soliciting signatures on the second petition. Mr. Rippe indicated his effort was not intended to hold out for an annexation by the City of Ballwin. Mr. Rippe indicated there was an incorrect statement in his letter. The additional sales tax on cars and boats was .5% and not 1.5%. He asked that the proposal be sent to ballot.

Ms. Diane Spielman, 147 Westridge Parc Lane. She indicated she was one of the original residents and was involved in soliciting signatures. She asked the Commission not to consider the signatures on the second petition. She felt the signatures were obtained while people were under the influence of alcohol and did not know what they were signing. She finished reading Mr. Fanning's letter in support of the annexation.

Ms. Debbie Bucchino, 827 Surrey Meadows. She stated she was present in support of the annexation.

Mr. Barry Reed, 804 Dogwood Grove. He stated there appears to be a lot of emotion in the subdivision over the annexation and he can not explain the reason for it. He encouraged the Commission to table the matter to allow time for people to understand the issues.

Ms. Janice Smiley, 131 Westridge Parc Ln. She indicated that signatures for the second petition were collected at a subdivision party as well as going door-to-door. She did not observe an unusual amount of alcohol consumption at the subdivision party. She was not in support of the annexation.

Mr. Scott Schumacher, 808 Surrey Meadows Ct. He stated he signed the original petition seeking annexation. He indicated that he had not been asked to sign the second petition. He stated he had difficulty in supporting the petition because it was not notarized and he was not informed.

Mr. Wojtkowski indicated that the Commission needs to keep in focus that any approval of a simplified boundary change should be contingent upon a vote or without a vote. He stated that he did not believe the second petition was a valid petition, but at the same time the Commission needs to recognize that since the execution of the first petition concerns are being raised which may weigh heavily towards the option of approving it with a requirement for a vote. Mr. Wojtkowski stated that the simplified boundary change mechanism without a vote should occur only when the conditions are straight forward, simple and undisputed. There is enough question being raised that it should be approved only with the requirement for a vote.

Mr. Youngblood agreed with Mr. Wojtkowski, that the second petition did not preempt the first petition. However, the second petition should be received by the Commission as public comment. He questioned whether the issue for the people in the subdivision is more information or reservation. Putting it to a vote will give people the opportunity to understand more about the proposal.

Mr. Rehagen asked the City of Ellisville what was the percentage signing the petition initially. Mr. LaGarce, City Manager, stated it was 76%. Mr. Rehagen asked what the percentage would be if those who signed the second petition actually removed their signatures. Mr. LaGarce stated he had not done a calculation. Mr. Ramey stated he thought it would be around 64%.

Mr. Middelkamp asked for clarification of the voting requirement. Is a separate majority required in both the annexed area and the City of Ellisville? Ms. Garino affirmed that would be the case.

Mr. Dennis Novak, Mayor of Ellisville, indicated that the process concerning the annexation was not thrown together quickly. It began in February during a meeting with the subdivision trustees, with the petition process beginning in April and concluding in August. He questioned whether the people who signed the second petition, which did not contain a heading describing what the petition was for, really knew what they were signing or who the document represented. He urged the Commission to grant the annexation as a simplified boundary change as submitted.

Ms. Wingron indicated that she was a resident of Ellisville. The information regarding the city's codes are readily available. She stated that while there appears to be a rift in the subdivision, the issue before the Commission is where should the subdivision be located. She encouraged approval by the Commission without the requirement for a vote.

Mr. Frager asked Mr. Rippe what information was given to those who signed the second petition. Mr. Rippe responded that the letter attached to the petition was given to those who signed the petition. Mr. Frager thanked Mr. Rippe for earlier acknowledging his error in the understanding of the sales tax rate. He asked whether the letter contained this information. It was acknowledged that it did contain that information.

Mr. Jeff LaGarce reviewed the cover letter for the second petition, indicating that people signed the petition based upon erroneous or misleading information contained in that letter. Mr. LaGarce stated that their proposal contained the information necessary for consideration by the Boundary Commission. If the Commission feels there was a lack of information included in the proposal then maybe the Commission needs to consider additional requirements. The information contained in their proposal is what the Commission feels is necessary for them to make a decision on a proposal. The plan of intent was complete for Commission review.

Mr. Don Anderson, City Attorney for Ellisville, reviewed the legislative history of the simplified boundary change process. The city took a very conservative approach in calculating the percentage of property owners signing petitions. Mr. Anderson indicated the area is 99.5% surrounded by the City of Ellisville and is a classic example of a pocket, which needs to be incorporated. The delivery of service by the county can only come through a city. The city met the test for a simplified boundary change. There has been no submittal of a notarized petition by anyone asking to have their name removed from the original petition. He encouraged the Commission to approve without a vote. Not to approve potentially will allow for the perpetuation of a pocket.

Mr. Wojtkowski restated the statutory provision regarding simplified boundary changes and the vote.

He indicated there is nothing to suggest that all simplified boundary changes should be done without a vote. For the Commission to require a vote is clearly allowed. He reminded the Commission of what the impact the blended voting requirement has in unincorporated pocket situations, where the vote in the pocket is diluted. To suggest the Commission not require a vote, because it could become a pocket is inconsistent thinking.

Mr. Frager discussed the voting process on this matter. Mr. Frager suggest that at the time of the vote on this matter, the Commission separate the issue of approval/disapproval from the issue of whether a vote should or should not be required. Ms. Wingron asked Mr. Martin whether this process could be utilized. Mr. Frager suggested that the issue may not be whether or to approve, but rather should a vote be required. By separating the issues, the Commission can focus on the real issue.

Mr. Ramey reviewed the deliberation schedule on the proposal. Because it still remains a simplified boundary change, the deadline for a decision was December 21. Therefore, the first meeting in December would be the appropriate time for a vote on the proposal. A question was raised from a member of the audience. If a third petition containing notarized signatures could be collected, asking to have their names removed, was submitted, would that carry weight with the Commission. Mr. Martin responded that it would have value in their deliberations, but it would not be a valid petition to have their names removed at this time. Ms. Garino asked whether the petition would have to go through the City of Ellisville. Mr. Martin indicated that the petitions of that nature goes through the City and does not come directly to the Commission. Mr. Frager raised the concern that the second petition contained misinformation. With the correct information, how would the people have felt is unknown. The value to him of a third petition was not from a legal perspective, but rather it would provide more accurate information of how people felt.

Ms. Garino indicated that the vote on the proposal would be at the December 1 meeting of the Commission, with the summary of decision on December 15. The meeting would be at 6:00 p.m. at the City of Ballwin Golf Club in Ballwin.

**C. Discussion re: BC9812 - Southwest Annexation - City of Ballwin**

Mr. Robert Kunz, City Manager of Ballwin indicated the city had an opportunity to review the report of the county. The three issues the city felt were contained in the report included the Reinke Road jurisdiction, revenue loss to the county and the two unincorporated territories east of Reinke Road. He indicated they brought a map to show the jurisdictional issues involved with Reinke Road. As to the loss of revenue to the county, he stated the numbers reached by both the county and city were very close. The rapid growth this area is experiencing makes it difficult for anyone to arrive at precise numbers. Concerning the issue of the two subdivisions east of Reinke Road, Mr. Kunz wanted the Commission to know the city will do anything the Commission directs. In developing their basic proposal, they wanted their boundaries to be logical and compact. Because of the adjacency to the City of Ellisville, the two subdivisions in question may best be served by that city.

As to Reinke Road, Mr. Kunz indicated on December 1 the Commission will be addressing in part the issue raised in the County report when they consider the Virginia Lee Manor annexation. Mr. Kunz

pointed out that the cities of Ellisville and Ballwin and St. Louis County have an agreement to upgrade Reinke Road. If they are successful in the annexation, Ballwin is willing to address any of maintenance issues with the City of Ellisville, which will result in a more efficient delivery of service. With the assistance of a map, Mr. Tom Aiken of Ballwin reviewed the issue. As to the county report, he indicated at the time of writing the report, the county may have been unaware of their proposal to annex Virginia Lee Manor. Otherwise, the Southwest proposal takes into account all of the other unincorporated portions of Reinke Road. Mr. Aiken indicated that the issue which was raised regarding split jurisdictions for maintenance and roadway design, will be addressed with the rebuilding of Reinke Road. However, because of prior annexations, the jurisdiction of Ellisville does extend to the centerline of Reinke Road. Ms. Garino asked whether Reinke Road was a county arterial road. Mr. Aiken indicated that at some time in the past, it was removed from the County Arterial Road System.

Ms. Wingron asked whether this proposal would be on the next agenda for decision. Mr. Ramey indicated that the Commission was at the beginning of its process.

Ms. Garino asked what was the population of the area. Mr. Aiken indicated in 1990 it was 500. When the city started their analysis of the area he did a physical count of the number of housing units. The population he arrived at was estimated at about 1,500. Housing construction continues and that count should be higher. Ms. Garino asked whether the area is fully developed or are there major areas which could be developed. Mr. Aiken indicated that every area of consequence has been developed. He pointed out on a map two parcels which could be developed. The topography in the area limits future development.

Mr. Youngblood questioned why Ballwin had not included the Waterford Subdivision, when, if the Southwest Annexation is approved, the area will be served by going through the City of Ballwin. Mr. Ramey referred the Commission to the letter from the City of Ellisville indicating their interest in annexing this subdivision. Mr. Aiken pointed out that Ellisville could serve this area from the north and it is surrounded on three sides by Ellisville. Mr. Youngblood pointed out that regardless of whether Ellisville surrounds this area on three sides, access would be through Ballwin. He questioned whether it would make more sense to have this area included in the Southwest annexation because of the access.

Mr. Rehagen asked whether there was a timetable from Ellisville on their intention to annex this area. Mr. Daniel Meers of the City of Ellisville indicated they have held a meeting, but there is no timetable. Mr. Rehagen asked how many residents would be involved. Mr. Aiken stated he believed there were twenty-seven (27) homes. In response to the question why Ballwin did not include this subdivision, Mr. Aiken pointed out that while from a service delivery perspective the area would be served by going through Ballwin, it is surrounded on three sides by Ellisville. This got into the issue of compactness. The question in the city's mind was what is the most logical way to draw municipal boundaries. The conclusion the city reached was their proposal presented the most logical approach. However, if the Commission feels the issue of creating a pocket is a more important issue, then the city is willing to do what the Commission feels is best.



Mr. Youngblood asked whether there was an indication from the residents in the subdivision of how they feel. Mr. Aiken stated that at the direction of the Boundary Commission at public hearing, the resident who spoke during the hearing did talk with him about annexation. He has not heard back from that resident. To his knowledge, the only contact so far has been with Ellisville. Mr. Kunz indicated that the city would be willing to go on record, that if they are successful in the southwest annexation and the City of Ellisville is unsuccessful in annexing the Waterford Subdivision, Ballwin would do its diligence to pursue a simplified boundary change so as not to leave a pocket.

Mr. Middelkamp asked whether the city did a police service cost analysis versus the county's. Mr. Aiken stated they did not do a separate analysis. They did a manpower analysis of what it would take to serve the area and determined they had sufficient manpower added and would not require additional staff.

Mr. Rehagen asked whether the city intended to contact the person from the subdivision regarding their interest in annexation. Mr. Kunz stated they were willing to do what the Commission prefers, but did not want to get into any conflict with a neighboring municipality. Mr. Aiken pointed out the city has not gone out soliciting proposals in the past, but they could make the contact to see what may be the reaction.

Ms. Garino reviewed the time frame for decision. She asked the city whether they had a preference for a ballot date, as none was stated in the proposal. Mr. Aiken indicated they did not have a preference for a date. Mr. Youngblood stated he would prefer to see what the reaction was from the Waterford Subdivision before any decision was made on the proposal.

Ms. Garino pointed out that at public hearing there were other individuals who were not apart of the proposed annexation asking why they had not been included. She asked the city for further clarification as to the areas. Mr. Aiken reviewed the areas involved for the Commission. He pointed out that some of the areas are contiguous to the city and others are not. The city has talked with representatives of the area. One of the subdivisions has submitted petitions seeking annexation. Overall, the city is looking at incremental growth, otherwise it could penalize the current residents and those being annexed.

Ms. Garino asked the Commission whether there are any further issues of the city. Mr. Kunz pointed out the city did not include the one-half percent on automobiles and boats. It was agreed that because the Commission will be in Ballwin in December, the issue could be on the agenda for a report on the Waterford subdivision, otherwise it would not be on the agenda again until January.

## **NEW BUSINESS**

### **A. Discussion Re: By-laws**

Ms. Garino introduced the issue of by-laws review. She pointed out that it has been some time since the Commission considered the by-laws. She suggested the Commission set aside time in January to work on the by-laws as a committee of the whole, in particular the issue of attendance which affects

everybody. Mr. Wojtkowski asked that a summary of attendance be developed for all commission meetings and public hearings. He stated it would be helpful to assess the situation. It was agreed that the summary should include regularly scheduled and special meetings for 1998.

Mr. Middelkamp asked whether there will be an election of officers at the next meeting. Mr. Ramey indicated it was required under the by-laws. The question was raised as to whether this included the election of a treasurer. It was agreed that until the by-laws are changed, it would include the treasurer.

Mr. Frager asked about the budget meeting on Wednesday with the County Council. Ms. Garino indicated Mr. Ramey would be present to answer questions on the budget. Mr. Frager reviewed the response of the county to the Commission. He felt the county should be aware of the philosophy used by the Commission when securing its support staff. It is not an on-going, permanent arrangement. Ms. Garino agreed that she also would attend the meeting.

#### **ADJOURNMENT**

Mr. Wojtkowski made a motion to adjourn. Mr. Middelkamp 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: December 1, 1998