

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

**MEETING MINUTES
November 18, 1997**

ROLL CALL

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

OTHERS PRESENT:

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

CALL TO ORDER

The meeting was called to order by Chairperson Wingron at 6:00 p.m. on November 18, 1997. The meeting was held at the office of the Boundary Commission, 1516 S. Brentwood Blvd., Brentwood, MO 63144. Mr. Saulsberry arrived at 6:15.

ROLL IS CALLED - QUORUM DECLARED

Carl Ramey called the roll and a quorum was declared.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Mr. Middelkamp made a motion to approve the minutes from the meeting of November 4. Mr. Rehagen seconded the motion. Ms. Garino pointed out an omission on page seven. The names of those Commission members who motioned to approve the minutes of the Public Hearing on October 21 for BC9704 were excluded. Staff agreed to add to the minutes the names of Commission members Mr. Rehagen and Mr. Middelkamp who made and seconded the motion respectively. Voice Vote: Ayes - All Nays - None *The motion passed.*

PUBLIC COMMENT

Mr. Jim Booher, 10516 Wisteria, Sappington, MO 63126, issued a prepared statement representing the Committee to incorporate Sappington Concord. Mr. Booher included with his letter the petition provided by Boundary Commission staff as a sample. He stated his refusal to use that petition because attorneys who reviewed the draft petition found it unacceptable. He stated his intention to use the original petition that he drafted in 1996 which names St. Louis County Council on the cover page as a party in the process.

Mr. Bruer asked what attorneys reviewed the sample petition provided to him. Mr. Booher responded that they did not identify themselves; attorneys call him frequently from subdivisions in the area. Mr. Rehagen asked Mr. Martin if the petition Mr. Booher proposes to use is acceptable. Mr. Martin responded that the petition distributed with the written statement is the draft he prepared a year ago as a suggestion. He has yet to see the petition Mr. Booher is discussing, but an applicant can use any petition they choose as long as it complies with the law.

ANNOUNCEMENTS/COMMUNICATIONS

Mr. Ramey explained that during the discussion of the Quarterly Treasurer's Report at the November 4 meeting, he forgot to include a year end financial projection. He distributed a copy of this projection, and corrected a misstatement he made at that meeting. In estimating the projected balance at year end, he stated it would be fifteen thousand dollars. Actually, it will be approximately fifteen percent of the budget, or thirty thousand dollars. He received word last week that their budget as submitted was being recommended to the County Council. He indicated the County will inform him as to when he will make a budget presentation.

Rehagen asked what the percentage of the budget for the fiscal year 1998 are they over the fiscal year for 1997. Mr. Ramey responded between 2.5 and 3%. Mr. Rehagen asked if they included additional costs for new facilities if the Commission office relocates. Mr. Bruer answered they did.

Mr. Ramey added that he spoke with the City of Pacific regarding the same territory discussed by the City of Eureka at the previous meeting. He anticipates that the Commission will receive a letter from the City of Pacific stating that they are also interested in annexing part of that territory. The City of Eureka indicated they will be delayed until January in order to consider the issues raised by the Commission regarding their preliminary plans.

NEW BUSINESS

A. *Pre-submittal conference re: City of Fenton*

Mr. Ramey introduced the City Administrator for the City of Fenton, Ms. Valerie Adams, who requested to speak about the next phases for annexation being considered by the City. At the public hearing on their recent simplified boundary change proposal, the City presented their long range intentions for annexation. Since the approval of that proposal, she has had several work sessions with Mr. Ramey to discuss the City's interests in annexing further.

Ms. Adams introduced the City Attorney, Jerry Wallach, and Mr. Richard Shearer, a consultant from HBA who is helping the City prepare this proposal. She also mentioned that she has met with Ms. Lori Fiegel, from the St. Louis County Department of Planning, regarding their plans in order to solicit County feedback during this process.

Ms. Adams displayed two maps: one of the whole City with the area proposed for annexation south to the Jefferson County line, and another map showing the area north and south of the boundary line between St. Louis County and Jefferson County. She stated that after analyzing where to concentrate first, they decided to follow the direction of their simplified boundary change, and move south. They chose to use the Lindbergh school district boundary on the west, with the exception of two areas. The first would require dividing a large subdivision which they thought would be inappropriate. The second area, directly south of the Fenton City limits, would have left an irregular boundary, so they chose to use the rear property lines to the west instead of the school district boundary.

Ms. Adams pointed out the platted subdivision named Wintergreen which is split between the two Counties,. It currently has ninety homes, with twenty more to be built. There appeared to be no homes on the Jefferson County side, only a drainage channel. The subdivision abuts George Winter Park. The park is located in the eastern section of the proposed area, and borders the Meremac River.

Ms. Adams also pointed out Bowles Avenue to the west of the proposed area which runs north-south. She explained that the area west to Bowles Avenue was excluded after calculating the area and number of homes, and realizing they may exceed the 50% limitation. In considering these numbers, she discussed the proposed zoning for development in the area with the St. Louis County Planning Department, and accounted for development currently before the Planning and Zoning Commission.

Mr. Rehagen asked what the population of Fenton is now. Ms. Adams responded they figured approximately 4,000 people using the 1990 census and estimating to the current year.

Mr. Rehagen asked about a portion of the western boundary which seems irregular because it juts east around a road. Ms. Adams explained that the road dead ends, and finding no appropriate break in the road, they decided to continue following the school district line. She stated they could consider moving the boundary west to the intersection at Meadow Drive and Fairview Place.

Ms. Haddock asked Ms. Adams to identify the subdivision south of the simplified boundary change. Ms. Adams pointed out Summit Heights, and commented that many residents wrote the City letters indicating their interest in joining the City of Fenton. She indicated that this area is within the City's

sphere of influence, and a number of residents already believe they are within the City's boundaries. Many feel a connection to the City of Fenton which is why the City felt it made sense to annex to the County line and then move west.

Mr. Middelkamp clarified that this annexation, in regards to the master plan they described at the public hearing, represented a 50% increase in population which is not only the legal limit, but also all they feel comfortable with annexing at one time. Ms. Adams agreed, explaining that they considered the proposal as an economy of scale, and decided with the numbers involved in this area, it was sufficient to address at this time. Moving west to Bowles would be the next phase.

Ms. Garino asked what occupied the blank space outside the western boundary lines. Ms. Adams answered a very large apartment complex called Greenmar, which would be very difficult to access. The City of Fenton would have to leave their venue and serve the complex through another jurisdiction. Apartment buildings are not detailed on these maps, but there is another complex east of Highway 30 called Polo Downs that was included and has 280 residents.

Ms. Garino asked if there are any institutions in the proposed area. Ms. Adams stated there are no schools but several churches. The City will include an inventory of institutions in their proposal. Ms. Garino asked about the large open tracts in the northwest portion of the area. Ms. Adams stated that First Baptist Church has purchased some of the property, but there are approximately a hundred rooftops in that area. Many are large tract homes with values up to \$900,000, situated on 3 to 5 acre lots. However, some owners are starting to subdivide those lots to create more parcels. All the area west of Highway 30 is primarily residential, and to the east, primarily vacant.

Mr. Rehagen asked if there are many unpaved streets. Ms. Adams stated mainly private streets. The public streets have been maintained by St. Louis County. Mr. Rehagen asked if the City will assume responsibility for private roads. Ms. Adams responded only if they are built to meet the City codes and standards, will the City accept them. Mr. Rehagen asked about older roads, whether they would accept them as is. Ms. Adams stated generally, the City will not, but they are willing to consider individual cases. The development of this proposal has taken longer because they are looking at each road carefully. Mr. Rehagen suggested that the Commission will want to know the number of road miles in the area and the available budget for paving roads.

Ms. Garino asked what is on the east side of the Meremac River. Ms. Adams stated that Sunset Hills lays across from Old Town Fenton, but south of that is unincorporated St. Louis County. The only way over the river is the bridge from Old Town Fenton; there is no access south of that point. Ms. Garino asked why they extended the boundary to the River. Mr. Ramey stated that he recommended the City use the river because it is a natural boundary and would avoid leaving an island of unincorporated St. Louis County. Ms. Adams stated that this was an item they discussed with the County, and they didn't hear any objections from the Parks Department. Although the park would be in their jurisdiction, it is a regional park and will remain under County control. The City already contracts police services from St. Louis County, so they will continue to protect that area.

Mr. Rehagen asked what changes in zoning would be necessary. Ms. Adams stated that the City zoning is compatible for residential, and they are amending their zoning for commercial to make that compatible as well. The only exception to those zoning patterns in Fenton is in their Old Town

business district because of the small lots with no set backs. Mr. Rehagen asked if there is any commercial property in the area. Ms. Adams responded there is a Schnucks and a few small strip stores southeast of the intersection of Highways 30 and 141. Some commercial may result along the expanded six lanes of Highway 141, but none currently. Mr. Rehagen asked if the City has done a cost-benefit analysis. Ms. Adams stated they are working on that.

Mr. Youngblood asked why the boundary varies from the Lindbergh school district on the west. Mr. Ramey explained that he looked at that boundary with the City, and advised that access for delivery of services would be cut off in two portions if they only followed the school district boundary.

Ms. Adams stated they are ready to put a plan of intent together and submit it to the City Council for review, with the intention to submit in January. Mr. Ramey mentioned that just west of George Winter Park is an EPA superfund clean-up site that the City is including though they will not be responsible for it. Mr. Rehagen asked what was originally there. Ms. Adams answered to her knowledge, it was an old paint factory that the EPA has taken over.

B. Discussion re: Annual Report as submitted by Legislative Review Committee

Ms. Garino made a motion to accept the Annual Report as submitted by the Legislative Review Committee. Mr. Bruer seconded the motion.

Mr. Rehagen asked if the introduction of the report is really necessary. He suggested the first five sections would be repetitive for people already familiar with the basic information. Ms. Garino responded that this is the first official document produced by the Commission, and the report is intended to lay out what the Commission has done since they began operation. The introduction is a primer to explain how the Commission has functioned. Ms. Wingron agreed that it is important to take the reader from inception through to today.

Mr. Rehagen argued that most people will never read that part of the report due to the length. Ms. Garino replied that they included a table of contents so that a reader can pick and choose which sections they want to read. She stated that she talks to people frequently who do not know or understand the work of the Commission and need that basic information. Mr. Frager agreed people do not know what the Commission is doing, but maybe the information should be placed at the end, after the legislative changes they are recommending. Ms. Wingron argued that it would be confusing to readers to move from the middle to the end and then tack on the beginning. Ms. Garino stated that this is the "Annual Report," and is not strictly a legislative report. Mr. Rehagen asked what was done last year. Ms. Garino stated that an annual report was not issued last year because the Commission had not approved any proposals at that time. She stated that people need to know what the Commission is doing and what issues have arisen during their review of proposals. Mr. Middelkamp agreed that an introduction is necessary to inform the public and interested parties.

Ms. Haddock asked who receives this document. Ms. Garino answered that the audience includes State legislators who represent St. Louis County, municipal and St. Louis County officials, the press, and any interested party or individual. Mr. Rehagen articulated his concern about advising legislative changes. Ms. Garino stated that the report does not advise changes up front; the report highlights the problems and issues the Commission has observed during their operation. The section on the Legislative Review

Committee lists the recommended changes the Commission agreed to last January, prior to meeting with the County and Municipal League.

Mr. Rehagen expressed his concern with opening the legislation because they risk that anything be changed; possibly making the law even more difficult to utilize. Mr. Youngblood stated everyone has recognized that there are problems with the legislation. Mr. Rehagen agreed, but the Commission has proven able to work around those problems. Mr. Youngblood agreed that the Commission concurred not to demand change because if the bill is opened in Jefferson City, any random change could be made. But he argued they would be remiss as a group if they did not articulate their conclusions on some areas where they agree definite problems exist. If changes are to occur, their suggestions are on record.

Mr. Ramey indicated that he has been contacted by the Legislative Research Bureau, but has yet to hear of any specific changes to be raised. Pre-filing begins December 1. Mr. Rehagen remarked that the changes made late in the session are the problem. Mr. Ramey agreed, remarking that the only change in the statutory section since its introduction was included in a Kansas City election bill. Currently the bill is drafted to apply only to St. Louis County, but it is possible other counties may introduce legislature to allow the bill to apply elsewhere.

Mr. Saulsberry recommended they add a section at the beginning to outline the scope of the report which says the Commission is setting forth background and on what page they set forth recommendations to the legislation. This would preserve the logical order of the report. Ms. Garino agreed that a summary at the introduction would be helpful.

Mr. Frager stated that the conclusions reached regarding §72.403(3) on page 15 do not specify a change, eluding to the Commission's need for greater experience. He suggested this section be struck from the document. The Commission debated the factors on several occasions, and reached no consensus on specific changes. Mr. Rehagen agreed that the vagueness of the eleven factors provide a latitude that the Commission can use to prevent being tied to requiring specific information. He also raised an issue regarding §72.405(4) which he felt did not offer specific language. It remains vague as to what the Commission would want to see instead.

Ms. Wingron stated at the time the legislation was reviewed the Commission agreed to leave the factors alone because they could not draft language everyone would be comfortable with. Mr. Rehagen questioned whether the legislators, who have no experience implementing the statute, would be able to draft language if they could not. Ms. Garino explained that certain factors are strictly information components, and at some point will be reconsidered. It is the responsibility of the legislators to draft language, not the Commission.

Mr. Frager argued if the Commission does not offer a specific solution, they should not raise the issue. Mr. Rehagen agreed they need to formulate the answer before asking the question. Ms. Garino stated at some point the legislation will be revisited, and as the implementors of that statute, they should offer suggestions based on their experience even if they do not have definitive answers. It is not their job to write the legislation.

Ms. Wingron stated that this document obviously will not be approved as is, and the Commission can remove a particular conclusion. Mr. Rehagen suggested they could also clear it up by offering a solution. Ms. Wingron asked if the only two options are a solution or nothing. Mr. Rehagen reiterated his reluctance to raise issues that can be changed for the worse.

Mr. Bruer commented that in the past, their recommendations have been rebuffed, and there is no reason to think the reception will be any different now. This document speaks from their experience in operation for the past two years and at least they point out potential problems instead of ignoring them.

Mr. Rehagen again articulated his concern with the vagueness of a conclusion that only recommended "alternative language." Mr. Middelkamp agreed that if they offer specific solutions, they increase the chance that the legislature will implement those changes because the language is already crafted. Ms. Wingron recommended offering a statement that explains the Commission identifies solutions for some problems, but others they are willing to resolve with the stakeholders.

Ms. Garino stated she does not want to ignore the problems they have confronted because eventually this bill is bound to face a major overhaul, no singular deficiency will mandate the effort of a change. If the legislature does overhaul this law, at least there is an official document that proffers the Commission's suggestions for change. Mr. Rehagen replied that the eleven factors were used to develop the Rules and if the statute changes, the Rules will have to change. Ms. Garino answered the Rules may change anyway after the Rules Committee finishes their review. Mr. Bruer made a motion to table this item. Mr. Middelkamp seconded the motion. Roll Call Vote: Ayes - Bruer, Haddock, Wingron Nays - Frager, Garino, Middelkamp, Saulsberry Abstentions - Youngblood *The motion failed.*

Ms. Wingron asked if the two sections being debated were §72.403(3) and §72.405(4). Mr. Ramey clarified that those were the two mentioned thus far. He also explained that this section came directly from the Report of the last Legislative Review Committee reviewed and approved by the Commission in January of this year. Mr. Youngblood recommended they take another week to submit changes to the staff who can incorporate those changes into the document for further discussion at the next meeting. Mr. Frager stated that there are divergent opinions on the factors, and if they can not craft something that the Commission will unanimously endorse, then it would be better to delete that section entirely from the document.

Mr. Martin stated these are all good comments, and aware of the need for unanimous consensus, he suggested a different approach. An introductory paragraph could explain there are numerous issues being debated, but these represent the conclusions the Commission reached unanimous agreement on. They can read through the list and take a vote on each conclusion to determine what receives approval and the rest can be discarded from the final product. Mr. Saulsberry stated even if the group can not reach agreement on specific language, they should point out the ambiguities in the statute, and allow the legislature to take action to clear it up. Their authority is to make rules pursuant to clear statutes. If the statutory intention is difficult to interpret, then it should be clarified.

Mr. Frager explained he views the legislation as having been politically brokered between two different interests. He felt it is purposefully unclear because the parties would not have agreed if the statute was more specific. Despite the absence of an agreement on what the legislation should be, the Commission

to date has proven able to function in using the eleven factors and the "best interest" criteria. Mr. Saulsberry asked what is the logic then of only deleting two of the conclusions on legislative changes if they want nothing to change. Mr. Frager responded the remaining conclusions offer specific recommendations which will improve their ability to function.

Ms. Garino pointed out the Commission has yet to encounter §72.405(4). It was referenced because it is so poorly written as to be completely incomprehensible. Mr. Youngblood asked if the appropriate approach is to offer hardfast solutions or to request the legislature to clearly state their intention to enable the Commission to reach a fair interpretation. He continued to state that even though they may not have specific recommendations, that does not alter the reality that the statutory section is either wrong or ambiguous. These problems could result in interpretations that lead to a legal quagmire. It is the responsibility of the legislature, or the stakeholders in this bill, St. Louis County and the municipalities, to avoid that vagueness.

Ms. Wingron stated this remains a dilemma of what role the Commission wants to have regarding the legislation, whether they want to be a responder or an advocate. They chose not to be an advocate because that would require drafting changes and finding sponsors. Mr. Martin recommended the Commission determine what they agree on before the next meeting so they can focus their debate.

Mr. Rehagen raised a third issue, the inclusion of item G, Traffic Generation Assessment Funds. Ms. Garino explained this is an observation, not a legislative recommendation. The legislative review is limited to one section starting on page 14.

Mr. Martin stated that he has counted three sections of the document that need to be resolved before approving the document. Mr. Saulsberry asked Mr. Martin if mentioning these legislative ambiguities in the report opens the door for objections to the legitimacy of their decisions based on this legislation. Mr. Martin stated that he reviewed the Report, and does not think the Commission opens themselves to that criticism as long as they make the proposing agent fully aware that they are operating under their Rules which were defined within the parameters of the legislation. As the Rules were prepared in advance, and proposing agents are told beforehand, they know our interpretation before they submit an application. He doubts that a judge would exercise a legislative capacity to override the authority of the Commission to make rules.

Mr. Frager made a motion to table. Mr. Bruer seconded. Roll Call Vote: Ayes - Frager, Middelkamp, Nays - Bruer, Garino, Rehagen, Saulsberry, Wingron, Youngblood Abstentions - Haddock *The motion failed.*

Mr. Bruer made a motion to suspend this item until the end of the meeting, as item C under Old Business. Ms. Haddock seconded. Voice Vote: Ayes - all Nays - None. *The motion passed.*

OLD BUSINESS

A. Discussion and Decision re: BC9703 - Landor Area Annexation - City of Bella Villa

Mr. Frager made a motion to approve BC9703, the simplified annexation of Landor Area by the City of Bella Villa. Mr. Rehagen seconded the motion. Mr. Frager thanked Mayor Gordon for his patience.

Roll Call Vote: Ayes - Bruer, Frager, Garino, Haddock, Middelkamp, Rehagen, Saulsberry, Wingron, Youngblood Nays - None *The motion passed.* The Commission discussed the effective date of the annexation with Mayor Gordon, and decided to use January 1, 1998 as the effective date which will be included in the Summary and Decision to be approved by the Commission at the meeting of December 2.

B. Discussion and Decision re: BC9704 - Transfer of Jurisdiction - Kiefer Creek Farms Subdivision - Cities of Ellisville and Wildwood

Mr. Youngblood made a motion to approve BC9704, the Transfer of Jurisdiction of Kiefer Creek Farms Subdivision from the City of Wildwood to the City of Ellisville. Mr. Rehagen seconded the motion. Roll Call Vote: Ayes- Bruer, Frager, Garino, Haddock, Middelkamp, Rehagen, Saulsberry, Wingron, Youngblood Nays - None *The motion passed.* The effective date was determined in the proposal to be July 1, 1998. The date will be included in the report of the Commission on December 2.

C. Discussion re: Annual Report as submitted by Legislative Review Committee

Mr. Youngblood asked the Commission if they can agree to submit changes to those sections of the report that have been questioned. He reminded the group there is a motion for approval to address. Roll Call Vote: Ayes - Bruer, Garino, Wingron, Youngblood Nays - Frager, Haddock, Middelkamp, Rehagen, Saulsberry *The motion failed.*

Mr. Saulsberry made a motion to approve the report with the inclusion of an introductory paragraph covering the scope of the report, and the exclusion of §72.403(3), §72.405.6 (2), and Item G on TGA Funds. Mr. Bruer seconded the motion. Mr. Youngblood again stated he wants to wait to delete those three sections until they can be discussed further. He suggested a substitute motion that would approve the report with the exception of the three deletions mentioned as well as §72.405(4), and the introductory paragraph yet to be drafted which would be tabled for discussion at the meeting of December 2. Mr. Bruer withdrew his second, and Mr. Saulsberry withdrew his motion.

Mr. Saulsberry made a motion to approve the base document with the exclusion of five sections: the introductory paragraph, Item G on TGA Funds, §72.403(3), §72.405.6 (2), and §72.405(4) which will be held over for further discussion at the meeting of December 2. Mr. Rehagen seconded the motion. Roll Call Vote: Ayes - Bruer, Garino, Haddock, Middelkamp, Rehagen, Saulsberry, Wingron, Youngblood Nays - None *The motion passed.*

ADJOURNMENT

Mr. Youngblood made a motion to adjourn. Mr. Rehagen 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 2, 1997

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

**PUBLIC MEETING
SPEAKER FORM**

DATE: 18/97

YOUR NAME: Jim Booher

ADDRESS: 10516 WISTERIA
SAPPINGTON MO 63126

TELEPHONE: 849-1542

COMMENTS:

PREPARED STATEMENT

NAME OF ORGANIZATION:

SAPPINGTON CONCORD

The Boundary Commission welcomes you to this public meeting. Your comments are not only welcomed but encouraged.

If you wish to speak, please complete this form and return it to the Chairperson. At the appropriate time on the Agenda the Chairperson will call your name and invite you to present your comments to the Commission. You will have a maximum of three (3) minutes for your comments.

We would ask you to be as concise as possible in your comments, avoiding repetition. This will help the Commission. Thank you for your attendance and comments at this meeting.