

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

**MEETING MINUTES
December 3, 1996**

ROLL CALL

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

OTHERS PRESENT:

Carl Ramey - Executive Director

Steve Martin - Attorney

Libby Rohlfig - Administrative Assistant

CALL TO ORDER

The meeting was called to order by Chairperson Wingron at 6:15 PM on December 3, 1996. The meeting was held at the office of the Boundary Commission, 1516 S. Brentwood Blvd., Brentwood, MO 63144. Commission member Wojtkowski arrived at 7:10 p.m.

ROLL IS CALLED-QUORUM DECLARED

Carl Ramey called the roll and a quorum was declared.

APPROVAL OF AGENDA

A motion was made by Commissioner Rehagen to accept the agenda as submitted. The motion was seconded by Commissioner Middelkamp. Voice Vote: Ayes - All Nays - None
The motion passed.

APPROVAL OF MINUTES

A motion was made by Commissioner Rehagen to approve the minutes for the Commission meeting of November 19, 1996. The motion was seconded by Commissioner Middelkamp. Voice Vote: Ayes - All Nays - None *The motion passed.*

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENTS/COMMUNICATIONS

Ms. Wingron requested a Committee be assigned to consider the renewal of the contract for Carl Ramey, the Executive Director, for the following year. His engagement expires at the end of January. Commission Members Saulsberry and Frager agreed to work on a committee with Ms. Wingron to prepare a contract for approval at the meeting of December 17.

Mr. Ramey called for a simple motion at the time of the election of officers to designate additional signatories on file with the County. Currently only the treasurer is on file, and additional signatories would facilitate the approval of invoices for billing.

Mr. Middelkamp announced that he will be in town full time as of December 16.

NEW BUSINESS

A. *Review of Boundary Change Proposals for:* **I. *BC9611 - Annexation of Watson/Pardee Road Area - City of Crestwood***

Ms. Wingron opened up the table for questions.

Mr. Rehagen asked if the Use tax passed or failed. Mayor Brasfield from the City of Crestwood responded that it failed.

Ms. Garino asked if the City is entertaining plans to bring it back. Mr. Brasfield responded not at this time. They will probably wait to see what the County does.

Mr. Rehagen asked what County roads are in the annexation area. Mr. Brasfield answered Pardee Road. Mr. Rehagen asked if the City will agree to join the TGA for this area. Mr. Brasfield responded that he spoke with the City attorney and the City will do whatever necessary to satisfy the Commission's requirements. Since Rock Hill Road lies outside the boundaries of the annexation area, they are unsure what value the TGA would serve, but they corresponded with the County their willingness to participate.

Mr. Rehagen asked if there is room for commercial growth in the area. Mr. Brasfield mentioned that the area near Builders Square is prime property yet remains unused for reasons unknown.

Mr. Rehagen questioned the additional travel time needed for the police department to cover the distance from their municipal center to the annexation area. Mr. Brasfield explained the City is divided into four districts and if the annexation is successful the area will be made into a separate and fifth district. A car will be in this area at all times. The Police Chief assured the Mayor that they could maintain their current response time of under two minutes.

Mr. Rehagen asked about the settlement of the Whitehaven issue. Mayor Brasfield

explained the City's position stands that if Grantwood Village wants to annex Whitehaven and the five additional homes, in a manner acceptable to the Commission, they have no objection. They understand under the rules it is too late for the City to initiate a modification to their proposal, but the City does not object to the Commission changing the proposal provided the Commission is satisfied that the area will not become a pocket. To his knowledge, Grantwood village has contacted these residents and laid the groundwork for a simplified boundary change. In an earlier letter, the City of Crestwood stated their commitment to prevent this area from becoming an unincorporated pocket, and he confirmed that they would provide for this area in the unlikely chance that Grantwood Village's plan fell through.

Mr. Thor Hearne, the attorney for Grantwood Village, explained that the fee owners had been contacted and they were arranging the logistics for a notary to complete the petitions.

Ms. Garino asked whether including the houses on Whitehaven Drive, particularly the corner house, will divide the neighborhood. The City responded yes, but there was no better way to divide it. The corner house was included to facilitate the provision of post and trash service. These homes are in keeping with the style of neighborhoods in Grantwood Village.

Mr. Middelkamp asked if a transfer of jurisdiction would be simpler. Mr. Martin explained that it is an alternative, and is the decision of the Commission. Mr. Hearne explained that the problem with that alternative for Grantwood Village is the residents who associate their city with Grant's Homestead would be apprehensive about such an arrangement.

Mr. Middelkamp questioned the 75% signature petitions mandated for a simplified boundary change. There are 11 fee owners so the City only needs 8, and Mr. Hearne expects this should be accomplished quickly. They agreed to submit a letter of intent to both the Boundary Commission and Crestwood to provide assurance because Crestwood's proposal will first have to be amended before the simplified boundary change proposal can be submitted with a full plan of intent by Grantwood village.

Mr. Frager asked to clarify the boundary lines for this amendment, and Mr. Ramey explained the boundary will be the rear property line.

Mr. Saulsberry asked about the new patrol district. Mr. Lichleiter responded the number of police officers will increase by four to maintain a slightly better ratio than before.

Ms. Garino asked about the R-2 zoning along Rock Hill Road and why the land was not taken into Grantwood Village in the original incorporation. Mr. Brasfield explained they are single family dwellings from the 1930s, and Mr. Thorne speculated that since Grantwood Village only incorporated undeveloped land, they excluded this section.

*ii. BC9615 - Annexation of Hanna Road/Sulphur Spring Area -
City of Manchester*

Ms. Garino asked if the boundary line runs through the back property lines. Mr. Leavitt answered yes.

Ms. Garino asked how the two large lots on Sulphur Spring are zoned. Mr. Leavitt responded residential.

Mr. Rehagen asked if the entire subdivision in the Northwest quadrant divided in the original proposal is included in the revised proposal of November 4. Mr. Leavitt answered yes.

Ms. Garino asked, regarding the exclusion of the entire area east to Highway 141 from the proposed annexation area, how they determined the residents' opposition. Mr. Leavitt

explained there were more "no" votes in that area, which comprises an entire voting precinct.

Ms. Garino asked for clarification of the surrounding area that would still remain unincorporated County after annexation.

Mr. Middelkamp questioned the small northeast abutment on the proposal. Mr. Leavitt explained that the residents there asked to be included and have proved very supportive of the annexation attempt.

Ms. Garino asked what their plans were for extending their boundaries in the future. Mr. Leavitt responded that the City hopes to extend east to Des Peres eventually, but wants to annex in stages to allow for gradual growth.

Ms. Garino asked for a summation of the changes in the revised proposal. Mr. Leavitt explained the main changes were in revenue estimates due to the additional residents. The figures were also updated according to changes in the County figures, but remain different because the City's include the 1/4 cent and 1/2 cent sales tax.

Ms. Garino asked if they passed the Use tax. Mr. Leavitt replied no, they did not put it on the ballot.

Mr. Leavitt requested on behalf of his City Council that if possible the Commission vote on the proposal in time to put it on the April ballot. They believe their previous effort failed in large part due to low voter turn out in a February election.

Mr. Rehagen asked what the filing date would be to place this on the April ballot. Mr. Ramey responded January 21. The Commission only has two meetings before that date to hold a vote. Some Commission members expressed concern that they already have too many items on the agendas for those meetings.

Mr. Rehagen requested that this item be placed last on the agenda so they can vote if they are ready, otherwise it will move over to the next agenda. Ms. Garino expressed concern that this would rush the process and skip the next step. Discussion ensued as to whether this step could be eliminated for this proposal. Concern was expressed that this may establish a precedent of selective streamlining. Short circuiting the process may leave insufficient time for review, particularly at this point in time when there are so many decisions to make. It was also stated that if there were no further questions or concerns it seems reasonable to move forward. If on the 17th concerns are raised, then it will be held over, but this way an attempt is made to meet the request.

A motion was made by Commissioner Rehagen to place BC9615, Hanna Sulphur Spring Area Annexation Proposal on the agenda for December 17. The motion was seconded by Mr. Saulsberry. Roll Call Vote: Ayes, Commissioners: Frager, Middelkamp, Rehagen, Saulsberry Nays: Garino, Wingron, Wojtkowski *The Motion passed*

B. Professional Services Agreement re: Legal Counsel

Mr. Ramey addressed the new agreement in the packet for renewal of the contract for legal services which resulted from his discussion with Mr. Martin. He considered the critical piece the contingency for litigation with the rate set at \$95 per hour. The contract is for one year with the same scope of services as the previous year. Mr. Saulsberry questioned the wording concerning the attendance of "monthly meetings," and it was decided it should read "Boundary Commission Meetings." Ms. Garino requested that throughout the body of the document where it reads St. Louis County *before* Boundary Commission it should be corrected to read *after*.

Mr. Frager asked how the level of compensation was determined. Mr. Ramey responded the fee was set based upon the funds provided for in the Fiscal Year 1997 Budget. Calculated upon Mr. Martin's normal billing rate it was determined to be approximately 28

hours per month. Mr. Ramey deferred to the members of the Budget Committee to explain how they decided upon the current rate. Ms. Wingron clarified that the initial agreement was based upon the County's budget and pay categories.

Mr. Wojtkowski inquired upon the rational for the 10% increase. Mr. Ramey explained the Budget Committee allocated 15% more for attorney services for 1997, and he conjectured that this reflected their high opinion of the quality of Mr. Martin's performance. Mr. Saulsberry stated that from his experience in representing a variety of public bodies this contract in his opinion was a bargain, especially in light of the hourly litigation rate.

Mr. Frager raised a question regarding the future workload and the possibility that the Commission may have less need of legal service in the future. Mr. Martin recalled in the beginning they did not anticipate the back-log they currently face, so future need remains ambiguous. He stated his flexibility to negotiate this contract in the future based on a change in the need for his services or any dramatic turn in events.

The Commission then discussed the difference between billable hours verses a retainer. Ms. Garino and Mr. Middelkamp both stressed the need to have an attorney available on retainer to interpret the laws of the statutes and to work with other municipal attorneys. With an hourly rate, the Commission will be more wary of calling and may not call when they should.

Mr. Martin clarified that the hourly litigation rate was only for courtroom time; the additional work and meetings with the Commission regarding litigation is included in the retainer. Mr. Frager requested that Mr. Martin report monthly to the Commission on the work performed and the amount of time.

A motion was made by Commissioner Rehagen to approve the contract as amended with the change in wordage. Ms. Garino seconded the motion. Roll Call Vote Ayes: Garino, Middelkamp, Rehagen, Saulsberry, Wingron, Wojtkowski Nays: None Abstentions: Frager *The motion passed*

C. Discussion re: Annual Report

Ms. Wingron requested a discussion of the direction the Commission wants to take on the annual report to achieve a collective decision. The Commission could also use this as an opportunity to discuss any legislative action they may want to attempt, and whether they want to consider such an effort either pro-actively or re-actively. The requirements of the current statute as to the content of the annual report are broad and may not be applicable to the work of the Commission at this time. Ms. Wingron stated the Commission has to reach a consensus on interpretation. Ms. Garino voiced that this may serve as an opportunity to address ways to improve the statute and make it more useful in the work of the Commission. Mr. Rehagen asked when the report is due. Mr. Ramey answered that the By-laws set a date of October 31, but there is no statutory requirement and it is subject to their discrimination. Possible issues or problems with the legislation were addressed, but members questioned whether the annual report is the appropriate vehicle for this. Mr. Rehagen stated that the wording of the statutory requirement which requests the report should be clarified to reflect specifically the work of the Boundary Commission. Ms. Garino discussed the importance of addressing inconsistencies and contradictory definitions in the statute that impede interpretation and decision-making.

Mr. Middelkamp asked who the audience is for this report. Ms. Garino answered the statute identifies the County, municipalities and other interested parties, and not specifically the State Legislature. Other efforts may need to be taken if the Commission wants to attempt legislative changes. Mr. Wojtkowski stressed the need to clarify what constitutes a consensus of the Commission on flaws in the statute before attempting to issue a report or suggesting changes. He stated their task is to administer the provisions of the law and possibly make

recommendations, but not to change the intent of the law. It is the Commission's charge to lend definition through their rules and regulations. Ms. Wingron added that if they want to recommend changes they will have to offer up alternative language to clarify or improve otherwise the suggestions will remain neglected. Mr. Middelkamp again voiced that these are essentially two separate topics: the annual report and legislative changes.

Ms. Garino called for a committee to consider legislative changes. Mr. Rehagen seconded the motion. Roll Call Vote Ayes: Frager, Garino, Middelkamp, Rehagen, Saulsberry, Wingron, Wojtkowski Nays: None *The motion passed*

The Chairperson appointed Agnes Garino and Jack Rehagen along with herself to serve as the Legislative Committee.

Mr. Wojtkowski suggested the Committee create a laundry list of issues to bring to the Commission for discussion to determine what reaches a consensus and is worth pursuing.

OLD BUSINESS

Chairperson Wingron introduced the next three agenda items for deliberation under Step four of the Commission's review process. This discussion is intended to consider the merits of the proposal, having completed the review of the proposals, the testimony at the public hearings, and all additional comments and further information. *Is there anything which would prevent you from acting upon the proposal? If so, what is it? Be specific.* This key question was asked of the Commissioners at this time to determine whether the group was ready to vote on the following proposals.

A. Discussion re:

i. BC9607 - Annexation Proposal Area IV - City of Sunset Hills

Mr. Ramey reported to the Commission that he talked with the attorney for Sunset Hills and the City questions the value of the TGA to the City, but if it becomes a critical component to the Commission in approval, they would be willing to consider participation. Mr. Wojtkowski stated he could not make a decision without a yes or no from the City on this issue. Ms. Wingron agreed with him. The discussion returned to the problem of joint service on the bridge at Gravois over the Meramac, but an exchange of jurisdiction is not dealt with in the legislation when it involves a municipality and the County.

Mr. Rehagen asked Mr. Martin if the TGA was a sufficient reason for rejecting a proposal. Mr. Martin responded that a proposal must pass the best interest test for the three parties involved, and if the Commission resolved that this would prove detrimental to the area, it would be sufficient reason. Mr. Rehagen requested a letter be sent to Sunset Hills directing them to state their intentions. Mr. Wojtkowski requested an ordinance and Ms. Wingron agreed that only an ordinance would suffice to confirm their acceptance. Mr. Wojtkowski stressed that it can not be arbitrary, that this requirement sets a precedent for future proposals. Even if the area is developed, if they do not establish the importance of participation now they lose the ability on future proposals where it might be crucial. Also, if the annexation affects the surrounding infrastructure then it impedes orderly incorporation of the County.

Mr. Ramey raised the concern that an ordinance at this stage may prove difficult and timely, and the deadline for the decision is February 16, 1997. Mr. Wojtkowski repeated that only an ordinance is binding and they can postpone voting until they have one. Ms. Garino offered that immediate contact with the City would allow them to place it on the agenda for their next Council meeting on Tuesday December 10. The Commission

directed Mr. Ramey to contact the City regarding this manner. If they will not agree to the ordinance, the Commission can proceed with a vote on December 17.

**ii. BC9606 - Annexation Proposal South Industrial Area -
City of Hazelwood**

The question was asked if South Industrial falls into a TGA area. Mr. Ramey consulted the map provided by the County and responded no. There was no further discussion.

**iii. BC9612 - Annexation Proposal McDonnell Douglas -
City of Berkeley**

Ms. Garino started the discussion by stating she sees a compelling argument both for and against this proposal, and after careful review finds it requires greater consideration. Mr. Wojtkowski disagreed, he considers it to be purely economically driven. He argued no service will be provided, no people are involved, and the only positive impact is for the annexing municipality. It is not motivated by municipal growth and clearly demonstrates an extraordinary impact on the County. Ms. Garino argued that the County is not providing municipal services either. She detailed the negative impacts of the airport buy out and the expansion of Interstate 170 on Berkeley, who lost residential tax revenue as well as suffered the division of their community with no financial return. Ms. Wingron described it as a philosophical issue concerning the role of the Commission.

Mr. Saulsberry asked procedurally what the responsibilities of the Commission are in considering these competing proposals. Mr. Martin explained they do not have to approve either one; they can reject both but can not approve both. Also the reasons they reject one can not conflict with the reasons another is approved. The Commission must be consistent in the criteria for their decisions. Mr. Rehagen returned to the issue raised by June McAllister Fowler, the former Director of County Planning, that this may be a logical step after the rest of the County is incorporated, but it should be the last property transferred, not the first, because it will affect the distribution of resources for all of unincorporated County.

Mr. Middelkamp added that it was not the charge of the Commission to "right" past "wrongs." Mr. Wojtkowski agreed that the plight of a particular municipality is not the issue, and redistributing tax revenues of this magnitude requires greater justification. Mr. Frager interjected that this attitude is not realistic in considering the future of the County as a whole. If North County deteriorates and the blight in that area spreads, it will affect the taxes to all St. Louis County far more severely in the future. Mr. Wojtkowski stated that the Commission can not defend diluting the services of all unincorporated County or raising their taxes to supplement the City of Berkeley. Ms. Garino asked why it is not now considered a tax subsidy to the County? Mr. Wojtkowski argued the law is written specifically to prevent tax grab annexations from occurring. Mr. Rehagen summed up the debate as a philosophical problem that will resolve itself in the vote, as a decision regarding the best interests of the area: whether the "extraordinary" effects to the County are considered greater than the benefits to the municipality or annexation area involved.

B. Proposed Amendment to Rules: Amendment of Article X(B)

Mr. Ramey stated that public notice was published on November 4 regarding the amendment to reduce the number of voting members present from 8 to 7. Mr. Middelkamp asked if this will affect the number of affirmative votes needed to approve a proposal. Mr. Ramey explained no, the number will remain at 6. There were concerns raised whether the amendment could apply retroactively to proposals submitted before this change. Mr. Martin stated that the change is procedural and is not retroactive in its application, therefore it will not alter the status of any of the current proposals. Ms. Garino asked if anything in the wording of the Rules would prevent the amendment. Mr. Martin responded no.

A motion was made by Commissioner Middelkamp to approve. Ms. Garino seconded the motion. Roll Call Vote: Ayes: Frager, Garino, Middelkamp, Rehagen, Saulsberry, Wingron Nays: Wojtkowski *The motion passed*

ELECTION OF OFFICERS FOR 1997

Ms. Wingron stated the election would be held according to the regulations of the By-laws, and opened the floor to nominations for the four positions. Mr. Wojtkowski nominated Ms. Wingron for Chairperson. Mr. Rehagen nominated Ms. Garino for First Vice-Chairperson. Mr. Frager nominated Mr. Rehagen for Second Vice-Chairperson. Ms. Garino nominated Mr. Bruer for Treasurer. A ballot vote was cast for each office and those nominated were duly elected by majority vote.

A motion was made by Commissioner Middelkamp to have the Chairperson, the First and Second Vice-Chairpersons, the Treasurer, and the Executive Director be signatories for the County records. Mr. Rehagen seconded the motion. Voice Vote: Ayes - All Nays - None *The motion passed.*

ADJOURNMENT

Commissioner Wingron made a motion to adjourn the meeting. The motion to adjourn was seconded by Commissioner Rehagen. 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 17, 1996