

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

**MEETING MINUTES
February 2, 1999**

ROLL CALL:

COMMISSIONER	PRESENT (P)/ ABSENT (A)
JULIUS FRAGER	P
AGNES GARINO	P
DOUG GELDBACH	A
GWENDOLYN GERHARDT	P
DENISE HADDOCK	P
PAT MERRITT	P
SCOTT MIDDELKAMP	P
CHARLES SAULSBERRY	P
DON WOJTKOWSKI	A
LARRY YOUNGBLOOD	A

OTHERS PRESENT:

Carl Ramey - Executive Director
Steve Martin - Legal Counsel

CALL TO ORDER

The meeting was called to order by Chairperson Middelkamp at 6:00 p.m. on February 2, 1999. The meeting was held at the Government Center, City of Creve Coeur, 300 N. New Ballas Road, Creve Coeur, Missouri

ROLL IS CALLED - QUORUM DECLARED

Carl Ramey called the roll and a quorum was declared. Mr. Ramey indicated that Ms. Wingron had tendered her resignation from the Commission, effective as of January 31. Notice was received in the Boundary Commission office on Monday, February 1, of the appointment by the Mayors of cities under 10,000 of Mr. Frank McGuire. Because of the timing of the Commission's meeting and the announcement of the appointment, Mr. McGuire indicated he would be attending the next meeting of the Commission.

APPROVAL OF AGENDA

Ms. Gerhardt made a motion to approve the agenda. The motion was seconded by Mr. Saulsberry. Voice Vote: Ayes: All Nays: None *The motion passed.*

APPROVAL OF MINUTES

A. Approval of minutes January 19, 1999

A motion was made by Ms. Garino to approve the minutes of the minutes of the Commission meeting held January 19, 1999. The motion was seconded by Mr. Saulsberry. Ms. Garino noted that on page 5, second paragraph, item E. , the word "services" should have been "area" and the minutes should reflect that change. Voice Vote: Ayes - All Nays - None *The motion passed.*

PUBLIC COMMENT

Jerry Rich, 1510 Ploma Dr. Mr. Rich indicated he was before the Commission to thank them for their consideration and decision on the Manchester annexation proposal. He stated the public is looking forward to the opportunity to vote on the annexation. He appreciated the opportunity to have the public hearings out in the area, also the due process afforded by the Commission.

Phillip Harvey, 12 Dana Dr. Mr. Harvey stated he was there regarding the proposed Parker Road/Halls Ferry unincorporated zone. He expressed confusion over how the Commission reached its earlier decision not to give the people the opportunity to vote. Ms. Garino asked whether he lived in the unincorporated zone area. Mr. Harvey indicated he was a resident of the Marietta subdivision.

Rick McMahon, 32 Renee Dr. Mr. McMahon stated he was a resident of the area for the past forty-eight years. He stated that he too was confused as to how the Commission reached its decision. He stated the county has provided their area with good service.

ANNOUNCEMENTS AND COMMUNICATIONS

Mr. Ramey shared with the Commission the possibility of a consolidation of cities, with the cities of Fenton and Peerless Park. Mr. Ramey reported that there is also newspaper accounts of a transfer of jurisdiction between the City of Valley Park and Peerless Park. He indicated much of what is known about either proposal is what is found in the newspapers. He stated he would keep the Commission informed as information became available.

Ms. Haddock expressed her appreciation to Agnes Garino, Anna Wingron and Lori Fiegel for their sympathy cards on the death of her mother.

OLD BUSINESS

A. *Discussion and Decision, and approval of Summary of Decision - BC9817 - Parker Road/Halls Ferry Unincorporated Zone*

Mr. Middelkamp indicated that a memorandum from the Commission's attorney, Steve Martin, had been distributed and asked that they take a moment to review its content. Mr. Martin stated his memorandum addressed the question of whether the Commission's motion to approve, which failed to gain the required six votes, was a disapproval. If it was not a disapproval, then could the Commission continue to deal with the matter, even though the thirty day period in the statute had expired. He stated that a lack of an approval does not constitute a disapproval.

Mr. Saulsberry asked a hypothetical question, what impact would there be legally regarding the Commission taking this matter up again and approving it. Could the Commission action be subject to a legal challenge. Mr. Martin indicated that the decision could always be challenged, both on the merits of the decision and the question of the thirty day period. Mr. Ramey indicated that in his conversation with members of the public he has indicated that even though the motion to approve failed, it did not constitute a motion to disapprove. The proposing agent has a right to resubmit the proposal. Ms. Gerhardt asked whether the issue could be restated that the motion failed because there were insufficient votes to decide the question. Mr. Martin stated that was correct. The question is still undecided. Mr. Ramey reviewed for the Commission the history of how the Commission decided on the requirement for a majority of the Commission being necessary to approve a proposal, rather than a majority of the members present at a meeting.

Mr. Frager asked how long a motion technically stays open, if it fails to get the required number of votes. Mr. Martin indicated that in his opinion the time limits found in the statute are directory and not mandatory in nature. Mr. Frager asked whether there then is ever a staleness in the petition. Mr. Ramey indicated that based upon the statute it would be only if any signature on the petition was more than 280 days old. Mr. Middelkamp stated he did not believe there was a staleness issue in the petition in this matter.

Mr. Frager stated that because legal counsel has indicated the issue had not been definitively decided and the Commission is missing four of its members, he asked whether the matter could be held over to the next meeting. Mr. Middelkamp indicated that he did not believe a delay would be harmful.

Mr. Saulsberry made a motion to postpone discussion on this matter, until the next meeting. Ms. Haddock seconded the motion. Ms. Garino expressed concern about the precedent this was creating, by dragging out issues and never seeming to come to a final resolution. She questioned the need to postpone the matter, when there is no additional information being requested or needed. Mr. Frager expressed concern that the Commission has a bare majority present and it may be very possible the issue would not be resolved, one way or the other, at this meeting. With the additional information presented by the attorney tonight, the Commission needs the opportunity to review that information and make their decision accordingly. Mr. Saulsberry stated that he wanted the opportunity to study the legal opinion before he makes a decision, and he would advocate postponement of any decision to the next meeting. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Saulsberry Nays: None *The motion passed.*

B. Discussion re: 1999 Budget

Mr. Middelkamp referred the discussion on the matter to the Chair of the Budget Committee, Mr. Frager, indicated the committee met earlier that evening. The committee reviewed the county's appropriation for the current fiscal year, evaluating the budget, making cuts and reductions where necessary and reasonable. The conclusion reached by the committee was that budget could be reduced to around \$192,000, which is about \$2,000 more than what we anticipate spending last year. For example, in order just to reach the budget of \$192,000, Mr. Frager reported that the committee recommended immediate elimination of the clerical support for the office. The committee's recommendation is to proceed with the lawsuit against the county regarding the budget, because the \$167,000 budget is insufficient to meet the financial needs deemed necessary by the Commission. Second, the Chairperson appoint a committee to meet with the county to review this matter in greater detail. Third, the Commission maintain current contractual obligation. Fourth, to eliminate clerical support immediately.

Ms. Garino stated she was very concerned about the elimination of clerical support, because as Mr. Frager stated, it will reduce the level of service to the public. Mr. Middelkamp stated that what is being done is not cutting new found fat, but essential service. Mr. Saulsberry stated that he sees important the appointment of the committee to meet with the county, so they can address and hopefully resolve these issues. Ms. Merritt expressed the same concern that the committee be appointed quickly. Mr. Frager asked the status of the lawsuit. Mr. Martin indicated the suit has been filed and the county has been served. He was awaiting the county's response. He did report that he indicated to the County Counselor's office the possibility of such a meeting as being proposed tonight. He has not pushed the matter, pending the possible meeting between the commission and county.

Mr. Frager made a motion that until there is further clarification regarding the Commission's budget, that Mr. Ramey act to discontinue the clerical help in the office as of Friday and that the Chair appoint a committee to meet with the county to resolve these issues. Mr. Saulsberry seconded the motion. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Saulsberry Nays: None *The motion passed.*

Mr. Middelkamp announced the appointment of Mr. Frager and Mr. Saulsberry to serve on a committee to meet with the county regarding the budget.

NEW BUSINESS

A. Approval of Additional Authorized Signatures

Mr. Ramey stated that there are certain documents, for which he is not authorized to sign for. In the past, the officers of the commission have been authorized signatories, other than himself. Because of the turnover of officers, only Ms. Garino is the only other remaining authorized signatory. He asked the Commission's consideration of approving, as additional signatories, the most recently elected officers, Mr. Middelkamp, Ms. Merritt, Mr. Saulsberry and Mr. Frager.

Ms. Gerhardt made a motion to authorize Mr. Middelkamp, Mr. Frager, Ms. Merritt and Mr. Saulsberry as additional signatories. Ms. Garino seconded the motion. Voice Vote: Ayes: All Nays: None *The*

motion passed.

B. Receive, file and set Public Hearing date for Barrett Heights Plat #1 Annexation Area

A motion was made by Mr. Frager to receive, file and set the public hearing date for the Barrett Heights Plat #1 annexation area as March 2, 1999 at 7:00 p.m. in the City Hall of the City of Des Peres. Ms. Gerhardt seconded the motion. Voice Vote: Ayes: All Nays: None *The motion passed.*

C. Receive, file and set Public Hearing date for Dougherty Oaks/Barrett Cove Annexation Area

A motion was made by Mr. Frager to receive, file and set the public hearing date for the Dougherty Oaks/Barrett Cove annexation area as March 2, 1999 at 7:00 p.m. in the City Hall of the City of Des Peres. Mr. Saulsberry seconded the motion. Voice Vote: Ayes: All Nays: None *The motion passed.*

D. Receive, file and set Public Hearing date for Barrett Meadows Annexation Area

A motion was made by Mr. Frager to receive, file and set the public hearing date for the Barrett Meadows annexation area as March 2, 1999 at 7:00 p.m. in the City Hall of the City of Des Peres. Ms. Gerhardt seconded the motion. Voice Vote: Ayes: All Nays: None *The motion passed.*

ADJOURNMENT

Mr. Frager made a motion to adjourn. Ms Garino 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: February 16, 1999