

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

**MEETING MINUTES
June 16, 1998**

ROLL CALL:

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

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 June 16, 1998. The meeting was held at the Office of the Boundary Commission, 1516 S. Brentwood Blvd., Brentwood, Missouri 63144.

ROLL IS CALLED - QUORUM DECLARED

Carl Ramey called the roll and a quorum was declared.

APPROVAL OF AGENDA

Ms. Wingron made a motion to approve the agenda as submitted. Ms. Garino noted that there was a newly revised agenda. Since the time the packets were mailed to the Commission, negotiations on the renewal of the office lease was completed. Action on the renewal was added to the agenda. Mr.

Ramey stated he had amended the agenda to include this, posted new item in compliance with the open meetings law included this new item. Mr. Middelkamp seconded the motion. Voice Vote: Ayes - All Nays - None. *The motion passed.*

APPROVAL OF MINUTES

A. Approval of minutes of Commission Meeting of June 2, 1998

A motion was made by Ms. Wingron to approve the minutes for the Commission meeting held June 2, 1998. The motion was seconded by Mr. Rehagen. For purposes of clarity, Mr. Ramey suggested three changes be made to the minutes. On page 2, Public Comments, he recommended the inclusion of the words, "by Fenton" after the word annexation in the first line of the comments by Ms. Trudy Springer. The same addition would also be made in the first line relating to Dr. Tichnor. On page 5, in the fourth paragraph, in Section B, Mr. Ramey suggested the word "is" be replaced by the word "remains." It is more descriptive of what was stated and would not be confused with the statements found in the prior paragraph. Voice Vote: Ayes - All Nays - None *The motion passed.*

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENTS/COMMUNICATIONS

Mr. Ramey indicated that most of the proposals the Commission has been anticipating are now before the Commission. Mr. Ramey did ask that for any Commission member wishing reimbursement for mileage incurred, he would have forms available after the meeting. He stated the reimbursement rate is now \$.285 per mile.

NEW BUSINESS

A. Pre-submittal Conference - City of Ballwin Annexation

Mr. Ramey introduced Bob Kunz, City Administrator and Tom Aiken, Assistant City Administrator of Ballwin who were there to make a presentation to the Commission regarding their annexation plans for area.

Mr. Kunz indicated that this was their first contact with the Boundary Commission since 1992. At that time, much of the same area which is being considered tonight was before the prior Boundary Commission. He stated that at that time, a proposal which included some of this area was defeated by the prior Commission. Since 1992 the City has successfully annexed two major areas, increasing their population by 25%. He pointed out on a map the areas in the northern part of the City which were annexed at that time. Mr. Kunz stated that Mr. Tom Aiken would be making the rest of the presentation. It was the City's hope to receive some feedback and guidance from the Commission on the appropriateness of the boundaries they are considering.

Mr. Kunz stated further that with the increase in population because of the prior annexations, the Board of Aldermen placed a moratorium on annexations until the spring of the this year. The areas

under discussion tonight have in the past and continue today to express interest in becoming apart of Ballwin. The Board has a commitment not to increase the population, unless it can assimilate that new population with the same level of service as the current residents. During the moratorium period the city has spent time analyzing its services and fee structures, including construction of new facilities. He stated that the area being considered for annexation is much smaller than the most recent annexations. The area under consideration is 1.12 square miles, with a population estimated at 3,500. Essentially, it would extend their boundary to the Ellisville City boundary.

Mr. Kunz advised the Commission that part of the area (Oakwood Farms Subdivision) they are considering for annexation was the subject of a failed annexation attempt by the City of Ellisville in 1995. He stated that since that time, residents in that subdivision have maintained their interest in annexing to Ballwin, including submitting petitions. Earlier in the spring, in response to this and other expressions of interest regarding annexation, the Board of Aldermen lifted the moratorium on annexation.

Tom Aiken, Assistant City Administrator and Director of Planning, identified the Ballwin area, pointing out the number of cities which surround Ballwin, the area to the south and west which remains unincorporated St. Louis County and other areas to the northwest and northeast. He estimated the area to the south and east of the city has a population base of approximately 3,200 to 3,500. The area continues to experience housing development and the population numbers continue to change. Mr. Aiken pointed out that the official 1990 population for this same area is about 1,400. Mr. Aiken outlined on a map the area the city is considering annexing, stating that for the most part the area is fully developed or platted. While there appear to be vacant areas on the map, in reality they are areas with severe topographic challenges, which undoubtedly prevent the ground from developing. It is mainly common ground to the subdivisions.

Mr. Aiken sought the Commission's reaction regarding how the boundary lines were determined. He identified the areas previously contested by the City of Ellisville, suggesting that Ellisville, although they were unsuccessful in their annexation attempt still may have interest in annexing part of this area. In particular, Mr. Aiken pointed out the area along Rainke Road. If the Oakwood Farms, Waterford Oaks and the Ridges at Oakwood Farms subdivisions are annexed to Ballwin it will require the City to travel approximately sixty (60) feet through the city of Ellisville to serve this area. Mr. Aiken asked whether the commission felt it was unacceptable to have the annexation go through, if it meant half of Rainke Road would be in Ellisville and half in Ballwin? The second question is whether it is appropriate to use the platted subdivision lines along the ridge line north and east of Kiefer Creek Road. He pointed out that the topography in the area leaves a bluff up to 100 feet high in places. Those few lots and homes which now face Kiefer Creek Road in the city's mind more logically belong to whomever annexes the area along the west side of Kiefer Creek Road. He pointed out that Ellisville already is partially along the west side of part of Kiefer Creek Road.

Mr. Rehagen asked for further explanation of the area, north along Rainke Road which appeared to be an unincorporated pocket. Mr. Aiken indicated that the area was virtually surrounded by the City of Ellisville. Although the residents in that subdivision came to Ballwin about annexation, the City of Ballwin felt the subdivision more logically belongs in Ellisville. Mr. Rehagen also asked the location of the city's police department and recreation center. Mr. Aiken pointed out on the map the location of both, stating that the area in question is close to the recreation center and no further away

from the police facility than any other area of the city. Mr. Rehagen asked clarification of the location of the proposed boundary line in relation to Kiefer Creek Road.

Mr. Saulsberry asked whether the city has talked with the City of Ellisville about the proposed annexation. Mr. Kunz indicated that they have been in contact, sharing with them the petition the city received from the residents in Oakwood Farms indicating their desire to annex to Ballwin. They also indicated their willingness with Ellisville to do another survey. However, nothing further has come of those discussions. Mr. Kunz pointed out that since 1992 the development which has occurred in the unincorporated area has dramatically changed how the area could logically be split between two communities. He stated that in their view, there was no logical way to make that separation.

Mr. Frager asked for further information about two small unincorporated pockets north of Manchester. Mr. Aiken indicated that one of those areas is currently seeking annexation to Ballwin, while the other may want to be in Clarkson Valley.

Ms. Garino asked whether the city was obtaining petitions in these subdivisions? Mr. Aiken stated that the policy of the Board was not to actively pursue annexation, but rather look for an indication from the people of an area that a majority are interested in becoming part of the city. Mr. Kunz also pointed out that over the past several years the city has been developing the facilities and operational infrastructure to be able to accept this type of annexation.

Mr. Rehagen asked how much commercial was in the area. Mr. Aiken indicated there were two small parcels, but nothing that would generate any real income.

Ms. Garino asked what the degree of contiguousness was of the area to the city. Mr. Aiken stated he had not done a recent calculation, but that in 1992 it was approximately 22% for an area similar in scope. Ms. Garino asked further clarification of the area along Kiefer Creek Road which would not be in the annexation area. Has the city discussed this specific situation with Ellisville? Mr. Kunz indicated they have shared the map, but not sought any type of official reaction.

Ms. Wingron indicated that access along Rainke Road may be an issue. The commission discussed the issue of access. Mr. Kunz asked whether the use of a boundary adjustment to align jurisdiction of the road would be helpful in the mind of the commission. He indicated the city's willingness to work in that direction. Ms. Wingron also added that the narrow strip left along Kiefer Creek essentially went straight up and would be served from Kiefer Creek.

Mr. Wojtkowski pointed out that the proposal leaves two remnants or pockets for the county to maintain and essentially the city is relying on another community to step forward to annex the area. It would be helpful if the commission knew more about the interest of Ellisville in these areas. Mr. Aiken asked how the commission would react if the area in question along Rainke Road were included in the proposal. Because of the nature of the area, the city had not included it, feeling the Commission would not find it acceptable. Mr. Ramey stated that the area north along Rainke Road was the area he reported to the commission earlier where Ellisville and residents were interested in proposing a simplified boundary change. Mr. Kunz stated they would use the comments from this meeting to communicate again with the City of Ellisville.

Mr. Youngblood sought clarification of the 15% adjacency requirement and how it is applied. Mr. Ramey stated that the length of the boundary which is common between the area to be annexed and the city limits is compared to the total perimeter of the area to be annexed. The result of that comparison is that 15% of the total perimeter of the area to be annexed must be adjacent to Ballwin. Mr. Youngblood asked whether the city surveyed the area. Mr. Kunz indicated they city has not, but that the area has submitted petitions indicating their desire.

Ms. Garino asked how many access roads. Mr. Aiken stated that the developed areas were independent of each other. There was limited access between subdivisions and collector streets. Ms. Garino asked whether there were any divided subdivisions? Mr. Aiken stated there were none.

B. Discussion regarding renewal of office facility lease

Mr. Ramey reviewed for the commission the contents of his memorandum concerning the renewal of the lease. He indicated he felt the terms outlined in the lease were favorable to the commission and represented a reasonable agreement for both parties. He indicated that the negotiated terms included an increase in the annual lease payments from \$1,000 per month to \$1,100. For that increase the commission will receive the remodeling of the facility it seeks, along with a covered parking space and a fixed rent for three years, no escalators. On a per square foot basis, with the additional items it is below market in the building. Mr. Ramey indicated that the option language was new and had not been a part of his discussion with Mr. Rothman; however, he did not anticipate it would be a problem to include such language. Once the commission approves these terms or any others, it will go back to Mr. Rothman for this ratification and then on to St. Louis County for their approval. The county is the one who enters into the lease. The Commission has until the end of July to execute their option to renew.

Mr. Frager questioned the terms for the option to renew. The proposal goes beyond the life of the commission. He recommended consideration of an option to renew done in two stages. The first renewal would take the lease to the end of the term of the commission, with the second option being exercised if the life of the commission is extended.

A motion was made Mr. Youngblood to approve the terms of the lease, with changing item five from a three year option to renew to a two stage option to renew, the first for one year and three months and the second for one year and nine months. The motion was seconded by Mr. Frager. Concern was raised that the proposed option was not something agreed to yet by Mr. Rothman, the landlord. It was suggested that a more general statement be included. Mr. Youngblood agreed to withdraw his motion and was agreed to by Mr. Frager. Mr. Youngblood then made a motion to approve the terms of the lease, with the understanding that any option recognize the term of the commission. Mr. Frager seconded the motion. Voice Vote: Ayes - All Nays - None. *The motion passed.*

C. Receive, File and Set Public Hearing - BC9806 - Carman-Dougherty Ferry Annexation - City of Mancehester

A motion was made by Mr. Rehagen to receive, file and set the date for the public hearing for BC9806, Carman-Dougherty Ferry Annexation for Tuesday, July 21 at 7:00 p.m. at Parkway South

High School. Mr. Youngblood seconded the motion. Voice Vote: Ayes: All Nays: None *The motion passed.*

D. Receive, File and Set Public Hearing - BC9807 - Transfer of Jurisdiction Whitehaven - City of Crestwood and the Town of Grantwood Village

A motion was made by Mr. Rehagen to receive, file and set the date for the public hearing for BC9807, Transfer of Jurisdiction of Whitehaven for Tuesday, July 7 at 6:00 p.m. at office of the Boundary Commission. Mr. Youngblood seconded the motion. Voice Vote: Ayes: All Nays: None *The motion passed.*

E. Receive, File and Set Public Hearing - BC9808 - Dougherty Ridge Annexation - City of Des Peres.

A motion was made by Ms. Wingron to receive, file and set the date for the public hearing for BC9808, Dougherty Ridge Annexation for Tuesday, July 28 at 7:00 p.m. at a location to be determined by Mr. Ramey. Mr. Saulsberry seconded the motion. Voice Vote: Ayes: All Nays: None *The motion passed.*

F. Receive, File and Set Public Hearing - BC9809 - Barrett Heights Plat II - Annexation City of Des Peres

A motion was made by Ms. Rehagen to receive, file and set the date for the public hearing for BC9809, Barrett Heights Plat II for Tuesday, July 28 at 7:00 p.m. at a location to be determined by Mr. Ramey. Ms. Wingron seconded the motion. Voice Vote: Ayes: All Nays: None *The motion passed.*

OLD BUSINESS

A motion was made by Mr. Wojtkowski to reconsider the approval of BC9803. The motion was seconded by Mr. Youngblood. Ms. Garino questioned whether the motion was appropriate and referred to Mr. Martin for an opinion. Upon review of Roberts Rules of Order, Mr. Martin concluded that the motion to reconsider was not the right motion at this time. The ruling on the motion would be made by the chair and appeal could be made of that decision to the body. Ms. Garino ruled the motion to reconsider out of order.

A. Summary and Decision re: BC9802 - Southwest Annexation - City of Eureka

A motion was made by Mr. Frager to approve the Summary and Decision for BC9802 - Southwest Annexation - City of Eureka. The motion was seconded by Mr. Rehagen. Ms. Garino pointed out that the effective date of the annexation was July 1, 1998.

Mr. Wojtkowski stated, it was his opinion that the findings did not accurately reflect the decision of the commission. He stated for the record that he felt the interest of the area being annexed and the surrounding territory was not taken into account, only that of the municipality. He felt that opinion was reflected in the fact the commission approved the annexation without the requirement for voter

approval. The commission did not adequately weigh the best interest.

Mr. Frager discussed the drafting of prior written summaries, wherein it was concluded that the finding reflected the majority of the commission members who voted in favor, but did not represent the opinion of the whole commission.

Roll Call Vote: Ayes: Frager, Garino, Merritt, Middelkamp, Rehagen, Saulsberry, Wingron Nays: Haddock, Wojtkowski, Youngblood *The motion passed.*

B. Summary and Decision re: BC9803 - Southeast Annexation - City of Fenton

A motion was made by Mr. Wojtkowski to rescind the decision approving BC9803. The motion was seconded by Mr. Youngblood. Ms. Garino referred to Mr. Martin for his opinion regarding the appropriateness of the motion. Mr. Martin opined that the motion was appropriate at the time.

Mr. Wojtkowski indicated he did not disfavor the annexation, but based upon the comments received from the area, it was most appropriate to have this matter subject to a vote.

Mr. Frager sought clarification on which motion was to be rescinded. Mr. Wojtkowski responded that it was the motion to approve the boundary change. Mr. Martin clarified that the result of this motion would be to void the action of the commission approving the boundary change on June 2. Ms. Garino asked for an opinion from Mr. Martin as to how abstentions are counted in a vote. Mr. Martin indicated that the common law principal is an abstention is counted with the majority. The State of Missouri follows the common law.

Roll Call Vote: Ayes: Haddock, Merritt, Wojtkowski, Youngblood Nays: Frager, Garino, Middelkamp, Rehagen, Saulsberry, Wingron *The motion failed.*

A motion was made by Mr. Middelkamp to approve the summary and decision for BC9803. The motion was seconded by Ms. Wingron.

Roll Call Vote: Ayes: Frager, Garino, Middelkamp, Rehagen, Saulsberry, Wingron Nays: Haddock, Merritt, Wojtkowski, Youngblood *The motion passed.*

ADJOURNMENT

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

This being a memorandum of the activities at this meeting.

Respectfully submitted,
Carl E. Ramey
Executive Director

Approved
July 21, 1998