

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

**MEETING MINUTES
June 2, 1998**

ROLL CALL:

COMMISSIONER	PRESENT (P)/ ABSENT (A)
JULIUS FRAGER	P
AGNES GARINO	P
GWENDOLYN GERHARDT	P
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 6:02 p.m. on June 2, 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

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

APPROVAL OF MINUTES

A. Approval of minutes of Commission Meeting of May 19, 1998

A motion was made by Ms. Wingron to approve the minutes for the Commission meeting held May 19, 1998. The motion was seconded by Mr. Middelkamp. Voice Vote: Ayes - All Nays - None
The motion passed.

PUBLIC COMMENT

Ms. Trudy Stringer, 150 Misty Manor spoke in opposition to the proposed annexation by Fenton. She indicated she lives adjacent to Jefferson County and prefers to be excluded from the annexation area, if it is going to be approved. She stated her husband had submitted to the Commission a letter in opposition at the last meeting. She stated that she was opposed to the proposal, because it was being moved along too quickly, there are plans for development which she feels would be detrimental to her property. She also opposed the proposal because it did not allow the residents in the area the opportunity to vote. She requested the Commission place the matter to a vote.

Dr. Robert Tichner, 175 Misty Manor Road, spoke in opposition to the proposed annexation by Fenton. He indicated that he lived next to the previous speaker and did not see any benefit to living in the City of Fenton. He referred to some written materials which he received from the City of Fenton. He took issue with that portion of letter which indicated he would have to have sewers. He stated the topography and geology of the area prohibits the installation of sewers. He reiterated that if it is to be approved, it should be done so with a vote.

ANNOUNCEMENTS/COMMUNICATIONS

Ms. Garino introduced the newest member of the Commission, Gwendolyn Gerhardt. Ms. Gerhardt fills the unexpired term of Mr. Jack Wiesehan who resigned due to illness.

Mr. Ramey reported that earlier that day the City of Manchester submitted a proposal to annex territory to the east of the City. It was a significantly large area. He stated he had no details as to the land area or population involved, but that it was significant. He indicated on the map the general annexation area. This proposal would require a vote. He asked the Commission to consider their schedules for the summer, in particular looking at the best date possible for a public hearing on this proposal. Mr. Ramey suggested three dates, June 30, July 7 and July 21. It was agreed that the hearing would be set for July 21 at 7 p.m., with a location yet to be determined. The Commission also discussed the meeting schedule for the summer. Mr. Ramey indicated that he would like the Commission to reserve June 30 at 6 p.m. as a possible date to review rule revisions. This would give the Commission time to consider the possible changes. As to the process of voting on the City of Ellisville proposals, it is quite possible that the Commission could hold a short business meeting prior to the public hearing on either July 7 or July 21 at 6:30 p.m. or 6:45 p.m. As to the meeting schedule in August, the Commission discussed having a meeting on August 18, but at this point do not plan to have a meeting on August 4.

Mr. Rehagen asked whether there had been any further developments on the facility. Mr. Ramey responded that at the end of last week he received authorization from the County Counselor's office

to execute an extension, allowing the Commission an additional sixty days to determine whether to exercise the option to renew the lease. Mr. Ramey indicated the next step was to submit a proposal for renewal to the landlord. The Commission discussed various alternatives to consider in submitting such a proposal.

Mr. Ramey reported that at the next Commission meeting the City of Ballwin will be present to review their interest in additional annexations. Also, the Cities of Ellisville and Town and Country have been working on possible annexations to their communities. Nothing further has been heard from the City of Des Peres. Also, nothing further has developed regarding the annexation of the golf course to the City of Florissant. However, Mr. Ramey reported he has been contacted by people living in and around the golf course interested in the possible annexation to the City of Florissant.

OLD BUSINESS

A. Discussion and Decision regarding BC9802 - Southwest Annexation - City of Eureka

A motion was made by Ms. Wingron to approve the proposal of the City of Eureka as presented, without a requirement for a vote. The motion was seconded by Mr. Saulsberry.

Mr. Rehagen stated that in considering the proposal, he considered the responsibility of the city officials whose responsibility it was to look out for the best interests of its residents, now and in the future. He indicated that annexations and incorporations are generally borne out of a desire to determine their own destiny, such as zoning, housing etc. What is of greatest concern is whether the municipality has the ability to provide the services and perform as they should. Based upon the eleven factors in the law, Mr. Rehagen concluded that the city met all of the requirements. He indicated that he had no problem with the involvement of a developer in this proposal. What is being proposed is a win/win for the area. As to the environmental issues, Mr. Rehagen indicated he was satisfied that the issues had been addressed. Mr. Rehagen indicated his support for the motion.

Mr. Frager raised a procedural question, as to how the vote should be framed. He stated that in the past there were two votes, the first to approve or reject a proposal, the second to determine whether or not a vote would be required. He expressed concern that the motion lumped the two issues together. As a procedural matter, he would prefer to have two votes. Mr. Martin stated that in the past this has been done, but with the requirement for six affirmative votes to approve a proposal, there was concern that you could approve the first of the two motions and fail to get the necessary votes on the second. It creates a potential problem. Mr. Ramey restated the statutory provisions involving the voting on simplified boundary changes. Mr. Ramey questioned whether an interpretation would suggest that by definition a simplified boundary change is without a vote and that if it is not a simplified boundary change it would require a vote. He indicated this was a question in his mind. Mr. Wojtkowski stated that he felt the Rules were clear and that a vote on a simplified boundary change includes the question of a vote or no vote in the motion.

Mr. Wojtkowski indicated that he would vote against the motion, because it takes away the right to vote. He stated the ultimate validation of the best interest test is the vote of the people. Mr. Wojtkowski indicated it was confusing why the Commission would want to take that ultimate validation out of the hands of the people. The only way to validate the approval is to allow the

affected parties the right to vote. He indicated that based upon public comment and documentation this proposal should not be considered simple.

Ms. Wingron stated that based upon the information submitted and the public hearing, the proposal was submitted on a simplified term. The impact on the area was non-existence. She stated she did not have any problem with this proposal or the development involved in the proposal.

Mr. Saulsberry indicated that if this is not a case for a simplified annexation, he was unsure as to what it would look like. The law and Rules allow for the Commission to determine whether this requires a vote. Under the circumstances he concluded that it did not require a vote to be approved.

Mr. Youngblood commented that people who do not live in an area should not have the power to annex land into a city without the vote of the people in the city or the people who live in the area. He stated that the matter should be put to a vote, if it is to be approved. Citing Bella Villa, he stated in the past annexation it was the people who lived there that sought the annexation. This is a difference between that proposal and the two proposals tonight.

Ms. Haddock indicated she agreed with Julius, Don and Larry that a vote should be required.

Mr. Frager clarified that he was not speaking for or against, but rather that in deciding the Commission should split the vote.

Mr. Wojtkowski described situations where the Commission has utilized the simplified boundary change approach, but they were situations where there was full accord. The simplified provisions are not there to take away the vote from the people.

Ms. Garino stated that she hoped everyone has had an opportunity to look at the area. At the beginning she questioned the appropriateness, but after looking at the area, hearing what has been presented a strong case has been made for the annexation. The law allows for simplified boundary changes without the requirement for a vote. The City has the legal right to submit their proposal that way.

Mr. Youngblood asked whether the Commission was going to split the vote? Ms. Garino indicated that the motion on the floor was to approve the annexation as submitted without a vote. Mr. Youngblood made a substitute motion to split the vote, first voting on the annexation and then a second vote as to whether a vote should be required in the area. Ms. Garino asked for clarification as to whether this motion would require two separate votes. Mr. Youngblood indicated it would, as has been done in the past. Mr. Frager seconded the motion. Mr. Wojtkowski raised a point of order, indicating that the original motion would have to be withdrawn before the substitute motion could be introduced. Mr. Youngblood asked for an interpretation from legal counsel. Mr. Martin responded that he believed the original motion would have to be withdrawn before the other could be presented. Ms. Garino agreed that the motion would have to be withdrawn before a substitute motion could be offered. Ms. Wingron indicated she would not withdraw her motion, to accept the proposal of the City of Eureka as presented without a vote.

Mr. Frager asked whether it was possible to vote against the motion, because you did not approve of the procedure, can we then split it and then pass it again later? Ms. Garino indicated that if the motion

fails, then the floor is open for further motions. Mr. Frager indicated his issue was whether he could come back yet that night to raise those motions? Ms. Garino indicated that it could.

Ms. Gerhardt asked what was the rationale of the proposing agent in requesting a simplified boundary change? Ms. Garino asked Mr. Martin to explain the simplified process. Mr. Martin asked whether Ms. Gerhardt was interested in an explanation of the law or why the City of Eureka chose to go that way. Ms. Gerhardt stated her interest was in why the city chose to go that way. Ms. Garino responded that they could not answer why, that was their decision. Ms. Wingron stated she felt she could respond. The simplified process is one of the procedures offered in the rules. It is a simplified process when you meet the standards. The petitioning process is 75% of the property owners.

Mr. Youngblood referred to the change in the state law affecting simplified boundary changes. Although it is not in effect, he asked the Commission to be cognizant of this change.

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

B. Review BC9803 - Southeast Annexation - City of Fenton

Mr. Wojtkowski moved to approve the annexation, subject to a vote. Mr. Youngblood seconded the motion.

Mr. Youngblood stated that it was very important to allow the people in the area to vote on this matter. The people should have a say. He questioned Mr. Ramey why in a conversation a week ago, he was told the vote would be split and now the form of the motion is changed. Mr. Ramey responded that his recollection of the conversation was that it was the past practice of the Commission to split the vote.

Ms. Wingron indicated she would vote against this motion because it is unnecessary.

Mr. Wojtkowski stated that his reasoning remains the same. The voice of the public is perhaps even stronger in this proposal, which should give Commissioners pause to ask why they want to take away the final validation of best interest away from the residents of the community. He indicated that a vote was important.

Mr. Frager stated he did not favor this motion, because it is requiring a vote. He stated his preference is to split the votes. This motion ties them together.

Mr. Middelkamp stated that as a point of procedure the motion should have stated what was being sought in the proposal first. He indicated he would not vote for the motion.

Mr. Rehagen reviewed the proposal, indicating there was a bono fide petition in support of the annexation. He indicated what was presented was in the best interest of the city and the area to be taken in. He stated he would not support the motion.

Ms. Garino stated that the boundaries of the proposal make a great deal of sense. What happens on

their borders is of interest to the city and this is the way they can protect what happens on their borders is to make it a part of the city.

Mr. Wojtkowski clarified that his motion was to approve the Fenton boundary change with voter approval.

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

Mr. Rehagen moved the approval of the simplified boundary change for Fenton as submitted, without a vote. Mr. Saulsberry seconded the motion.

Mr. Frager asked whether the motion called for the split of the vote. Mr. Rehagen indicated it did not.

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

Mr. Frager moved the approval of the annexation with a further vote determining whether it should be done with or without an election.

Mr. Wojtkowski raised to a point of order. He indicated that the previous two motions were votes for disapproval and this motion is out of order. It was denied on both counts. It failed to pass with voter approval and without voter approval.

Ms. Garino referred to Mr. Martin. Mr. Martin asked if Mr. Wojtkowski's position is, after something has been through, whether it was possible to act upon it again. Mr. Wojtkowski stated that on both aspects the motion has been disapproved. Mr. Frager stated that those motions were two prong votes and that he was trying to separate it, which is a completely different motion. Mr. Martin stated that there was never a motion to disapprove, the motion was to approve and it never went anywhere. Ms. Garino indicated that the previous motions were to approve with or without a vote which is different from just a motion to approve. Mr. Wojtkowski referred to the Rules of the Commission relating to the simplified boundary change. Based upon his interpretation of the Rules the only appropriate motion at this time is a motion to reconsider. Mr. Frager stated that he does not read the Rules the same way. Mr. Wojtkowski stated that the Commission twice voted to disapprove the change. Mr. Frager stated that the motions failed to pass, not that they were disapproved. Mr. Martin read the Rules relating to the simplified boundary change. Mr. Martin stated that the Rules do not require the Commission to make the motion in a particular language. Mr. Wojtkowski differed feeling the language of how to make the motion is precise. Mr. Frager differed in his interpretation of the Rules, stating that there had not been a vote on whether to approve or disapprove the proposal, which is what his motion contains and what the Rules require. Recognizing there was a difference in interpretations by Mr. Wojtkowski and Mr. Frager, Mr. Martin stated that there has not been a motion to approve or disapprove which has been passed. He further stated that it is open for any further motion that wants to be made. Ms. Garino indicated that what Mr. Martin was saying is that Mr. Frager can make the motion.

Mr. Frager restated his motion, to approve the annexation for Fenton. Mr. Saulsberry seconded the

motion.

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

Mr. Frager made a motion that the annexation be done without a vote. Mr. Saulsberry seconded the motion.

Ms. Gerhardt sought clarification of whether a favorable vote means the annexation will go through without a vote. Ms. Garino indicated it would according to the timetable worked out.

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

ADJOURNMENT

Mr. Rehagen made a motion to adjourn. Ms. Youngblood 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
June 16, 1998