

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

**MEETING MINUTES  
July 28, 1998**

**ROLL CALL:**

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

**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 July 28, 1998. The meeting was held at the City Hall, City of Des Peres, 12325 Manchester Road, Des Peres, Missouri.

**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. Middelkamp seconded the motion.  
Voice Vote: Ayes - All Nays - None. *The motion passed.*

## **PUBLIC COMMENT**

Lori Fiegel, St. Louis County Department of Planning. Ms. Fiegel distributed a copy of a letter from St. Louis County supporting the proposed transfer of jurisdiction between the cities of Town and Country and Creve Coeur. She also distributed a copy of a letter from the County Counselor, John Ross, expressing his legal opinion that the proposed rules involving unincorporated zones goes beyond the intent of the legislation. The two areas noted in the comments were the public hearing and the plan of intent. Ms. Garino asked that in the future such opinions and communications should be submitted earlier than at the meeting. She stated it made it difficult to deal with such matters when they come so late.

## **ANNOUNCEMENTS AND COMMUNICATIONS**

Mr. Ramey reported to the Commission that he recently met with representatives of the City of Wildwood. He stated they were interested in utilizing the new section of the statute allowing for a simplified boundary change through a petition by registered voters. The City was interested in a pre-submittal conference with the Commission at their next available meeting. Mr. Ramey indicated that the Commission's next scheduled meeting is August 18. The next meeting would also include a review of the budget for 1999. The budget schedule for the county would require the Commission to act on the budget at that meeting. In addition, the August 18 meeting would be the first opportunity for the Commission to review the Manchester proposal.

## **NEW BUSINESS**

### ***A. Receive, file and set Public Hearing date - BC9810: Centre Park Forty- Transfer of Jurisdiction - Cities of Town and Country and Creve Couer***

Mr. Youngblood made a motion to receive, file and set the public hearing date for BC9810 - Centre Park Forty - Transfer of Jurisdiction - cities of Town and Country and Creve Coeur for September 1, 1998 at 7:00 p.m. in a location to be determined. The motion was seconded by Ms. Gerhardt. Mr. Ramey indicated the proposal was to transfer property from Creve Coeur to Town and Country to be used as parkland by Town and Country. The area has been subject to some controversy and it was recommended to find a public hearing location, somewhere in the vicinity of that area. Voice Vote: Ayes: All Nays - None. *The motion passed.*

### ***B. Summary of Decision re: BC9804 - 2887 Kiefer Creek Road - City of Ellisville***

Mr. Rehagen made a motion to approve the Summary of Decision for BC9804 - 2887 Kiefer Creek Road - City of Ellisville. The motion was seconded by Ms. Wingron. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Middelkamp, Rehagen, Wingron, Wojtkowski, Youngblood Nays: None *The motion passed.*

### ***C. Summary of Decision re: BC9805 - 1193 Briar Patch Road - City of Ellisville***

Mr. Rehagen made a motion to approve the Summary of Decision for BC9805 - 1193 Briar Patch Road -

City of Ellisville. The motion was seconded by Mr. Middelkamp. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Middelkamp, Rehagen, Wingron, Wojtkowski, Youngblood Nays: None *The motion passed.*

**D. Discussion and Adoption of Revised Rules**

Ms. Garino pointed out that because of the public hearing it may be necessary to recess this meeting and reconvene after the public hearing, if the Commission needs the additional time to discuss the rules.

Mr. Ramey reviewed for the Commission a memorandum which was forwarded to the Commission in their packet, recommending a change in the proposed rules. The issue is who can be a proposing agent for a transfer of jurisdiction. Ramey indicated the Commission's current rules recognize mutual agreement between municipalities is a key component to the Commission's decision that the transfer is in the best interest of each municipality. He recommended that the rules continue to recognize that concept. The second item of concern in the draft rules was the inclusion of a petition of 15% of the registered voters in the last gubernatorial election being able to effect a simplified boundary change: transfer of jurisdiction. Ramey indicated that upon further reflection and consideration such transfers should rest with the governmental agencies. Ramey indicated that he included in their meeting packet draft language which would make the changes recommended in his memorandum.

Mr. Middelkamp asked whether mutual agreement could be implied if there was a petition. Mr. Ramey reviewed the statutory language, concluding it was between municipalities or a municipality and the county. Mr. Youngblood stated he could see a problem if a group of residents one month wanted to be in one city and six months later in another. Ramey indicated he has had conversations with residents of one city who wanted to move to another; however, he advised them the two cities would have to agree under the Commission's rules. As an example, Ramey pointed out there is a parcel which is split between Eureka and Wildwood and while the property owner would like to be in one jurisdiction, there is not mutual agreement between the cities on the matter.

A motion was made by Mr. Frager to make the changes as recommended by the memorandum of the Executive Director. The motion was seconded by Mr. Wojtkowski. Voice Vote: Ayes: All Nays: None *The motion passed.*

Mr. Rehagen asked Mr. Martin if he had an opportunity to read the letter from the county which was presented during public comment and if he could give his reaction. Mr. Martin stated he had an opportunity to read it and would give the Commission his initial reaction. He explained generally the elements of the letter. He stated he disagreed with Mr. Ross' conclusion that the action of the Commission regarding unincorporated zones is a ministerial duty. Mr. Martin referred to the statute and indicated that he did not reach the same determination as Mr. Ross did in his letter. Mr. Martin indicated that the statute provides for the Boundary Commission to make rules necessary to implement the statute. What information you need to determine whether an area can be reasonably served is a decision for the Commission

Mr. Wojtkowski stated that the simplest way to determine whether the area can be reasonably served is to receive a statement or assurance from St. Louis County that they will continue to serve the area. Mr. Wojtkowski reminded the Commission that this is not a boundary change. Ms. Wingron stated the

Commission should be cognizant of all the issues. She stated she would not be satisfied with a simple letter. Mr. Youngblood stated he agreed with prior comments of Charles Saulsberry. The procedures should be simple. This is what the legislature intended when they enacted the law. Mr. Frager commented that the public hearing allows for the collection and dissemination of data so the public can be informed. He indicated he wanted to differentiate between what information the public may need and what the Commission needs in order to make a decision on whether the area can be reasonably served in the next five years. Mr. Frager indicated there are issues, such as financial, which have implications on whether an area can be reasonably served. However, he did not see the relevance of zoning issues in making that determination. Mr. Frager suggested that the Commission separate the issues and try and come to some agreement by issue as to what is needed to make a determination whether the area can be reasonably served. Ms. Garino stated the information requested would be used to inform the Commission and the people. She did not want to treat proposals differently. She stated that the information requested would not be difficult to provide. Ms. Gerhardt questioned why people would object to providing the information. Mr. Wojtkowski indicated the basis for decisions on boundary changes is the best interest test. The Commission needs to distinguish that from the Commission's charge of whether the area can be reasonably served in an unincorporated zone. The zoning information sought is essentially irrelevant to determining whether the area can be reasonably served.

Mr. Frager made a motion to delete the section regarding zoning and land use , section I(4), as it relates to unincorporated zones, that no zoning information be required. The motion was seconded by Mr. Youngblood. Roll Call Vote Ayes: Frager, Haddock, Wojtkowski, Youngblood Nays: Garino, Gerhardt, Merritt, Middelkamp, Rehagen, Wingron. *The motion failed.*

A motion was made by Mr. Rehagen to recess the meeting until after the conclusion of the public hearing. The motion was seconded by Ms. Wingron. Voice Vote Ayes: All Nays: None The motion passed.

Upon conclusion of the public hearing, Ms. Garino reconvened the meeting. Mr. Youngblood was not present when the meeting reconvened.

A motion was made by Ms. Wingron to accept all articles of the rules before the Commission with the exception of those sections dealing with the unincorporated zones on pages 56 and 57. Mr. Frager raised a point of order, questioning whether this had already been done at the previous meeting. Mr. Ramey stated that it had not been done. What was done dealt with the articles on public hearings and elections for unincorporated zones. Mr. Wojtkowski seconded the motion. Ms. Wingron amended her motion to include all articles of the draft rules, as amended, with the exception of those sections dealing with the unincorporated zone. As the second to the main motion, Mr. Wojtkowski accepted the amendment. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Rehagen, Wingron, Wojtkowski Nays: None *The motion passed.*

Mr. Wojtkowski made a motion to refer those sections of the rules dealing with the unincorporated zones to the rules committee for review and recommendation. The motion died for lack of a second.

Mr. Frager made a motion to adopt under section 7, a (i) 1-7, the section relating to geography. The motion was seconded by Mr. Rehagen. Mr. Wojtkowski made a motion to amend the main motion to delete paragraph 7. Mr. Wojtkowski stated that his reason for offering the amendment was because this second

dealt with an unincorporated zone. The area will remain in unincorporated county. The boundary is unchanged. The information is unnecessary. Mr. Frager stated that because the unincorporated zone is for five years, it could leave another area outside of the zone which could be incorporated. Mr. Martin stated that depending on the issue of access, it was a theoretically possible to create an unincorporated pocket. Mr. Wojtkowski questioned the logic of that conclusion, because the area would remain unincorporated county. Mr. Martin noted that the Commission has routinely asked in other situations whether a proposal could leave the potential for an unincorporated pocket. A series of hypothetical examples of how this situation may be created was discussed by members of the Commission. Mr. Martin pointed out the Commission first dealt with whether a proposal created an unincorporated pocket. With the Ferguson proposal, the Commission began to look at whether a proposal left an unincorporated pocket. Mr. Martin stated this provision addresses that second issue. The motion to amend died for lack of a second. Roll Call: Ayes: Frager, Garino, Gerhardt, Middelkamp, Rehagen Wingron Nays: Haddock, Wojtkowski *The motion passed.*

Regarding financial information for unincorporated zones, Mr. Frager indicated that he was interested in receiving information concerning what income the area would generate and what type of expenses the county would have in maintaining the area. Also, he stated an interest in whether there are any changes contemplated for the next five years. The Commission reviewed the draft elements. Mr. Rehagen stated that he felt item 2 in the list was a duplication and unnecessary.

A motion was made by Mr. Frager to accept the requirements under the financial section, deleting item 2 and renumbering the items in the section. The motion was seconded by Mr. Rehagen. Mr. Wojtkowski questioned the relevancy of the capital improvements information. He stated the unincorporated zone does not change the circumstance. Mr. Frager stated his purpose in the requirement is to determine what the cost would be to service the area. This also gives the people information on what may be happening in their area for the next five years, so that they can make an intelligent decision. Mr. Wojtkowski stated that regardless of what happens in an application for an unincorporated zone, the area remains unincorporated county. He stated the requirements being requested are frivolous and that the Commission appears to be prepared to draft rules as it sees fit. Mr. Wojtkowski stated he had to leave. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Rehagen, Wingron Nays: None *The motion passed.*

Regarding services, Mr. Frager expressed concern about the impact on an unincorporated zone if the area surrounding it becomes incorporated during the five year time period. How will that effect the delivery of service to the unincorporated zone area? Mr. Martin pointed out that item 3 deals with items that are known at the time of writing the proposal. The concern expressed is speculative in nature. Mr. Frager restated his concern was how efficient will it be for the county to deliver service, if the surrounding area becomes incorporated. Mr. Middelkamp indicated that he thought it may be difficult for them to determine the efficiency of service. Ms. Merritt questioned the likelihood of the Commission approving annexations surrounding such another area. Mr. Martin asked whether the information being sought by Mr. Frager is more financial issue than a delivery of service. Mr. Ramey stated the issue appears more to be the financial impact on the delivery of service, if the area surrounding the unincorporated zone became incorporated. Mr. Ramey said he believed such information would be difficult to quantify for this type of proposal. Mr. Martin indicated the question could be asked, but the information received would be speculative and questionable. The Commission reviewed the remaining sections concerning services.

A motion was made by Mr. Frager to approve under services, i(a) and i(b) with a change to i(c), inserting the word anticipated between any and changes, delete 2 and renumber 3 to number 2. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Rehagen, Wingron Nays: None *The motion passed.*

Mr. Rehagen discussed the issues of zoning. Mr. Middelkamp noted that from his experience people do not know their zoning.

A motion was made by Mr. Rehagen to accept the zoning information with the following changes, provide a map identifying the zoning, change (f) to non-urban, remove 2, renumber 3 to number 2 and 4 to number 3, and to insert in newly number 3, significant change or development in the proposed unincorporated area for a five year period. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Rehagen, Wingron Nays: None *The motion passed.*

The Commission discussed whether there was a necessity for a summary. Mr. Frager stated that the information is laid out for the Commission. Ms. Garino stated the summary offers the proposing agent the opportunity to say the area can be reasonably served.

A motion was made by Ms. Gerhardt to have the proposing agent provide a brief summary of how the area described in the petition can be reasonably served for five years. The motion was seconded by Mr. Middelkamp. Roll Call Vote: Ayes: Garino, Gerhardt, Haddock, Merritt, Middelkamp, Rehagen, Wingron Nays: None Abstain: Frager *The motion passed.*

The Commission returned to the earlier discussion regarding services and Mr. Frager's concern that the Commission and the people have an understanding of the financial implications to the county and the unincorporated area, if the area surrounding the unincorporated zone became incorporated. Mr. Martin and Mr. Ramey had been asked to work on language concerning that issue, which could be considered by the Commission. Mr. Ramey read draft language as follows: How would the financial information in Article III C.7.a.2 (i)change, if the entire unincorporated zone was surrounded by a municipality(ies)? Mr. Frager was concerned that the question should deal with the magnitude. Mr. Martin suggested the following language: To what magnitude would the financial information in Article III C.7.a.2 (i)change, if the entire unincorporated zone was surrounded by a municipality(ies)?

A motion was made by Mr. Frager to incorporate into the rules the following language: To what magnitude would the financial information in Article III C.7.a.2 (i)change, if the entire unincorporated zone was surrounded by a municipality(ies)? The motion was seconded by Mr. Middelkamp. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Rehagen, Wingron Nays: None *The motion passed.*

The Commission discussed whether a proposing agent in an unincorporated zone would bear the costs. Mr. Frager asked what the requirements were for a proposing agent seeking to incorporate a new city. Mr. Ramey indicated they were responsible for costs. Ramey read the Commission the relevant section in the rules. The Commission felt the same language should be used. Mr. Middelkamp pointed out there also remained the outstanding issue of the time frame for the documents from the county regarding complements

and complaints regarding service. Mr. Middelkamp indicated this was suggested at the last meeting by Mr. Wojtkowski. Mr. Rehagen felt a two year period would be adequate.

A motion was made by Mr. Rehagen to include the same requirement for bearing costs as in the case of an incorporation and a two year time period for documents of the county regarding complements and complaints concerning service. The motion was seconded by Mr. Middelkamp. Roll Call Vote: Ayes: Frager, Garino, Gerhardt, Haddock, Merritt, Middelkamp, Rehagen, Wingron Nays: None *The motion passed.*

Ms. Garino summarized with the completion of that motion it appeared all outstanding items in the proposed rules had been addressed and the document appeared to stand complete. She stated that on the next day, notices will be sent advising the municipalities and county of the Boundary Commission's action. Copies would be available either on computer disk or hard copy. The Rules would go into effect August 28, 1998. The next meeting of the Commission is August 18.

Ms. Wingron requested Mr. Martin find out whether the County Council took a formal vote to file the lawsuit against the Commission. Mr. Frager asked whether Mr. Martin was coordinating legal efforts with the other parties to the suit. Mr. Martin indicated they are coordinating efforts. The effort is to make sure neither party harms the position of the other.

## **ADJOURNMENT**

Mr. Frager 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 29, 1998