

BOUNDARY COMMISSION  
ST. LOUIS COUNTY, MISSOURI  
MEETING MINUTES

July 26, 2022

ROLL CALL

Commissioners Present: Rick Dorsey, Tom Mooney, Ann Pluemer (via Zoom), Tom Schneider, Kathy Schweitzer, Ben Uchitelle, and Steve Wegert

Commissioners Absent: Stephanie Robinson

Commission Staff Present: Michelle Dougherty, Executive Director  
Michael Hart, Legal Counsel

Others present: Jacob Trimble, Acting Director of Planning for St. Louis County  
Paul Weatherford (via Zoom), St. Louis County Planning Department  
Megan Huether, Manchester Alderperson

Chairman Wegert called the meeting to order at 6:33 p.m., July 26, 2022. The meeting was held in-person in the 1<sup>st</sup> Floor Conference room, 231 South Bemiston in Clayton, Missouri, and online via Zoom.

ROLL IS CALLED – QUORUM DECLARED

Roll was called and a quorum declared by Ms. Dougherty.

APPROVE AGENDA

Mr. Dorsey made a motion to approve the agenda. Ms. Schweitzer seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

APPROVE MINUTES

Mr. Dorsey made a motion to approve the minutes of June 29, 2022. Mr. Mooney seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

2<sup>ND</sup> QUARTER FINANCIAL REPORT

Ms. Dougherty stated the Commission is still on track and spending is exactly as expected. Chairman Wegert asked if the County had paid the invoices in question relating to the proposal processing. Ms. Dougherty said it had.

STAFF REPORT

Ms. Dougherty stated she'd been a bit busy handling the volume of calls and emails relating to the Manchester proposal and getting the process going on Ballwin's two proposals. She stated she is making sure she is recording everything

PUBLIC COMMENTS

Ms. Dougherty stated there were three members of public present. Jacob Trimble from St. Louis County Planning and Megan Huether from the City of Manchester were present.

Paul Weatherford from St. Louis County Planning was attending via Zoom. All three were asked if they had any public comment they wished to make. They all declined.

There were no public comments

#### NEW BUSINESS.

- A. ACCEPT and SET FOR PUBLIC HEARING BC2202 City of Ballwin's Simplified Boundary Change: Annexation of Cascades Subdivision

Ms. Schweitzer made a motion to accept BC2202 City of Ballwin's Simplified Boundary Change: Annexation of Cascades Subdivision as complete and set it for public hearing on August 24, 2022. Mr. Dorsey seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

- B. ACCEPT and SET FOR PUBLIC HEARING BC2203 City of Ballwin's Simplified Boundary Change: Annexation of Charleston Oaks Subdivision

Mr. Dorsey made a motion to accept BC2203 City of Ballwin's Simplified Boundary Change: Annexation of Charleston Oaks Subdivision and set it for public hearing on August 24, 2022. Mr. Mooney seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

Commissioners stated they wanted to have a hybrid meeting for the upcoming public hearings.

Mr. Uchitelle asked if anyone had a summary of the Ballwin proposals. Ms. Dougherty stated she'd mailed to all the Commissioners a hard copy of both of Ballwin's proposals. Mr. Uchitelle said he hadn't had a chance to read it yet. Ms. Dougherty summarized that Ballwin's proposals are Simplified Boundary Changes: Annexations. These are initiated by petition from 75% or more of the residents in the annexation area. She stated that Simplified Boundary Changes has a four-month time frame from submittal for decision because it was originated by petition. Mr. Schneider clarified that it was 75% of the registered voters in the area who signed the petition. Ms. Dougherty confirmed and explained that on August 24, 2022 there will be two separate hearings.

- C. Budget 2023

Mr. Uchitelle reported that the Committee met and crafted a budget for 2023 that would be in line with 2022 or a little less than 2022. He stated there is a COLA adjustment of 1.5% for 2023.

Mr. Uchitelle made a motion to approve the budget for 2023. Ms. Schweitzer seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.*

- D. Closed Session

There was no closed session as the personnel committee had not met yet.

Mr. Hart asked if the Commission wanted to have a closed session at the next meeting in August. Chairman Wegert suggested the personnel committee meet via Zoom before the August meeting. Mr. Dorsey concurred that the committee could meet via Zoom and then on August 24<sup>th</sup> he offered that the Boundary Commission hold a closed meeting via Zoom at 4 or 4:30 pm to discuss what the personnel committee recommended. Mr. Uchitelle asked where the regular meeting will be held on the 24<sup>th</sup>. Ms. Dougherty replied that she didn't have that location determined yet. Mr. Mooney suggested that 4:30 might not be the best time for the Commission's closed meeting to discuss the personnel committee recommendations. Chairman Wegert directed Ms. Dougherty to send a survey relating to when is best for the personnel committee to meet and when to hold the closed Commission meeting before the August 24<sup>th</sup> meeting.

## OLD BUSINESS

### A. BC2201 City of Manchester Annexation proposal.

Chairman Wegert started discussion on BC2201 by stating he was open on how the group wanted to handle this. Mr. Uchitelle said he had quite a few questions. He said he looked at the statute 72.403 (3) and the eleven factors. He read "In reviewing any proposed boundary change, the commission *shall* approve such proposal *if* it finds that the 1) boundary change will be in the best interest of the municipality (Manchester) and 2) unincorporated territories affected by the proposal and 3) the areas of the county next to such proposed boundary. Mr. Uchitelle asked if the Commission had to find in favor of all three factors or if the Commission found in favor of two factors does the proposal pass?

Mr. Hart replied there is no case law that would give an answer to Mr. Uchitelle's questions.

Mr. Uchitelle asked if the remaining unincorporated area in this situation was the three resulting pockets or the rest of the county?

Mr. Hart answered that the Statute isn't clear. He says it doesn't specify how much of the remaining unincorporated area is supposed to be considered. Mr. Hart stated he feels there is a lot of discretion for the Boundary Commission to use in determining overall if it's in the best interest of the county.

Mr. Uchitelle felt from his interpretation that it needs to be positive for all three factors. Mr. Hart said he understands what Mr. Uchitelle is saying. Mr. Dorsey stated there is no clear guidance as the Commission is on its third iteration with at least twice before it was ruled unconstitutional. Mr. Uchitelle stated that the Commission has to use its best judgment. Many commissioners vocalized their agreement.

Mr. Uchitelle's second question – if there's a vote for the Commission to approve, can one of the affected parties sue? If there's a vote to disapprove, can one of the affected parties sue? Mr. Hart replied that the statute (72.416) says any interested party can bring an appropriate civil action against the commission regarding a proposed boundary change, unincorporated area proposal, or other commission action or failure to act. Mr. Uchitelle asked if

appeals occur before or after a vote by the electorate. Mr. Hart said the statute is very broad and doesn't include a time frame.

Mr. Uchitelle asked what happens in a split vote and how many commissioners are on the commission. Ms. Dougherty stated that 8 of the 11 seats are filled. The 3 joint appointment seats are vacant. Mr. Uchitelle said those vacancies could be filled tomorrow. Mr. Hart said it takes a majority to pass a motion. Mr. Wegert affirmed if there's a tie, the motion would fail.

Mr. Uchitelle asked for clarification on how the Commission is to address the portions of the proposal that have requested to be in Town and Country and not in Manchester. Mr. Hart said before any Commission vote, Manchester has a right to amend its proposal (which could include needing a new legal description etc.). The statute says it could be minor or major. Manchester could amend its proposal before the Commission's vote and the Commission would decide if it wanted to accept the amended proposal. If Manchester amended their proposal, it would be up to the Commission to decide if it was a minor change or major amendment (triggering a new public hearing for example).

Chairman Wegert asked Ms. Dougherty if there were any precedents that would be similar. Ms. Dougherty gave examples of two previous proposals that had been submitted to the Commission. The first example was the City of Grantwood Village who in 2010 submitted a proposal that included part of Cor Jesu high school athletic fields. At the first public hearing, Cor Jesu requested their athletic fields be removed from the proposal. Grantwood Village agreed and amended their plan. There was a second public hearing because the Commission determined it was a major amendment to the original plan of intent. Ultimately, that proposal was not approved by the Commission.

The second example was Florissant's Area 13 proposal submitted in 2008 for an area that included a golf driving range. The Commission felt the inclusion of the driving range didn't lend itself to logical boundaries and explained so in its Summary of Decision disapproving the proposal. Florissant resubmitted the Area 13 proposal without the driving range in 2010 which the Commission then approved and sent to a public vote. It failed at the ballot box.

Mr. Uchitelle asked about the rejected last-minute attempt to have Des Peres take the unincorporated pockets that are being left if this proposal is approved and is successful. Mr. Hart said those three pockets are not part of any proposal to be annexed. If the Manchester proposal is approved as is, St. Louis County and Manchester could do a boundary adjustment of some sort or Manchester would have to wait until the next proposal cycle to include those areas in their map plan to annex them.

Mr. Uchitelle referenced Manchester's history of annexations. He asked if the current proposal is similar geographically to the earlier one. Mr. Hart stated the proposals are on the website. Ms. Dougherty stated she'd brought the

website up on the screen in the room and showed earlier Manchester proposals delineating those submitted during the current iteration of the Commission and what was submitted in earlier Commissions (attributed as HISTORICAL on the website). Mr. Hart stated St. Louis County's rebuttal had a map overlay (map 4, page 5) showing the two proposals and their similarities and differences. Mr. Uchitelle asked if there were any appeals from the 2004 proposal's rejection. Ms. Dougherty said there hadn't been.

Mr. Uchitelle asked if Commission had any authority or discretion to request any changes or amendments to a proposal. Mr. Hart said the statute gave the Commission authority to request changes but didn't outline how big or small those changes could or should be. Chairman Wegert interjected if the Commission is requesting changes to a proposal that would be showing a bias and the Commission needed to be neutral. Mr. Hart agreed the Commission is not supposed to have a bias but there is some discretion allowed in the statute. Mr. Dorsey stated if the Commission returns a proposal to a city (before rendering a decision on it) asking the city to remove sections and resubmit, the Commission would be opening itself up to all sorts of challenges but if in the Summary of Decision, the reasoning is outlined, the city can decide if they want to resubmit a proposal in the future with those changes. Mr. Hart said to answer Mr. Uchitelle directly, there is discretion in the statute to remedy minor portions of the proposal (e.g., a legal description) but the statute doesn't describe what 'minor' is.

Mr. Hart reminded the Commission that if someone files a lawsuit against the Commission regarding a decision, under the Administrative Procedures Act, the proceedings in court can include evidence not already presented to the Commission. Chairman Wegert stated the Commission should stay in its lane and not get in the business of shaping submitted proposals. The Commission should evaluate what is before it and render its decision on that. Ms. Schweitzer agreed the Commission should not tell a city if you do A,B,C with your proposal, we will vote for it.

Mr. Uchitelle asked again about the question of meeting all three elements (good for the city, the county, and the unincorporated area).

Mr. Dorsey stated he wasn't thrilled how Manchester glossed over the business tax. Mr. Dorsey reached out to a business in Manchester that his tax annually is 1/10<sup>th</sup> of 1 percent of gross sales. The area to be annexed has a significant number of businesses that will be subject to that tax. Mr. Dorsey was surprised that no business owners from the area showed up to the public hearing as compared to Valley Park's public hearing. Mr. Dorsey asked if they'd been notified. Ms. Dougherty stated the Commission notifies the registered voters in the targeted annexation area via postcard.

Mr. Dorsey stated he doesn't like the areas that are being left out and realizes Manchester can add them in the next map plan/proposal cycle. Mr. Dorsey said he knows St. Louis County is always against annexations. Mr. Dorsey

said he had requested from Mr. Trimble data on the police calls and that he hadn't received it. How many of the 360 police calls were actual police or fire or EMS?

Mr. Dorsey said he read every written comment. He stated that some of the commenters want the commission to do the heavy lifting and not send it to a vote. He said self-determination is democracy but that he had not made up his mind and wasn't asking the commission to vote on it today. Mr. Uchitelle stated to let people decide by vote it would need to meet the three factors plus the eleven points. Mr. Dorsey said the Commission would have to find the proposal met all the factors. There was some discussion on the County Election board deadlines

Mr. Uchitelle asked if the Commission could request that Manchester send a notice to the businesses. Mr. Hart responded it would be up to the Commission to decide if it was appropriate to ask but that the statute required notifications to be sent to the registered voters. Chairman Wegert said it would be better to ask Manchester to explain how Manchester had notified the businesses in the annexation area.

Commissioners discuss the mix of comments asking for the Commission to stop the proposal and for asking it to go straight to a vote.

Mr. Mooney said he had stats from the public hearing: 1) from those who lived in the annexation area --4 spoke in favor and 10 spoke against. 2) Of those who live in Manchester --6 spoke for it and 1 against. He didn't include any government officials. Ms. Schweitzer said she had broken down the numbers from the written comments. One batch had over 100 letters and of those 95 expressed no desire to be annexed. She said those were from people who were currently living in the unincorporated area. Of that batch those who were in favor already lived in Manchester and had been annexed previously.

Chairman Wegert said he was impressed with the volume of comments and to have so many engaged in the process.

Ms. Schweitzer commented on Manchester's intention to rebate the increase in property taxes to the annexed areas. Mr. Uchitelle wondered if that would be binding on any future board of alderman.

Mr. Schneider's question is related to the entire county. He would like to know if the proposal is revenue neutral to the entire sales tax pool. Commissioners agreed this is a question they should ask both entities.

Chairman Wegert stated he would like the Commissioners to submit their questions for Manchester and St. Louis County to Ms. Dougherty in the next two weeks to be sent to both parties in one letter.

Mr. Schneider's follow up question what assurances would be given to the pool cities that if the proposal is revenue neutral that it remain neutral. Discussion followed about point-of-sale cities and pool cities.

Mr. Dorsey suggested giving the parties 30 days to respond to the questions.

Chairman Wegert asked if there was any more discussion as it was already 7:44 pm.

#### ADJOURNMENT

Mr. Dorsey made a motion to adjourn. Mr. Uchitelle seconded the motion. Voice vote: Ayes, All. Nays, None. *The motion passed.* The meeting was adjourned at 7:44 p.m.

Respectfully submitted,  
Michelle Dougherty  
Executive Director

Approved: August 24, 2022