

Before the Boundary Commission, St. Louis County, Missouri

In re: Proposal of the City of Fenton

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) File No. BC9803
) Southeast Area
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**Summary and Decision of the Boundary Commission, St. Louis County
June 16, 1998**

Summary of Facts:

The Boundary Commission, St. Louis County gathered the following facts:

On February 27, 1998 a proposal requesting a simplified boundary change (hereinafter referred to as the "official submittal") by the City of Fenton (hereinafter referred to as the "municipality") was submitted to the Boundary Commission (hereinafter referred to as the "Commission") at its office, pursuant to the Rules of the Commission in effect as of December 3, 1996. The official submittal contained the information required of all proposals as found in Article III(A) of the Rules. Additionally, the official submittal contained the following information required under the Rules for boundary change requests involving the annexation of unincorporated territory to a municipality through a simplified boundary change.

- A. Article III B(1a) - Verified petition
- B. Article III B(1b) - Signature list of fee owners not signing the petition
- C. Article III B(1c) - Legal opinion for simplified boundary change proposals
- D. Article III C(1) - Certification of 15% Adjacent
- E. Article III C(2) - Ordinance providing for Annexation
- F. Article IV C - Copy of Budget and Audit Report
- G. Article IV D - Statement regarding Fire Service

On April 14, 1998 a public hearing was conducted by the Commission regarding the official submittal.

The area proposed to be annexed consists of approximately 815 acres of residential, commercial and undeveloped land. It is contiguous to the City's southeast boundary, generally bounded on the north by the City of Fenton, the west by Missouri Highway 30, the south by the St. Louis County/Jefferson County borderline and on the east by the southwestern bank of the Meramec River. A map showing the location of the area proposed to be annexed is attached as Exhibit "A" and is the same map as presented in the proposal by the municipality.

The proposal to annex this area to the City of Fenton was initiated by the submission of

notarized petitions from more than 75% of the residential property owners of all fee interests of record in that area. The City offered evidence of the growth in the area to be annexed through the addition of residential uses. More than a quarter of the area remains undeveloped because the land offers significant physical challenges to development. The City presented evidence that this area could develop as retail/commercial. Financial projections were made based upon a scenario which is status quo and the development of commercial/retail/residential uses.

The following information, basic to the area, was either provided to the Commission by the municipality in their official submittal, concluded from that information, or provided by other sources including the report submitted by St. Louis County Department of Planning.

BASIC ANNEXATION INFORMATION DATA	
<i>Area</i>	815 acres
<i>Population (most recent census)</i>	119
<i>Dwelling Units</i>	46
<i>Dwelling Units per Three Acres</i>	0.17
<i>Total Assessed Valuation</i>	\$5,882,919

INFORMATION REGARDING ANNEXATION AREA AS AN UNINCORPORATED POCKET	
Criteria	Finding
Average residential density in excess of one dwelling per three acres	The area has an average residential density less than one dwelling per three acres.
Population of less than five thousand (5,000) people	The area has a population less than 5,000 people.
Accessible by public or private roadways only from incorporated jurisdictions and/or another county	The area is accessible from unincorporated St. Louis County.

Evidence was presented concerning some of the demographic changes since the most recent Census (1990). Based upon a 1997 estimate, the number of "dwelling units" increased to 152 single family and 112 multiple family units and the "population" increased to 618.

FACTOR 1

(Impact, including but not limited to the impact on the tax base or on the ability to raise revenue)

City of Fenton declarations:

The City of Fenton does not levy a real estate or personal property tax, in addition to the St. Louis County property tax of \$.58/\$100 assessed valuation. Nor does the City impose a business license fee or "residential" utility tax. However, there is a 5% utility tax which is applied to commercial property, which is the same as St. Louis County. The City fully subsidizes solid waste disposal, including recycling. The City argues that the proposed annexation will offer equal, if not superior, subsidized services. The City further states that the annexation would have a positive impact on adjoining areas, because of its overall ability to increase the tax base for both the City and County and to put into place infrastructure to benefit the area. The City estimated the additional cost to provide services to the area to be annexed is \$231,254 if it remains undeveloped and \$580,588 if it does develop. They project a first year operating loss of \$76,706 if the area remains undeveloped and \$14,506 if developed.

St. Louis County declarations:

The County stated that if the area develops, taxing jurisdictions other than Fenton will not benefit from the annexation, except St. Louis County. The County will benefit if the area develops. The County stated they would lose revenues from per capita tax generations such as the gasoline tax, cigarette tax and motor vehicle taxes.

FACTOR 2

(Legal Description of Area)

For the legal description of the area subject to the boundary change proposal, the municipality submitted the document attached hereto as Exhibit "B" and generally described as "Southeast Annexation".

FACTOR 3

(Ability to accommodate orderly incorporation in the County)

On the ability of the proposal to accommodate the orderly incorporation in the County, the City of Fenton represented that the annexation area lies well within the geographic influence of the City. This simplified boundary change would not create any unique servicing arrangements or technical service delivery problems. It contains no overlapping boundaries or conflicts with other jurisdictions. The City represented that the boundaries were logical and the resulting annexation would provide greater jurisdictional order to the community.

FACTORS 4 and 5

(Present level of major services and proposed time schedule for delivery of services)

On the present level of major services and the proposed time schedule to provide those

services, the Boundary Commission received the following evidence.

Provision of Services					
Service	Service Unchanged	Service Changed			
		Present Provider	Fee	New Provider	Fee
Police Services		St. Louis County	No	Fenton ¹	No
Fire/EMS/ALS Service	No Change				
Water Service	No Change				
Sewer Service ²	No Change				
Street Maintenance		St. Louis County	No	Fenton	No
Utility Agreements		St. Louis County	No	Fenton	No
Parks Service		St. Louis County	No	Fenton	No
Recreation Service		St. Louis County	Yes	Fenton	Yes
Refuse Service		Property Owner	Yes	Fenton	No
Sidewalk Maintenance		St. Louis County	No	Fenton	Yes
Street Lighting		Property Owner	Yes	Fenton	No
Code Administration		St. Louis County	Yes	Fenton ³	Yes
Planning & Zoning		St. Louis County	No	Fenton	No
Municipal Court		St. Louis County	No	Fenton	No
Health Services	No Change				

The City stated that all services would be provided upon the effective date of the proposed boundary change. As for solid waste services, the City has indicated that where it applies, it will comply with RSMO §260.247, which under certain conditions, prohibits the City from providing solid waste services to newly annexed residents for a period of two years following annexation.

FACTORS 6 and 7
(Current tax rates of area and sources of revenue)

On the current tax rate of the area subject to the proposal and the sources of revenue of the area subject to the proposal, the Boundary Commission received the following evidence:

¹The City of Fenton has a full service police contract with St. Louis County.
²The City of Fenton subsidizes the MSD charges to its residents.
³The City of Fenton contracts with St. Louis County for inspection services.

Change in Tax Rates for Property and Utility Taxes after Annexation

The City of Fenton levies neither a real estate property tax nor a personal property tax, though the residents of this area will continue to pay the St. Louis County rate of \$.58/\$100 assessed valuation. There is no residential utility tax, as compared to 5% in St. Louis County; however the commercial rate of 5% will remain the same. There is no change in the cable TV franchise rate of 3%.

Revenue, Cost and Balance Estimates after Annexation¹

Source of Revenue	Estimated New Revenue/Costs After Annexation ²	
	Current Without Development	Current With Development
Utility Tax	\$3,193.00	\$3,193.00
Cable T.V. Franchise Tax	\$119.00	\$119.00
Pool Sales Tax	\$12,913.00	\$12,913.00
Capital Improvement Tax	\$127,144.00	\$503,948.00
Road Fund	\$4,417.00	\$4,417.00
County Road and Bridge Tax	\$6,177.00	\$22,416.00
Cigarette Tax	\$533.00	\$533.00
Estimated Total New Revenue from Annexation Area	\$154,548.00	\$566,082.00
Estimated Cost of Extending Service to Area (First year of a three year projection)	\$201,754.00	\$533,588.00
Estimated Net Surplus (Deficit)	(\$76,706.00)	(\$14,506.00)

FACTOR 8

(Extraordinary effect of the boundary change on distribution of tax resources)

Regarding the extraordinary effect the boundary change will have on the distribution of tax resources in the County, the Boundary Commission received the following evidence:

The City stated the annexation would have only a minimal impact on the tax resources of St. Louis County. Net tax resources for both the City and the County would increase with future development.

¹First full year after annexation.

²Revenues and costs associated with annexation area.

From the evidence submitted, there appears to be a discrepancy between the data offered by the City of Fenton and St. Louis County concerning gross revenue loss to the County due to the annexation. The City of Fenton indicated the loss to be \$52,234, while St. Louis County indicated \$140,761.36. The discrepancy between the proposal and the report of the County is the City was unable to obtain and did not include lost utility gross receipts tax revenue, while the County was using a different population basis to calculate per capita tax generators.

FACTOR 9
(Current and Proposed Zoning)

As to how the municipality proposes to zone the area proposed for annexation, the following evidence was submitted to the Boundary Commission:

Proposed Zoning - Southeast Area Annexation			
County Zoning Classification	Proposed Fenton Zoning Classification	Proposed Zoning Classification New or Existing	Timing for Transition
NU - Non-Urban (3AC)	R-1 - Residential (1AC)	Existing	Upon Annexation
R-1 - Residential (1AC)	R-1 - Residential (1AC)	Existing	Upon Annexation
R-2 - Residential (15,000 sq. ft.)	R-3 - Residential (10,000 sq. ft.)	Existing	Upon Annexation
R-3 - Residential (10,000 sq. ft.)	R-3 - Residential (10,000 sq. ft.)	Existing	Upon Annexation
R-6A - Residential	OT - 4 - Planned Multi-Family Residential	Existing	Upon Annexation
PS - Parks/Service	PR - Parks & Recreation	Existing	Upon Annexation
C2 - Shopping	C-2 - Commercial	Existing	Upon Annexation
C-3 - Shopping	C-2 - Commercial	Existing	Upon Annexation
C-8 - MXD	C-2 - Commercial	Existing	Upon Annexation

The City stated that it intends to closely align the current St. Louis County zoning with the existing City's zoning districts. Although the City no longer has a Non-urban (NU) district, it has available a R-1 classification which is not more restrictive upon the property. If development proceeds, the property owner would be required to submit a request to change the zoning of that portion under their control. The request would be referred to the Fenton Planning and Zoning Commission for recommendation, with approval or denial resting with the Board of Aldermen.

The City stated that no non-conforming uses will be created as a result of the proposed zoning changes. They further stated that they do not anticipate that any lot or building will be rendered non-conforming by the zoning changes.

The County Flood Plain Overlay districts will be enforced by Ordinance #1872, the City of Fenton's Flood Plain Management regulations, which ensure that development is built at or above the 100-year flood plain.

The City cited the Wintergreen Estates Subdivision as the only on-going development project. Because inspectional services are provided under contract by St. Louis County, the annexation would not affect these services.

St. Louis County declarations:

The County stated that the City of Fenton does not have an "NU" district. The use of an R-1 designation is most restrictive. Applying it universally does not take into consideration the situations where significant non-urban uses have been established. It is also unclear what would be the zoning designation for the multi-family residential complex, Polo Downs. (Fenton responded that its OT-4, Planned Multi-Family Zone district would apply to this complex.)

FACTOR 10
(Compactness of area)

As to how the proposal addresses the compactness of the area subject to proposal, the following evidence was provided the Boundary Commission:

The City of Fenton declarations:

There are no discernible features which serve as obstacles to service delivery. The annexation area is 26.7% contiguous to the current city limits of Fenton, and the residents petitioned the City indicating the existence of a community of interest.

The area to be annexed is served by three main arteries - State Highway 30 on the west, State Highway 141 through the center and South Old Highway 141 on the east. The area to be annexed is adjacent to the Fenton commercial district, Olde Towne. It serves as a natural link between the existing city and the area to be annexed.

FACTOR 11
(When boundary change to become effective)

Regarding the effective date of the proposed boundary change, the following evidence was presented to the Commission:

The change will become effective as soon as it is legally permitted under the Boundary Commission rules and regulations and State Statutes. The City of Fenton requested the proposal be approved without a vote for the following reasons:

- ▶ the required number of property owners of the subject properties have signed petitions requesting the City of Fenton annex the area, indicating the necessary support;
- ▶ the subject area will have no adverse impact on the financial resources of the existing City. Opposition, if any, from existing residents would be negligible.

DECISION

The City of Fenton, as a proposing agent (§72.400(4) of the Revised Statutes of the State of Missouri) submitted a proposal (BC9803) for a boundary change over which the Boundary Commission has jurisdiction.

The boundary change sought by the municipality is an annexation governed by Chapter 72 RSMo.

After reviewing the entire record, the Boundary Commission, St. Louis County voted on June 2, 1998 at an open public meeting by a roll call vote, and the proposal was **APPROVED**. Those members voting for the boundary change believed the information in the proposal to be most credible, and therefore found:

- A. The proposal is in the best interest of the municipality.
- B. The proposal is in the best interest of the unincorporated territories affected by the proposal.
- C. The proposal is in the best interest of the areas of the County next to such proposed boundary change.

The Commission determined pursuant to Article X E(1) of the Commission's Rules that the proposal is approved as a simplified boundary change, and further, that no election is required. The effective date of the change will be July 21, 1998.

ATTEST:


Chairperson

Date June 16, 1998