

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Gerald J. Isaacs	Chairman
Robert W. Johnson	Vice Chairman
Thomas J. Simmons	Member
Carol Kamper	Ex-Officio Member
Gerald Tiedeman	Ex-Officio Member

 IN THE MATTER OF THE PETITION FOR)
 ANNEXATION OF CERTAIN LAND TO THE)
 CITY OF ROCHESTER)

BINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

 The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on December 21, 1977 and February 21, 1978 at Rochester, Minnesota. The hearing was conducted by Chairman Gerald J. Isaacs pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were County Commissioners Carol Kamper and Gerald Teideman, ex-officio members of the Board. The City of Rochester appeared by and through Gerald Swanson, the Township of Rochester appeared by and through Franklin Michaels, and the petitioners appeared pro se. Testimony was heard, and records and exhibits were received.

After due and careful consideration of all evidence, together with all records, files and proceedings the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

On September 21, 1977, a copy of a petition for annexation by all the property owners was filed with the Minnesota Municipal Board. The petition contained all the information required by statute including a description of the territory subject to annexation which is as follows:

That part of the Northeast Quarter of Section 14, Township 106, Range 14, Olmsted County, Minnesota, described as follows, to-wit:

Commencing at a point on the west line of said Northeast Quarter a distance of 1,423.24 feet south of the Northwest corner thereof for a place of beginning, thence East a distance of 1,663.85 feet to the center of U.S. Highway No. 63, thence in a southerly direction along center line of said highway to a point where same intersects south line of said Northeast Quarter, thence West along south line of said Northeast Quarter to the Southwest corner thereof, thence North on the West line of said Northeast Quarter to the place of beginning, excepting therefrom the following parcels: (1) That part thereof platted as Hilmer's Highview Acres No. Two; (2) Commencing at the Southwest corner of said Northeast Quarter of Section 14, Township 106, Range 14, thence East along the South line of said Northeast Quarter a distance of 1,599 feet to the center line of Trunk Highway no. 63, thence North 2°4' East along the center line of said Trunk Highway No. 63 a distance of 593 feet for a place of beginning, continuing thence North 2°4' East a distance of 225 feet, thence West parallel with the South line of said Northeast Quarter a distance of 290.4 feet, thence South 2°4' West a distance of 225 feet, thence East parallel with the South line of Said Northeast Quarter a distance of 290.4 feet to the place of beginning; and (3) That part of said Northeast Quarter, Section 14, Township 106, Range 14, described as follows: Commencing at the intersection of the center line of Trunk Highway 63 as now located and the South line of the above tract for a place of beginning, thence Northeasterly along said center line 400.0 feet, thence West parallel with said South line 225.0 feet, thence Southwesterly 400.0 feet to said South

line, thence East 225.0 feet to the place of beginning and (4) That parcel of land lying west of the east line of Hilmer's Highview Acres No. Two extended southerly to the south line of the above described tract. Subject to covenants, easements, and restrictions of record.

An objection to the proposed annexation was received by the Minnesota Municipal Board by Rochester Township on September 15, 1977. The Municipal Board upon receipt of this objection conducted further proceedings in accordance with M.S. 414.031, as required by M.S. 414.033, Subd. 5.

2. Due, timely and adequate legal notice of the hearing was published, served and filed.

3. Geographic Features

- a. The area subject to annexation is unincorporated and abuts the City of Rochester.
- b. The total area of the City of Rochester is 16.75 miles. The total area of the territory subject to annexation is 21.12 acres.
- c. The perimeter of the area to be annexed is bordered by the municipality by a small percentage.
- d. The natural terrain of the area, including general topography, major watersheds, soil conditions, rivers, lakes and major bluffs is as follows: Very poor soil, some high elevations.

4. Population Data

- a. The City of Rochester
 - 1) Past population growth: 53,766 in 1970
 - 2) Present population: 59,317
 - 3) Projected population: 85,130 in 2000
- b. The area subject to annexation has no population but will grow substantially as the area is developed.

5. Development Issues

- a. What, if any, are the plans for the development of the property proposed for annexation/and/or the annexing municipality, including development projected by the state planning agency. Rochester's land use plan shows this to be a residential area.
- b. What land use controls are presently being employed.
 - 1) In the City of Rochester
 - a. Zoning:- Yes
 - b. Subdivision regulations - Yes
 - c. Housing and building codes - Yes
 - d. Other - A Land Use Plan

- 2) In the area to be annexed:
 - a. Zoning - Yes, by the County
 - b. Subdivision regulations - Yes, by the County
 - c. Housing and building codes - Yes, by the County
- c. Does the city require future growth space? Yes. If so, will the area subject to annexation provide the City of Rochester with necessary growth space? Yes, particularly for residential developments.
- d. Development of the following types is occurring:
 - 1) In the City of Rochester all types of development is occurring.
 - 2) In the area subject to annexation: No development has yet occurred.
- e. What will be the effect, if any, of the annexation on adjacent communities: None/

6. Governmental Services

- a. Presently, the Township of Rochester provides the area subject to annexation with the following services:
 - 1) Water - No
 - 2) Sewer - No
 - 3) Fire Protection - Unknown
 - 4) Police Protection - Unknown
 - 5) Street Improvements - Yes
 - 6) Street Maintenance - Yes
 - 7) Recreational - Unknown
- b. Presently, the City of Rochester provides its citizens with the following services:
 - 1) Water - Yes
 - 2) Sewer - Yes
 - 3) Fire Protection - Yes
 - 4) Police Protection - Yes
 - 5) Street Improvements - Yes
 - 6) Street Maintenance - Yes
 - 7) Recreational - Yes
- c. Presently, the City of Rochester provides the area subject to annexation with the following services:
 - 1) Water - No
 - 2) Sewer - No
 - 3) Fire Protection - Unknown
 - 4) Police Protection - No
 - 5) Street Improvements - No
 - 6) Street Maintenance - No
 - 7) Recreational - No
- d. Plans to extend municipal services to the area subject to annexation include the following: All services, including utilities, can be extended to the area within a reasonable time except water will not be available for an indefinite period (1979 - 1983) in those areas above 1100'; however, said areas are an integral part of the area as a whole, and other city services will be available.

- e. There are existing or potential pollution problems which are: Very poor soils which would very likely create pollution problems if development was undertaken with septic tanks. The following additional services will help resolve this situation: Community sewer.

7. Fiscal Data

- a. In the City of Rochester, the mill rate as of 1978 is 105.25 and the bonded indebtedness as of 1978 is \$16,885,000.
- b. In the area subject to annexation, the assessed valuation as of 1978 is \$22,968.

8. Is annexation to the City of Rochester the best alternative.

- a. Could governmental services be better provided for by incorporation of the area subject to annexation? No.
- b. Could governmental services be better provided for by consolidation or annexation of the area with an adjacent municipality other than Rochester? No.
- c. Could Rochester township provide the services required? No, particularly utilities.
- d. Can Rochester township continue to function without the area subject to annexation? Yes.

9. A majority of property owners in the area to be annexed have petitioned the Minnesota Municipal Board requesting annexation.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
2. The area subject to annexation is now or is about to become urban or suburban in character.
3. Municipal government is required to protect the public health, safety, and welfare in the area subject to annexation.
4. The best interest of the City of Rochester and the area subject to annexation will be furthered by annexation.
5. The remainder of the Township of Rochester can carry on the functions of government without undue hardship.
6. There is a reasonable relationship between the increase in revenue for the City of Rochester and the value of benefits conferred upon the area subject to annexation.

7. Annexation of all or a part of the property to an adjacent municipality would not better serve the interests of the residents who reside in the area subject to annexation.

8. This annexation proceeding has been initiated by a petition of a majority of property owners and, therefore, this Minnesota Municipal Board order is not subject to an annexation election.

9. An order should be issued by the Minnesota Municipal Board annexing the area described herein.

O R D E R

IT IS HEREBY ORDERED: That the property described herein situated in the County of Olmsted, State of Minnesota, be and the same is hereby annexed to the City of Rochester, Minnesota, the same as if it had been originally made a part thereof:

That part of the Northeast Quarter of Section 14, Township 106, Range 14, Olmsted County, Minnesota, described as follows, to-wit:

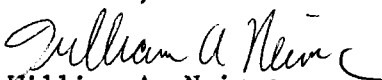
Commencing at a point on the west line of said Northeast Quarter a distance of 1,423.24 feet south of the Northwest corner thereof for a place of beginning, thence East a distance of 1,663.85 feet to the center of U.S. Highway No. 63, thence in a southerly direction along center line of said highway to a point where same intersects south line of said Northeast Quarter, thence West along south line of said Northeast Quarter to the Southwest corner thereof, thence North on the West line of said Northeast Quarter to the place of beginning, excepting therefrom the following parcels: (1) That part thereof platted as Hilmer's Highview Acres No. Two; (2) Commencing at the Southwest corner of said Northeast Quarter of Section 14, Township 106, Range 14, thence East along the South line of said Northeast Quarter a distance of 1,599 feet to the center line of Trunk Highway No. 63, thence North 2°4' East along the center line of said Trunk Highway No. 63 a distance of 593 feet for a place of beginning, continuing thence North 2°4' East a distance of 225 feet, thence West parallel with the South line of said Northeast Quarter a distance of 290.4 feet, thence South 2°4' West a distance of 225 feet, thence East parallel with the South line of said Northeast Quarter a distance of 290.4 feet to the place of beginning; and (3) That part of said Northeast Quarter, Section 14, Township 106, Range 14, described as follows: Commencing at the intersection of the center line of Trunk Highway 63 as now located and the South line of the above tract for a place of beginning, thence Northeasterly along said center line 400.0 feet, thence West parallel with said South line 225.0 feet, thence Southwesterly 400.0 feet to said South line, thence East 225.0 feet to the place of beginning and (4) That parcel of land lying west of the east line of Hilmer's Highview Acres No. Two extended southerly to the south line of the above described tract. Subject to covenants, easements and restrictions of record.

IT IS FURTHER ORDERED: That pursuant to M.S. 414.01, Subd. 11, this order is hereby stayed for a period of 30 days during which time any party of record may demand an oral review by the full Municipal Board.

IT IS FURTHER ORDERED: That the effective date of this order is May 24, 1978.

Dated this 24th day of April, 1978.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101


William A. Neiman
Executive Director