

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice-Chairman
Robert J. Ferderer	Member
Wesley R. Scheel	County Commissioner
Joseph D. Fogarty	County Commissioner

In the Matter of the Petition of
Certain Persons for Annexation of
Approximately 419 Acres of Land to
the City of Stillwater

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
ORDER FOR JUDGMENT

The above-entitled matter came on, duly, for hearing before the Minnesota Municipal Board, pursuant to the provisions of Chapter 414 of the Minnesota Statutes, on May 16, 1979, at Stillwater, Minnesota. The hearing was conducted by then Chairman Gerald J. Issacs, pursuant to Section 414.01, Subdivision 12, of the Minnesota Statutes and continued to July 12, 1979, August 23, 1979, August 24, 1979, and September 5, 1979, and reopened on March 21, 1980, and continued to April 18, 1980, and April 24, 1980. Also in attendance were: Minnesota Municipal Board Members Robert W. Johnson, Thomas J. Simmons, and Robert J. Ferderer (Mr. Ferderer was appointed to replace Mr. Issacs at the expiration of the latter's term of office on August 30, 1979; Mr. Ferderer attended hearings and meetings and Mr. Simmons served as Chairman after that date) and Washington County Commissioners, Wesley R. Scheel and Joseph D. Fogarty, ex-officio members of the Board.

The City of Stillwater appeared by its attorney, David T. Magnuson, of Turrentine & Magnuson, 5995 Oren Avenue North, Oak Park Heights, Minnesota 55082; the Town of Stillwater appeared by its attorney, W. E. Jepsen, of Jergens, Hebert, Cass, Jepsen & Doyscher, 118 South Main Street, Stillwater, Minnesota 55082; the petitioners appeared by their attorney Donald T.

Raleigh, of Lawson, Raleigh & Marshall, P.A., 3825 Lake Elmo Avenue North, Lake Elmo, Minnesota 55042.

Washington Federal Savings & Loan Association of Stillwater, Minnesota, appeared by its attorney, Harold D. Kimmel, of Kimmel & Holsten, 124 South 2nd Street, Stillwater, Minnesota 55082; and Arthur V. Palmer, et al appeared by their attorney, John H. Rheinberger, 104 North Main Street, Stillwater, Minnesota 55082.

FINDINGS OF FACT

I.

That on or about March 12, 1979, the petitioners, David S. and Sharon Johnson, Irene Swenson, William F. and Marie L. Heifort, Reuben and Gladys Granquist, Henry Amundson, William J. and Josephine Lecuyer, Tyra Thorene, and Beltram and Mae VanTassel, being all of the owners of the following described land, located in Washington County, Minnesota:

The South 850 feet of the West One-half ($\frac{1}{2}$) of West One-half ($\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 20, Township 30, Range 20. The East One-half ($E\frac{1}{2}$) of the West One-half ($W\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 20, Township 30, Range 20, except the Northerly 475 feet of the Westerly 450 feet thereof and that part of the East One-half ($E\frac{1}{2}$) of the West One-half ($W\frac{1}{2}$) of the Southwest Quarter ($SW\frac{1}{4}$) of Section 17, Township 30, Range 20, lying South of the center line of State Highway 96 except the Westerly 450 feet thereof.

The West One-half ($W\frac{1}{2}$) of the East One-half ($E\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 20, Township 30, Range 20. The West 284 feet of the East One-half ($E\frac{1}{2}$) of the East One-half ($E\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 20, Township 30, Range 20, lying Northerly and Westerly of the railroad right-of-way of Burlington Northern, Inc. The East One-half ($E\frac{1}{2}$) of the East One-half ($E\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 20, Township 30, Range 20, lying Southerly and Easterly of the railroad right-of-way of Burlington Northern, Inc.

AND

The Southwest Quarter ($SW\frac{1}{4}$) of Section 20, Township 30, Range 20, lying Southerly and Easterly of the railroad right-of-way of Burlington Northern, Inc. except the South 660 feet of the West 660 feet thereof.

AND

The Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 29, Township 30, Range 20, lying Northerly of the Southerly line of former Minneapolis & St. Paul Suburban Railroad Company right-of-way as acquired by deed recorded in Book W of Deeds, page 23, on December 21, 1871 and conveyed to M. J. Foley from the Minneapolis & St. Paul Suburban Railroad Company by deed recorded July 3, 1936, in Book 128 of Deeds, page 520, Office of Washington County Recorder.

AND

The West One-half (W $\frac{1}{2}$) of Southeast Quarter (SE $\frac{1}{4}$) of Section 20, Township 30, Range 20, except that part thereof which is now a part of the City of Stillwater and which exception is described as follows: Beginning at a point on the South line of Section 20, Township 30 Range 20, where it intersects the Easterly right-of-way line of the public road which runs in a Northwesterly direction along McKusick Lake; thence North 19°28' West along the Easterly line of the right-of-way of said road for 559.9 feet to a point, being on the boundary line between the Township of Stillwater and the City of Stillwater, thence West along said boundary parallel to the South line of said Section 20, to the West line of the East One-half (E $\frac{1}{2}$) of said Section 20, thence South along the West line of East One-half (E $\frac{1}{2}$) of said Section 20, to the South line of said Section 20, thence East along the South line of said Section 20, to the point of beginning, intending to exclude from this description that land now in the City of Stillwater.

The Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 20, Township 30, Range 20, lying Westerly of Stone Bridge Trail North except the South 110.8 feet of the East 625 feet thereof. The Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 20, Township 30, Range 20, except the following parcels:

- a. The North 220 feet of the South 610 feet of the East 85 feet of the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 20, Township 30, Range 20.
- b. The Easterly 625 feet of that part of the said Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) that lies northerly of the southerly 925 feet thereof.
- c. The Easterly 435 feet of the Northerly 275 feet of the Southerly 925 feet of the said Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$).

AND

The West One-half (W $\frac{1}{2}$) of the Northeast Quarter (NE $\frac{1}{4}$) Section 20, Township 30, Range 20, lying Southerly of the southerly railroad right-of-way line of Burlington Northern, Inc. and Westerly of Stone Bridge Trail North except commencing at the intersection of the center line of Washington County Road #55 and the North line of aforesaid Section 20, thence South 22°49' East along the centerline of County Road #55 and the centerline of County Road #5 a distance of 1801.84 feet to County Road #5 centerline

stationing of 12 plus 55 thence South 76°11' West a distance of 105 feet more or less to the Westerly right-of-way line of County Road #5 to the point of beginning thence continuing South 76°11' West a distance of 170 feet thence North 28°31'20" West a distance of 343 feet more or less to the Southerly right-of-way line of Burlington Northern Railroad thence Easterly along the Southerly right-of-way line of the Burlington Northern Railroad a distance of 245 feet more or less to the Westerly right-of-way line of County Road #5 thence Southeasterly along the Westerly right-of-way line of County Road #5 to the point of beginning.

The East One-half (E½) of the Northeast Quarter (NE¼) of Section 20, Township 30, Range 20, that lies Westerly of Stone Bridge Trail North,

filed a Petition with the Minnesota Municipal Board, pursuant to the provisions of Section 414.031 of the Minnesota Statutes, praying for the annexation of said land to the City of Stillwater. Said Petition was supported by a Resolution of the City of Stillwater, dated March 6, 1979; a certified copy of the Resolution was filed March 12, 1979, with the Petition.

Said Petition and Resolution, having been duly made under the provisions of said Statute were duly accepted by the Minnesota Municipal Board. The above-described tract of land contains approximately 422 acres.

II.

Due, timely and adequate legal notice of the hearing was published, served and filed. The notice of hearing for May 16, 1979, was mailed on or about April 16, 1979. The notice of hearing was published in the Stillwater Evening Gazette on April 24, 1979, and May 1, 1979.

III.

On January 7, 1980, petitioners filed with the Minnesota Municipal Board a Motion for Further Hearing and Petition to Increase the Area Proposed for Annexation. In addition to the original petitioners named in Paragraph I above, the Petition to Increase the Area Proposed for Annexation was signed by John W. and Linda K. Trent, Beltram Hodge and Barbara A. VanTassel. These persons, together with the original petitioners named in Paragraph I above, are owners of all of the following described land, located in Washington County,

Minnesota:

The South 850.00 feet of the West Half of the West Half of the Northwest Quarter of Section 20, Township 30 North, Range 20 West, Washington County, Minnesota.

Also, the East Half of the West Half of the Northwest Quarter of said Section 20, except the north 350.00 feet of the west 470.00 feet thereof.

Also, the West Half of the East Half of the Northwest Quarter of said Section 20.

Also, that part of the west 284.00 feet of the East Half of the East Half of the Northwest Quarter of said Section 20 lying northerly of the Burlington Northern Railroad right-of-way.

Also, that part of the Southeast Quarter of the Northwest Quarter of said Section 20 lying east of the Burlington Northern Railroad right-of-way.

Also, that part of the Southwest Quarter of said Section 20; except the south 660.00 feet of the west 660.00 feet thereof.

Also, that part of the Northeast Quarter of said Section 20 lying west of the center line of County State Aid Highway 5 as described in Book 316 of Deeds, on page 20 as recorded in the Office of the County Recorder, Washington County, Minnesota, and south of the Burlington Northern Railroad right-of-way; EXCEPTING therefrom that particular tract of land as described in Book 318 of Deeds, on page 487 as recorded in said Office of the County Recorder.

Also, that part of the Southeast Quarter of said Section 20 described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 01 degree 01 minute 12 seconds West, bearing oriented to the Washington County Coordinate System, South Zone, along the west line of said Southeast Quarter, a distance of 524.38 feet to the present northerly limit of the City of Stillwater and the point of beginning; thence continue North 01 degree 01 minute 12 seconds West along said west line 2110.17 feet to the northwest corner of said Southeast Quarter; thence South 89 degrees 54 minutes 09 seconds East along the north line of said Southeast Quarter, a distance of 2018.75 feet to the center line of County State Aid Highway 5 as described in Book 316 of Deeds, page 20 as recorded in the Office of the County Recorder, Washington County, Minnesota;

thence South 37 degrees 46 minutes 48 seconds East along said center line 565.39 feet to the westerly right-of-way line of the old U.S. Military Road; thence South 08 degrees 57 minutes 03 seconds East along said westerly right-of-way 637.17 feet; thence South 00 degrees 12 minutes 49 seconds East 121.71 feet to the north line of the south 124.30 feet of the Northeast Quarter of the Southeast Quarter of said Section 20; thence North 89 degrees 47 minutes 48 seconds West along said north line 437.65 feet; thence South 01 degree 11 minutes 03 seconds East 520.40 feet to the northwest corner of the tract described in Book 307 of Deeds, page 139 as recorded in said Office of the County Recorder; thence South 89 degrees 41 minutes 29 seconds East along the north line of said tract a distance of 190.00 feet to the northeast corner

of said tract; thence South 01 degree 11 minutes 03 seconds East along the east line of said tract a distance of 275.00 feet to the south line of the tract described in Book 73 of Deeds, page 376 as recorded in said Office of the County Recorder; thence South 89 degrees 41 minutes 29 seconds East along said south line 435.00 feet to the east line of said Southeast Quarter; thence South 01 degree 11 minutes 03 seconds East along said east line 650.00 feet to the south line of said Southeast Quarter; thence North 89 degrees 41 minutes 29 seconds West along said south line 1,728.62 feet to the easterly right-of-way line of McKusick Road and the present easterly limit of the City of Stillwater; thence North 20 degrees 16 minutes 17 seconds West along said easterly right-of-way line and said easterly limit a distance of 542.34 feet; thence northerly along said easterly right-of-way and said easterly limit and a tangential curve, concave to the east, having a radius of 730.94 feet and a central angle of 01 degree 22 minutes 35 seconds, a distance of 17.56 feet to said northerly limit of the City of Stillwater, thence North 89 degrees 41 minutes 29 seconds West along said northerly limit 721.99 feet to the point of beginning.

Also, that part of the Northeast Quarter of the Northwest Quarter of Section 29, Township 30 North, Range 20 West, Washington County, Minnesota, lying north of what was formerly the southerly right-of-way line of the Minneapolis and St. Paul Suburban Railway Company.

Said tract of land includes all of the land which was included in the original Petition and contains approximately 445 acres, or 23 acres more land than in the original Petition. Said Petition to Increase the Area Proposed for Annexation was supported by a Resolution of the City of Stillwater, dated January 24, 1980; a certified copy of said Resolution was filed with the Petition.

Said Petition and Resolution having been duly made and filed under the provisions of Chapter 414 of the Minnesota Statutes, the same was duly accepted by the Minnesota Municipal Board.

IV.

On February 7, 1980, the Minnesota Municipal Board, on its own Motion, expanded the area under consideration to include not only the area described in the original Petition and the increased area described in the Petition to Increase the Area Proposed for Annexation but, also, to include the

following described lands located in Washington County,
Minnesota:

Sections 17, 18, 19, 20, 21, 29 and 30, Township 30 North, Range 20 West: This property is encompassed by the following described line: Beginning at a point on the centerline of CSAH 5 and the present Northerly Corporate limits of the City of Stillwater; thence in a Westerly and Southerly direction on and along said present Corporate limits to the West right-of-way line of Northland Avenue; thence Northerly on said West right-of-way line to the centerline of CSAH 12; thence Easterly on said centerline to the Section line between Sections 29 and 30; thence North on said Section line to its intersection with the southerly right-of-way line of Boutwell Road North; thence Northwesterly on said right-of-way line to the Southerly extension of the westerly right-of-way line of Neal Avenue North; thence Northerly on said right-of-way line AND its extension to the centerline of T. H. 96; thence Southeasterly on and along said centerline to the Northerly extension of the centerline of CSAH 5; thence Southeasterly on said centerline to the point of beginning.

V.

Due, timely and adequate legal notice of the hearing to consider the expanded area for annexation was published, served and filed. The Notice for Hearing for March 21, 1980, was published in the Stillwater Evening Gazette on March 12, 1980, and March 19, 1980.

VI.

The following described tract of land, hereinafter referred to as the "Area Subject to Annexation" is land which was proposed for annexation in said Petitions; the petitioners are owners of all of said land, except that part thereof which is public road right-of-way.

VII.

The Area Subject to Annexation is legally described as follows:

The South 850.00 feet of the West Half of the West Half of the Northwest Quarter of Section 20, Township 30 North, Range 20 West, Washington County, Minnesota.

Also, the East Half of the West Half of the Northwest Quarter of said Section 20 except the north 350.00 feet of the west 470.00 feet thereof.

Also, the West Half of the East Half of the Northwest Quarter of said Section 20.

Also, that part of the west 284.00 feet of the East Half of the East Half of the Northwest Quarter of said Section 20 lying northerly of the Burlington Northern Railroad right-of-way.

Also, that part of the Southeast Quarter of the Northwest Quarter of said Section 20 lying east of the Burlington Northern Railroad right-of-way.

Also, the Southwest Quarter of said Section 20; except the south 660.00 feet of the west 660.00 feet thereof.

Also, that part of the Northeast Quarter of said Section 20 lying west of the center line of County State Aid Highway 5 as described in Book 316 of Deeds, on page 20 as recorded in the Office of the County Recorder, Washington County, Minnesota and south of the Burlington Northern Railroad right-of-way; EXCEPTING therefrom that particular tract of land as described in Book 318 of Deeds, on page 487 as recorded in said Office of the County Recorder.

Also, that part of the Southeast Quarter of said Section 20 described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 01 degree 01 minute 12 seconds West, bearing oriented to the Washington County Coordinate System, South Zone, along the west line of said Southeast Quarter, a distance of 524.38 feet to the present northerly limit of the City of Stillwater and the point of beginning; thence continue North 01 degree 01 minute 12 seconds West along said west line 2110.17 feet to the northwest corner of said Southeast Quarter; thence South 89 degrees 54 minutes 09 seconds East along the north line of said Southeast Quarter, a distance of 2018.75 feet to the center line of County State Aid Highway 5 as described in Book 316 of Deeds, page 20 as recorded in the Office of the County Recorder, Washington County, Minnesota:

thence South 37 degrees 46 minutes 48 seconds East along said center line 565.39 feet to the westerly right-of-way line of the old U.S. Military Road; thence South 08 degrees 57 minutes 03 seconds East along said westerly right-of-way 637.17 feet; thence South 00 degrees 12 minutes 49 seconds East 121.71 feet to the north line of the south 124.30 feet of the Northeast Quarter of the Southeast Quarter of said Section 20; thence North 89 degrees 47 minutes 48 seconds West along said north line 437.65 feet; thence South 01 degree 11 minutes 03 seconds East 520.40 feet to the northwest corner of the tract described in Book 307 of Deeds, page 139 as recorded in said Office of the County Recorder; thence South 89 degrees 41 minutes 29 seconds East along the north line of said tract a distance of 190.00 feet to the northeast corner of said tract; thence South 01 degree 11 minutes 03 seconds East along the east line of said tract a distance of 275.00 feet to the south line of the tract described in Book 73 of Deeds, page 376 as recorded in said Office of the County Recorder; thence South 89 degrees 41 minutes 29 seconds East along said south line

435.00 feet to the east line of said Southeast Quarter thence South 01 degree 11 minutes 03 seconds East along said east line 650.00 feet to the south line of said Southeast Quarter; thence North 89 degrees 41 minutes 29 seconds West along said south line 1728.62 feet to the easterly right-of-way line of McKusick Road and the present easterly limit of the City of Stillwater; thence North 20 degrees 16 minutes 17 seconds West along said easterly right-of-way line and said easterly limit a distance of 542.34 feet; thence northerly along said easterly right-of-way and said easterly limit and a tangential curve, concave to the east, having a radius of 730.94 feet and a central angle of 01 degree 22 minutes 35 seconds, a distance of 17.56 feet to said northerly limit of the City of Stillwater; thence North 89 degrees 41 minutes 29 seconds West along said northerly limit 721.99 feet to the point of beginning.

Also, that part of the Northeast Quarter of the Northwest Quarter of Section 29, Township 30 North, Range 20 West, Washington County, Minnesota lying north of what was formerly the southerly right-of-way line of the Minneapolis and St. Paul Suburban Railway Company.

Also, that part of the existing right-of-way of the public road known as "Neal Avenue North" abutting said lands.

VIII.

There was not sufficient evidence offered during said hearing with respect to any part of the area considered for annexation to justify or support the annexation of any part thereof to the City of Stillwater, except for that part thereof included within the area described herein as the "Area Subject to Annexation".

IX.

The land owned by Washington Federal Savings & Loan Association of Stillwater is not included in the Area Subject to Annexation because there was not sufficient evidence presented, by the City of Stillwater, as to the City's desire or capacity to provide municipal services to said land. The Board is, therefore, unable to make a determination as to whether or not the land owned by Washington Federal Savings & Loan Association of Stillwater is or is about to become urban or suburban.

X.

The following Findings of Fact are, accordingly, made with respect to the Area Subject to Annexation unless otherwise indicated by the context.

XI.

Geographic features:

- (1) The Area Subject to Annexation is unincorporated land located in the Town of Stillwater and abutting the City of Stillwater.
- (2) The total area of the City of Stillwater is 3,647 acres. The total Area Subject to Annexation is approximately 445 acres, exclusive of right-of-way.
- (3) Approximately 22% of the perimeter of the Area Subject to Annexation abuts the present boundary of the City of Stillwater.
- (4) The general topography of the Area, subject to annexation is rolling, glaciated topography with a maximum of approximately 80 feet of relief. The Area is located, primarily, within the Brown's Creek watershed, which is tributary to the St. Croix River. As a result, the drainage patterns of the Area are, generally, to the east into the City of Stillwater and towards the St. Croix River. There are no rivers, lakes or major bluffs within the Area Subject to Annexation; Lake McKusick, which is entirely within the present boundaries of the City of Stillwater, is immediately to the South and East of the Area. There are some marsh lands within the Area and, in some places, the ground water table is relatively high. The soil conditions of the Area vary a great deal; it contains sand, clay and a mixture of materials. There are no natural features of peculiar or extraordinary significance, except for Brown's Creek which is an existing trout stream running through the Area.

XII.

Population Data:

- (1) The population of the City of Stillwater in the year 1970 was 10,191 persons. The present estimated population of the City Stillwater, according to the April 1, 1979, estimates provided by the Metropolitan Council is 13,480 persons. In 1990, the projected population of the City of Stillwater is 13,500 persons.
- (2) In the Area Subject to Annexation there are presently eight single-family dwellings with 25 persons residing in the Area. It is projected that the Area Subject to Annexation will eventually contain approximately 400 dwelling units.

- (3) The population of the Town of Stillwater in 1970 was 990 persons. The present estimated population of the Town of Stillwater, according to the April 1, 1979, estimates provided by the Metropolitan Council is 1,430 persons. By 1990, the projected population of the Town of Stillwater is 3,600 persons.

XIII.

Development Issues:

(1) The pattern of physical development, including land already in use, in the process of being developed and remaining for various uses includes the following:

(a) Area in Use. Existing land use, in the City of Stillwater, as of March, 1979, is as follows:

<u>Land Use Type</u>	<u>Area in Acres</u>
Residential	1,258.5
Apartments & Nursing Homes (16.0)	
Duplexes (14.0)	
3-4 Units (3.9)	
1-Family (1,224.6)	
Commercial	34.0
Industrial	53.4
Utilities	1.3
Railroad	30.0
Schools	161.9
County	14.2
Federal	1.2
State	21.7
City	220.0
Parks (143.7)	
Semi-Public	159.6
Public Streets	765.2
Water Bodies	584.0
Vacant	369.0
	<hr/>
Total Acres	3,674.0

Existing land use in the Area Subject to Annexation, being approximately 464 acres, is presently primarily agricultural, in that most of the land is being used for pasture or summer fallow. Petitioner, David S. Johnson, testified as to his plans and proposals for development of the majority of the 464 acres which is now in pasture or summer fallow. There are eight residences within the Area and one automobile garage/towing

service being operated under a special use permit on a five acre residential tract of land.

Existing land use in the Town of Stillwater, which contains approximately 18 square miles of land, is, primarily, residential with most of the land being zoned for residential or agricultural uses.

(b) Area Being Developed. In the City of Stillwater there is currently some residential construction but most of it is remodeling since there is very little land available for residential construction. There is some commercial and industrial land being developed in the so-called Orderly Annexation Area.

There was no evidence presented as to the Area being developed in the Town of Stillwater.

(c) Area Remaining for Various Uses. In the City of Stillwater there is the following area remaining for various uses:

(1) Residential -	15 acres
(2) Institutional -	156 acres
(3) Commercial -	100 acres
(4) Industrial -	108 acres
(5) Agricultural -	0 acres

In the Area Subject to Annexation, there is approximately 410 acres, remaining undeveloped which is zoned for residential or agricultural use under the present Town zoning.

There was no evidence presented relating to the Area remaining in the Town of Stillwater for various uses.

(d) Transportation. The present transportation network in the City of Stillwater is adequate to serve all municipal needs. The City is bounded on the southern boundary for the most part by the Minnesota State Trunk Highway No. 212/36 and is also served by State Highway No. 95 and State Highway No. 96. The City of Stillwater is intersected by many County Highways, has an adequate number of collector streets that intersect with these highways to provide municipal residents with adequate transportation.

In the Area Subject to Annexation the residential street system will be designed and constructed, when developed, in accordance with the standards and specifications of the City of Stillwater. The transportation system in the Area Subject to Annexation can be readily integrated into the City of Stillwater's transportation system and will, then, be served by the same County and State Highways presently serving the City's transportation system. The evidence indicated a concern on the part of Town officials that the Town would be burdened with additional maintenance for the Town Road known as "Neal Avenue North" which abuts the Area Subject to Annexation. Other evidence indicated that the City of Stillwater was willing and able to maintain the abutting right-of-way of Neal Avenue. It accordingly appears that the right-of-way of Neal Avenue North, to the extent it abuts other lands being annexed, is appropriately included within the Area Subject to Annexation.

XIV.

Land Use Controls and Planning, including Comprehensive Plans in the City of Stillwater and the Area Subject to Annexation are as follows:

(1) The City of Stillwater currently has in effect, zoning and subdivision regulations and submitted as evidence at the hearing, the following documents:

- City Zoning Map
- City Comprehensive Sewer Plan
- City Water Main Base Map
- A Graphic of the City Policy on Expansion
- City Neighborhood Structure Plan Map
- A Graphic Showing Potential Future Boundaries
of the City
- City Zoning Ordinance

General City Plan and Neighborhood Map
City Comprehensive Plan

There was evidence that the City of Stillwater employs the Building Inspector, has adopted the Uniform Building Code, has a full time Public Safety Director which position has the supervisory capability over both the Police Department and the Fire Department. The City of Stillwater has a full time Fire Department that is complemented by volunteer help and a Police Department that has full time and reserve capabilities. The City also employs a full time Coordinator/Financial Director. The City supplements its staff by employing a Consulting Engineer, a Consulting Planner and by using the services, from time-to-time, of the Washington County Planning Department. The City also has a Parks and Recreation Department.

In addition to the said zoning and subdivision regulations, the City of Stillwater has a comprehensive City Code.

With its system of land use controls, and other regulations, and with its Fire Department, Police Department, Building Inspector, Planning Commission, Parks Department, Coordinator/Financial Director and its Consulting Engineer and Planners, the City of Stillwater provides full and adequate municipal services to its residents and is capable of providing municipal sanitary sewer and storm sewer services, municipal water service, fire protection, police protection, land use planning, land use regulations, building inspection, public park services, together with general municipal administration, to the Area Subject to Annexation.

The City of Stillwater also submitted evidence, in the form of a fiscal report on the operational fiscal impact of the proposed development in the Area Subject to Annexation and other evidence indicating that the City has the fiscal ability to provide all such services to the Area Subject to Annexation as well as the present areas of the City without adversely affecting its existing sound financial condition.

(2) The Town of Stillwater currently has in effect zoning and subdivision regulations, which are supplemented by the

zoning and subdivision regulations of Washington County. The Town of Stillwater does not have a Fire Department; it does not have a Police Department, but it does have part-time constables. The Town does not, now, provide any municipal sewer or water service and has no plan to provide such services in the future.

(3) All of the Area Subject to Annexation is included within the City of Stillwater's plans for expansion. The evidence indicates that the City's Comprehensive Sewer Plan (which has been approved by the Waste Control Commission) includes plans for extension of municipal sewer services into the Area Subject to Annexation. In fact, the evidence indicates that an orderly and sequential extension of municipal sewer services, to serve any expansion of the City of Stillwater, must first be extended into the Area Subject to Annexation. This is because the City's Comprehensive Sewer Plan contemplates that sewer services will be extended as the City grows, in a manner which will take advantage of topography to maintain, insofar as is possible, a gravity sewer system which is the most economical system possible. In order to maintain such system the sanitary sewer trunk lines must be extended, first, to the northwest into the Area Subject to Annexation.

The evidence further indicates that because there are some areas of relatively high water table within the Area Subject to Annexation, sound planning, from an environmental viewpoint, requires that the Area be developed with municipal sanitary sewer service (as opposed to on-site sewage disposal systems). Thus, the City's plans for extension of municipal sewer service into the Area Subject to Annexation appears to be in the best interests of the City and the general public, as well as the land within the Area Subject to Annexation, because the Town has no plans to provide such municipal sewer service to the Area Subject to Annexation.

XV.

Governmental Services:

(1) The evidence indicates that the Town of Stillwater provides few governmental services to the Area Subject to Annexation. It provides road maintenance on Neal Avenue North. Other roads serving the Area Subject to Annexation are County or State roads. The Town provides fire protection through contract with the City of Stillwater. It provides some police protection through its part-time constables.

The City of Stillwater currently provides its residents with the following listed services, all of which it is willing and able to provide to the Area Subject to Annexation.

(1) There is a complete municipal water department that is operated independently as a branch of the municipal government of the City of Stillwater.

(2) The City of Stillwater is the owner of laterals and interceptors providing complete sanitary sewer service and storm sewer service to the City of Stillwater. The laterals and interceptors owned by the City empty into a Metropolitan Waste Control Commission Sewer Plant located in the City of Stillwater. The sewer plant was constructed by the City of Stillwater in 1959 and has subsequently been expanded and its capacity increased and acquired by the Metropolitan Waste Control Commission. This system has more than adequate capacity to serve the Area Subject to Annexation.

(3) The City of Stillwater also has a Class 5 Fire Rating. It has a Fire Department that is comprised of full time and part time help, with two men on duty 24 hours a day. The reserve capacity of the Fire Department is complemented by approximately 30 volunteers. The Fire Department has 4 pumpers, a ladder truck, a rescue truck, a tanker truck and pickup trucks for the handling of small grass fires.

(4) The Police Department of the City of Stillwater is comprised of 14 full time policemen along with 12 part time officers. The Police Department has five marked squad cars and two unmarked cars and is connected to the Washington County Emergency Communications System which is a central clearing house for radio messages operated by the Washington County Sheriff's Office.

(5) There is a regular street improvement plan for the City of Stillwater wherein streets are sealcoated on a regular basis and needed improvements are made according to a street maintenance and improvement plan.

(6) Recreational facilities of the City of Stillwater include many and varied parks including Lowell Park adjacent to the St. Croix River in Downtown Stillwater and Pioneer Park located on the North Hill of Stillwater; a large ice arena which provides indoor ice facilities to various hockey teams and figure skating groups throughout the Washington County area. These facilities are managed by a Parks and Recreation Department.

(7) A public library is provided by the City of Stillwater which recently has undergone a large renovation to provide library facilities to the people of the City.

(8) Additional administrative services are provided in the City Hall of the City of Stillwater which houses a number of offices, including the services of a full time City Coordinator/Finance Director and the City Clerk's Office.

XVI.

There appeared to be no existing or potential environmental problems relative to the land included within the Area Subject to Annexation, except that there are certain areas which may have relatively high water tables and which might present a potential environmental problem if residential dwellings were

constructed on such lands with on-site sewage disposal systems; it appears that no environmental problem will exist as a result of these relatively high water table areas if the Area Subject to Annexation is served by municipal sanitary sewer.

XVII.

The plans and programs of the annexing municipality to provide needed governmental service for the area proposed for annexation include plans to continue to provide both police and Fire protection to the Area Subject to Annexation, in addition to plans for providing for the recreational and administrative needs of any residents of the Area Subject to Annexation, including providing any needed street improvements or street maintenance and furnishing the Area with sewer and water services.

XVIII.

Tax Base:

(1) In the City of Stillwater the tax base includes the following:

1. Residential property assessed in 1979 payable in 1980, was assessed at \$29,412,005.00.
2. Commercial property assessed in 1979 payable in 1980, was assessed at \$5,334,491.00.
3. Industrial property assessed in 1979 payable in 1980, was assessed at \$450,584.00.
4. Agricultural property assessed in 1979 payable in 1980, was assessed at \$81,470.00.
5. Non-taxable property, including institutional use, was last assessed in 1974 and has an assessed value of \$11,456,203.00.
6. Public Utility assessed in 1979 payable in 1980, was assessed at \$39,768.00.
7. Personal Property assessed in 1979 payable in 1980, was assessed at \$1,260,803.00.

(2) In the Town of Stillwater the tax base includes the following:

1. Residential property assessed in 1979 payable in 1980, was assessed at \$5,167,845.00.
2. Personal Property assessed in 1979 payable in 1980, was assessed at \$16,336.00.
3. Commercial property assessed in 1979 payable in 1980, was assessed at \$79,361.00.
4. There was no industrial property located in the Township and, therefore it was assessed at zero.
5. Agricultural property assessed in 1979 payable in 1980, was assessed at \$1,264,712.00.
6. Non-taxable property, including institutional use, was last assessed in 1974 at \$677,928.00.

(3). In the Area Subject to Annexation, the tax base includes the following:

1. Residential property assessed in 1979 payable in 1980, was assessed at \$98,801.00 generating \$610.63 in Township taxes. There was no commercial property, or industrial property and no non-taxable institutional property located in the Area Subject to Annexation.
2. Agricultural property assessed in 1979 payable in 1980, was assessed at \$101,375.00, generating \$626.52 in Township taxes.

(4). The total assessed value of the City of Stillwater, including real and personal property, assessed in 1979 payable in 1980, \$36,579.121.00.

(5). The total assessed value of the Town of Stillwater, including real and personal property, assessed in 1979 payable in 1980 is \$6,528.254.00.

(6). The total assessed value of the Area Subject to Annexation, including real and personal property, assessed in 1979 payable in 1980 is \$200,176.00.

XIX.

Tax Data:

(1) Mill Rate Trends:

		<u>Payable 1976</u>	<u>Payable 1977</u>	<u>Payable 1978</u>	<u>Payable 1979</u>	<u>Payable 1980</u>
City of Stillwater	Urban:	23.24	24.80	32.45	31.44	27.92
	Rural:	4.74	7.51	11.50	10.71	9.25
	Annex:		11.23	17.32	21.42	23.57
	Annex:			12.31	16.42	

	<u>Payable 1976</u>	<u>Payable 1977</u>	<u>Payable 1978</u>	<u>Payable 1979</u>	<u>Payable 1980</u>
Stillwater Township	7.26	7.58	7.28	6.40	6.18
School District 834	59.40	59.93	58.09	54.24	51.31
Washington City:	24.85	23.82	23.08	23.92	25.05
County Town- ship:	26.08	25.15	24.50	25.32	26.72

(2) Bonded Indebtedness:

- (a) City of Stillwater - \$5,439,000 outstanding on the year ended December 31, 1978.
- (b) Township of Stillwater - \$101,000 outstanding on the year ended December 31, 1978.

XX.

The City of Stillwater will bear increased costs as a result of this annexation. While the evidence indicates that the increased costs to the City will be offset by the increased revenues to be generated as the Area Subject to Annexation develops, the entire administrative and governmental functions of the City of Stillwater will be needed to provide services to this area even though only a portion of the tax attributable to the area will be returned to the City in each year and the full tax generated in the Area Subject to Annexation will not be returned to the City until five years from the date of this Order.

The evidence, also, indicates that the City of Stillwater has the fiscal ability to provide all municipal services required for the development of the Area Subject to Annexation so as to provide a level of services now provided in the City, including any additional services which will be required for the City as a whole because of the projected growth, without in any way adversely affecting its present, and historically sound, financial condition.

XXI.

The annexation of the Area Subject to Annexation to the City of Stillwater, is in the best interests of the land included within the Area Subject to Annexation, the City of Stillwater and the public, generally, because:

- (1) The Area Subject to Annexation is in the general area planned for expansion of the City of Stillwater, under existing regional and local plans, all of which is made evident by the Metropolitan Council's System Statement, the Comprehensive Sewer Plan of the City of Stillwater approved by the Metropolitan Waste Control Commission and the Metropolitan Council, the Comprehensive Plans of both the City of Stillwater and the Town of Stillwater.
- (2) If the City of Stillwater is to expand in an orderly and sequential manner, it is necessary that it expand, first, to the northwest in the direction of the Area Subject to Annexation because the extension of City sewer services must be in that direction in order to maintain an efficient gravity sewer system.
- (3) The City of Stillwater is ready, willing and financially able to extend Municipal Services to the Area Subject to Annexation in order to permit it to be developed for urban residential use.
- (4) There is no evidence that the annexation of the Area Subject to Annexation to the City of Stillwater will have any significant adverse effect on the Town or any of its residents.
- (5) The land within the Area Subject to Annexation is suitable for development, at least for urban residential uses because of its proximity to the City of Stillwater - particularly, because it is immediately in the path of any orderly and sequential expansion of the City of Stillwater.
- (6) It further appears that the City of Stillwater is in need of additional housing - particularly high-quality housing to complement its present abundance of low-cost housing. In order to meet the needs of the City, the Area Subject to Annexation should be annexed to the City and thereby made available so that the City can meet its need for additional housing if and when the property owners present a plan acceptable to the City for its development. In order to meet the City's need for additional housing, as that need is projected by local and regional planning, it is necessary that the City have sufficient suitable land available for that purpose. The land within the Area Subject to Annexation will help to meet that need if it is annexed to the City of Stillwater.
- (7) The land within that Area Subject to Annexation is, or is about to become urban or suburban.
- (8) It is the uncontested testimony of the petitioners that it would be within the best interests of the

land within the Area Subject to Annexation that it be annexed to the City of Stillwater.

- (9) The Town of Stillwater is unable to deliver a full range of municipal services to the Area Subject to Annexation.
- (10) There is no adjacent municipality, other than the City of Stillwater, which would be able to serve the interests of the residents of the Area Subject to Annexation.
- (11) All necessary governmental services can best be provided to the Area Subject to Annexation by its annexation to the City of Stillwater.
- (12) The present assessed valuation of the Town of Stillwater is \$6,528,254.00. The present assessed valuation of the Area Subject to Annexation is \$200,176.00.
- (13) The new assessed valuation of the Town of Stillwater, exclusive of other changes, after the Area Subject to Annexation is annexed to the City of Stillwater, would be \$6,328.070.00.
- (14) There is no evidence that the remainder of the Township of Stillwater would suffer any undue hardship as a result of the annexation of the Area Subject to Annexation to the City of Stillwater.
- (15) The Town of Stillwater can continue to function without the Area Subject to Annexation.
- (16) There is no evidence that the annexation of the Area Subject to Annexation to the City of Stillwater will have any adverse affect on communities adjacent to the Area or on Independent School District No. 834 which is the only school district within the Area. In fact, the evidence indicates that the said School District No. 834 will benefit by the availability of more land for urban residential development within its boundaries.

XXII.

Though the Area Subject to Annexation is, still, irregular in shape, its symmetry has been improved by including the 23 acres, more or less, added by the Petition to Increase the Area Proposed for Annexation. Though it is somewhat irregular, the Area Subject to Annexation does not extend beyond the West line of Sections 20 and 29, (which line is followed, generally, by the right-of-way of Neal Avenue North). The North line of the Area Subject to Annexation does not extend beyond the right-of-way of Trunk Highway 96.

Trunk Highway 96, on the North, and Neal Avenue, on the West, are logical boundaries for the present expansion of the City of Stillwater. The evidence indicates that the City of Stillwater has the ability, and is willing, to extend its municipal services to the Westerly limits of the Area Subject to Annexation. However, there is no evidence that the City has the present ability or desire to extend such services beyond the Area Subject to Annexation. Thus, the Westerly limits of the Area Subject to Annexation are a logical boundary for annexation, at this time.

The irregularity of the Area Subject to Annexation leaves some small tracts of land, around the periphery of the Area (which tracts were within the entire area considered for annexation by the Board) but, as stated above in these Findings, no evidence was presented as to the ability or desire of the City of Stillwater to provide municipal services to these tracts of land and there is, accordingly, no basis for determining whether they are about to become urban or suburban at this time.

It appears that it would be in the best interests of those peripheral tracts of land that they be excluded from annexation at the present. At such time as either the City, the Town or the owners of those tracts of land determine that they could best be served by annexation to the City of Stillwater, they may initiate proceedings for annexation.

The Board, accordingly, finds that the boundaries of the Area Subject to Annexation, while somewhat irregular, are logical and orderly boundaries for the present annexation in view of all of the factors considered by the Board.

XXIII.

That Neal Avenue North is a public road by use and operation of law and its right of way is not defined by deed.

XXIV.

The evidence before the Board shows that a majority of the property owners within the Area Subject to Annexation have petitioned the Minnesota Municipal Board for annexation.

CONCLUSIONS OF LAW

I.

The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

II.

The Area Subject to Annexation is now or is about to become urban or suburban in character.

III.

Municipal Government is required to protect the public health, safety and welfare in the Area Subject to Annexation.

IV.

The existing Town form of government is not adequate to provide the governmental services needed in the Area Subject to Annexation.

V.

Annexation to the City of Stillwater would be in the best interests of the Area Subject to Annexation.

VI.

The remainder of the Town of Stillwater can carry on the functions of government without undue hardship.

VII.

There is a reasonable relationship between the increase in revenue for the City of Stillwater and the value of benefits conferred on the Area Subject to Annexation.

VIII.

Because of potential increased costs, the City of Stillwater may qualify for a special levy.

IX.

There is no other adjacent municipality which could serve the Area Subject to Annexation and as a result, it should be annexed to the City of Stillwater.

X.

An Order should be issued by the Minnesota Municipal Board annexing the Area Subject to Annexation to the City of Stillwater.

XI.

A majority of the property owners in the area subject to annexation petitioned for annexation and, therefore, this Municipal Board Order is not subject to an annexation election.

ORDER

IT IS HEREBY ORDERED:

I. That the property described herein as the Area Subject to Annexation, all of which is located in the County of Washington, State of Minnesota, be and the same is hereby, annexed to the City of Stillwater, Minnesota, the same as if it had been originally made a part thereof.

II. IT IS FURTHER ORDERED: that the assets and obligations of the Township of Stillwater and the City of Stillwater being subject to the provisions of Minnesota Statutes 414.067, are apportioned as follows:

That the City of Stillwater will assume none of the bonded indebtedness of the Town of Stillwater and the Town of Stillwater will assume none of the bonded indebtedness of the City of Stillwater. Real estate taxes generated from the Area Subject to Annexation as a result of taxes payable in the year 1981 and subsequent years shall be collected for the City of Stillwater.

III. IT IS FURTHER ORDERED: That the population of the City of Stillwater has been increased by 25 persons by reason of this annexation and the population of the Township of Stillwater has been decreased by the same number of persons for all purposes until the next Federal Census.

IV. IT IS HEREBY ORDERED, that the Minnesota Municipal Board hereby retains jurisdiction for the purpose of allowing a special levy pursuant to Minnesota Statutes 414.01, Subdivision 15.

V. IT IS HEREBY ORDERED, that the effective date of this Order is September 19th, 1980.

Dated this 19th day of September, 1980.

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

A handwritten signature in cursive script that reads "Terrence A. Merritt".

Terrence A. Merritt
Executive Director