

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Robert J. Ferderer	Member
Robert Finbraaten	Ex-Officio Member
Richard P. Cummings	Ex-Officio Member

IN THE MATTER OF THE PETITION)	<u>FINDINGS OF FACT,</u>
FOR ANNEXATION OF CERTAIN LAND)	<u>CONCLUSIONS OF LAW,</u>
TO THE CITY OF AUSTIN)	<u>AND ORDER</u>

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on September 12, 1979, at Austin, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance was Municipal Board Member Robert J. Ferderer, County Commissioners Bob Finbraaten and Richard P. Cummings, ex-officio members of the Board. The City of Austin appeared by and through Kermit Hoversten, the Township of Austin appeared by and through Donald R. Sundberg, Township Treasurer. 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 May 15, 1979, a copy of a petition for annexation by the sole property owner 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:

Lots 1 and 2, block 3, Nob Hill First Addition, located in the Southwest Quarter of Section 4, Township 102 North, Range 18 West, according to the plat thereof recorded in Book 8 of Plats, page 53, in the office of the County Recorder of Mower County, Minnesota, including one-half of the street right of way adjacent to these lots.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Austin Township on June 18, 1979. 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.

A resolution supporting the annexation was not received from the annexing municipality.

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

III. Geographic Features

- A. The area subject to annexation is unincorporated and abuts the City of Austin.
- B. The total area of the City of Austin is approximately 5,317.096 acres. The total area of the territory subject to annexation is two acres.
- C. The perimeter of the area to be annexed is 332.28 feet bordered by the municipality.
- D. The natural terrain of the area, including general topography, major watersheds, soil conditions, rivers, lakes and major bluffs is: open rolling fields with some trees.

IV. Population Data

- A. The City of Austin:
 - 1. In July 1, 1976 there were 26,420 residents.
 - 2. The present estimated population is 26,420.
 - 3. By 1980, the projected population is N/A.
- B. The area subject to annexation:
 - 1. In July 1, 1979 there were 0 residents.
 - 2. The present estimated population is 0.
 - 3. By January 1, 1980 the projected population is 4.
- C. The Township of Austin:
 - 1. In 1976 there were 2,777 residents.
 - 2. The present estimated population is 2,777.
 - 3. By 1980, the projected population is N/A.

V. Development Issues

- A. The pattern of physical development, including land already in use, in the process of being developed, and remaining for various uses.

1. Area in Use

a. In the City of Austin:

- | | |
|-----------------------------|-----------------------------|
| 1. Residential: 1,685 acres | 4. Industrial: 250 acres |
| 2. Institutional: 250 acres | 5. Agricultural: 100 acres |
| 3. Commercial: 373 acres | 6. Vacant land: 1,015 acres |

b. In the area subject to annexation:

- | | |
|---------------------------|--------------------------|
| 1. Residential: 0 acres | 4. Industrial: 0 acres |
| 2. Institutional: 0 acres | 5. Agricultural: 0 acres |
| 3. Commercial: 0 acres | 6. Vacant land: 2 acres |

2. Area Being Developed

- a. In the area subject to annexation: the vacant land is presently being converted to residential, with the one residence presently being built thereon.

B. Transportation:

1. The present transportation network is:

- a) In the City of Austin: State, Federal and City Roads
b) In the area subject to annexation: State, Federal, and Township Roads

C. Land use controls and planning, including comprehensive plans, in the city and the area subject to annexation:

1. In the City of Austin:

- a. Zoning: yes
b. Subdivision Regulations: yes
c. Comprehensive Plan: yes
d. Official Map: yes
e. Capital Improvements Program: yes
f. Fire Code: yes
g. Building Inspector: yes
h. Planning Commission: yes
i. Other: Floodplain Management

2. In the Township of Austin

- a. Zoning: provided by Mower County Ordinances
b. Subdivision Regulations: provided by Mower County Ordinances
c. Planning Commission: provided by Mower County Ordinances

3. In the County of Mower:

- a. Zoning: yes
b. Subdivision Regulations: yes
c. Comprehensive Plan: yes
d. Planning Commission: yes

4. There is no inconsistency between the proposed development and the planning and land use controls for the area.

VI. Governmental Services

A. The Town of Austin provides the area subject to annexation with the following services:

1. Fire Protection and Rating: yes
2. Street Improvements: yes
3. Street maintenance: yes
4. Administrative services: yes

B. The City of Austin provides its residents with the following services:

1. Water: yes
2. Sewer: yes
3. Fire protection and rating: yes
4. Police protection: yes
5. Street improvements: yes
6. Street maintenance: yes
7. Recreational: yes
8. Administrative services: yes

C. The City of Austin provides the area subject to annexation with no services.

D. Existing or potential environmental problems and the need for additional services to resolve these problems: The lots proposed for annexation are not adequate for on-site sewage disposal systems.

E. Plans and programs by the annexing municipality to provide needed governmental services for the area proposed for annexation include: extending the in-place utilities as the need arises.

F. The following services will be available to the annexed area within two years: sewer, water, fire protection, police protection, and administrative services.

VII. Tax Base

A. In the City of Austin, the tax base includes the following:

1. Residential property in 1978 was valued at \$179,559,298.
2. Commercial property in 1978 was valued at \$30,537,20.
3. Industrial property in 1978 was valued at \$15,313,300.
4. Agricultural property in 1978 was valued at \$129,450.
5. Vacant land in 1978 was valued at \$506,000.

B. In the Township of Austin, the tax base includes the following:

1. Residential property in 1978 was valued at \$18,049,588.
2. Commercial property in 1978 was valued at \$1,239,400.
3. Agricultural property in 1978 was valued at \$11,483,300.
4. Vacant land in 1978 was valued at \$172,600.

VIII. Tax Data

a. In the City of Austin:

1. Mill rate in 1979 was 114.51.

b. In the Township of Austin

1. Mill rate in 1979 was 78.37.

c. In the area subject to annexation:

1. Mill rate in 1979 was 78.37.

d. Mill rate in Austin Township:

- 1) County in 1979 was 25.44.
- 2) School district in 1979 was 50.04.
- 3) Township in 1979 was 2.89.

IX. The annexation to the City of Austin is the best alternative.

- A. The purposed annexation will have no relationship and effect on area school districts and on adjacent communities.
 - B. The town government is inadequate to deliver the needed services to the area proposed for annexation as it develops residentially.
 - C. Necessary governmental services could not best be provided by incorporation or annexation to an adjacent municipality.
 - D. Austin Township can continue to function without the area subject to annexation.
- X. A majority of property owners in the area to be annexed have petitioned the Minnesota Municipal Board requesting annexation.
- XI. That the City of Austin is presently seeking funding to enable the person, filling the funded position, to work on developing an Orderly Annexation agreement between the City of Austin and the Town of Austin.

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 best interest of the area subject to annexation will be furthered by annexation.

V. The remainder of the Township of Austin can carry on the functions of government without undue hardship.

VI. There is a reasonable relationship between the increase in revenue for the City of Austin and the value of benefits conferred upon the area subject to annexation.

VII. 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.

VIII. Two years will be required to effectively provide full municipal services to the annexed area.

IX. 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.

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

O R D E R

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

Lots 1 and 2, block 3, Nob Hill First Addition, located in the Southwest Quarter of Section 4, Township 102 North, Range 18 West, according to the plat thereof recorded in Book 8 of Plats, page 53 in the office of the County Recorder of Mower County, Minnesota, including one-half of the street right of way adjacent to these lots.

II. IT IS FURTHER ORDERED: That the mill levy of the City of Austin on the property herein ordered annexed shall be increased in substantially equal proportions over a period of two years to equality with the mill levy of the property already within the City.

III. IT IS FURTHER ORDERED: That the effective date of this order is October 16, 1979.

Dated this 16th day of October, 1979.

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

Terrence A. Merritt

Terrence A. Merritt
Executive Director

MEMO

The Minnesota Municipal Board wishes to focus its attention to the present status of the property adjacent to the property that was the subject of this annexation.

There was testimony at the hearing that the City of Austin has applied for a funding grant to be used to hire a person to assist the City and Town of Austin in developing an Orderly Annexation agreement. The Minnesota Municipal Board lends its support to such an undertaking. The need for Orderly Annexation is twofold. First, the boundary between the City and Town in the area under consideration needs correction from its present jagged condition. Second, there is a need to deal with the present and potential pollution problems in the area and Orderly Annexation will assist and expedite this.

The Minnesota Municipal Board urges the City and Town of Austin to develop an Orderly Annexation agreement to address not only the concerns raised in this memo, but also those readily apparent to the residents of the area.