

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Kenneth F. Sette	Vice Chairman
Richard A. Sand	Commissioner
Robert Finbraaten	Ex-Officio Member
Robert Shaw	Ex-Officio Member

IN THE MATTER OF THE NOTICE OF)
INTENT TO ANNEX CERTAIN LAND TO)
THE CITY OF AUSTIN PURSUANT TO)
MINNESOTA STATUTES 414)

FINDINGS 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 September 13, 1984, at Austin, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were County Commissioners Robert Shaw and Robert Finbraaten, Ex-Officio Members of the Board. The City of Austin appeared by and through Kermit Hoversten, City Attorney, and the Town of Austin appeared by and through David Jackson, Township Clerk. 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

1. On May 23, 1984 a copy of Notice of Intent to Annex was filed with the Minnesota Municipal Board by the City of Austin. The Notice of Intent contained all of the information required including a statement that the area proposed for annexation is 60% or more bordered by the city and 40 acres or

less in size and a description of the territory subject to annexation which is as follows:

Commencing at the NW corner of Sec. 10, T102N, R18W, Mower County, Minnesota, thence 876.33 ft. south on the west line of said section to the point of beginning thence continuing south on the west line of said section to the NW corner of the SW 1/4 of the NW 1/4 of said Sec. 10 thence easterly on the north line of said 1/4 1/4 section to the east line of the NW 1/4 of the SW 1/4 of the NW 1/4 of said Section 10 thence southerly on the east line of the NW 1/4 of the SW 1/4 of the NW 1/4 of said Sec. 10 this line also being the west line of Rochford Addition until this line intersects the NE corner of Outlot 1 thence westerly on the north line of Outlot 1 to the centerline of Turtle Creek thence northwesterly on the centerline of Turtle Creek until it intersects with a line that is parallel to and 211 ft. north of the north line of Outlot 1 thence westerly on this line to the west line of said Sec. 10 this also being the east line of Sec. 9, T102N, R18W thence north on the east line of said Sec. 9 to the centerline of Turtle Creek thence west and northwesterly along the centerline of Turtle Creek until it intersects a line that is parallel to and 1199.9' south of the north line of said Sec. 9 thence 488 ft. easterly parallel to the north line of said Sec. 9 thence northeasterly 361.15 ft. at a deflection angle to the left of 63° - 36' to the point of beginning.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Austin Township on July 2, 1984. The board upon receipt of this objection conducted further proceedings in accordance with M.S. 414.031, Subdivisions 3 and 4 as required by M.S. 414.033, Subdivision 3.

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

3. The area subject to annexation is unincorporated, approximately 10.65 acres in size, and abuts the City of Austin by approximately 85% of its total border.

4. The general topography of the area subject to annexation is relatively flat with sloping toward Turtle Creek and a great amount of floodplain.

5. The City of Austin had a population of 26,210 in 1970, a population

of 23,020 in 1980, and its current population is 22,543. It is projected that by 1990 its population will be 22,650.

6. The area subject to annexation has a present population of approximately 13.

7. Presently the land in the area proposed for annexation has approximately 3.02 acres in residential use, approximately 1.06 acres in streets, highway and utility right-of-ways, approximately 1.06 acres in non-conforming commercial use, and approximately 5.33 acres in floodplain.

The portion of the land designated as residential has sufficient room for the construction of an additional residence on it.

8. The City of Austin has a zoning ordinance, subdivision regulations, an official map, a capital improvements program and budget, a fire code, Minnesota Building Code, Minnesota Plumbing Code, shoreland ordinance, floodplain ordinance, sanitation ordinance, energy conservation program, urban renewal program, and a comprehensive plan which was adopted in 1978.

9. The Town of Austin does not have any land-use control regulations except for an urban renewal program. The town has no existing comprehensive plan.

10. The County of Mower has a comprehensive plan adopted in 1978, a zoning ordinance, subdivision regulations, official map, shoreland ordinance, floodplain ordinance, sanitation ordinance, human services program, energy conservation program, and an urban renewal program.

11. Presently the area proposed for annexation is zoned rural.

12. The proposed annexation is consistent with local comprehensive plan.

13. The City of Austin presently provides its residents with water, sanitary sewer, storm sewer, solid waste collection and disposal, fire

protection, police protection, street improvements and maintenance, administrative services, recreational opportunities, health inspection, and library.

14. The Town of Austin presently provides the area proposed for annexation with fire protection through a contract with the City of Austin, street improvements and maintenance, and administrative services.

15. The County of Mower levies a tax on unincorporated areas for use of the library. The area proposed for annexation presently is subject to that portion of the county tax which is reserved for library funding.

16. The City of Austin presently provides the area proposed for annexation with solid waste collection and disposal, fire protection through a contract with the Town of Austin, police protection, recreational opportunities, and library services.

The City of Austin presently provides the area proposed for annexation with electrical service and gas service.

17. The City of Austin is willing to provide the area proposed for annexation with all of the services which it presently provides the residents of the City of Austin.

18. The City of Austin has waterlines adjacent to the area proposed for annexation which has sufficient capacity to service the area.

19. The City of Austin has sewer lines adjacent to the area proposed for annexation. The city will need to extend some of its existing sewer lines to provide sewer service to all of the homes in the annexation area.

20. At least one of the homes in the area proposed for annexation experiences flooding because of its proximity to the creek. The basement at times is flooded, as well.

21. The estimated market value of the City of Austin is approximately \$394,346,400.

22. The estimated market value of the Town of Austin is approximately \$64,823,500.

23. The estimated market value of the area proposed for annexation is approximately \$226,400.

24. The City of Austin has a 1984 mill rate of 31.257. The total bonded indebtedness for the City of Austin is \$6,554,000.

25. The Town of Austin has a 1984 mill rate of 5.171.

26. The County of Mower has a 1984 mill rate of 23.476.

27. The school district which services the area proposed for annexation and the City of Austin has a mill rate of 48.139.

28. The area proposed for annexation is presently served by the same school district as the City of Austin. There is no anticipated impact on the school district if the area is annexed.

29. The City of Austin is the only municipality adjacent to the area proposed for annexation.

30. The Town of Austin has no central sanitary sewer or water.

31. There was no showing that the annexation of the area proposed for annexation would adversely impact the viability of the Town of Austin.

32. All development in the area proposed for annexation is presently served by on-site sewer and water systems.

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 nature and the annexing municipality is capable of providing the services required by the area within a reasonable time.

3. Municipal government is required to protect the public health, safety, and welfare in the area subject to annexation.

4. The best interests of the area subject to annexation will be furthered by annexation.

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

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

7. Pursuant to M.S. 414.035, the Municipal Board determines that the mill levy of the annexing municipality shall be increased over a period of four years.

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

O R D E R

1. IT IS HEREBY ORDERED: That the property described herein in Findings of Fact 1, be and the same hereby is annexed to the City of Austin, Minnesota, the same as if it had been originally a part thereof.

2. IT IS FURTHER ORDERED: The Austin City Attorney has informed the board by letter, a copy of which is attached hereto, that the city will not assess more than \$3,000 per lot for sewer service for the area located immediately south of the Sacred Heart Hospice.

3. 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 four years to equality with the mill levy of the property already within the city.

4. IT IS FURTHER ORDERED: That the population of the City of Austin is increased by 13 persons.

5. IT IS FURTHER ORDERED: That the population of the Town of Austin is decreased by 13 persons.

6. IT IS FURTHER ORDERED: That the effective date of this order is December 21, 1984.

Dated this 21st day of December, 1984.

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

A handwritten signature in black ink, reading "Terrence A. Merritt". The signature is written in a cursive style with a long horizontal stroke at the beginning.

Terrence A. Merritt
Executive Director

City of Austin

REC'D. BY
MMB

NOV 13 1984

500 FOURTH AVENUE N.E.

AUSTIN, MINNESOTA 55912

November 9, 1984

State of Minnesota
Municipal Board
Suite 165 Metro Square
7th and Robert Streets
St. Paul, MN 55101

Attn: Terrance A. Merritt
Executive Director

RE: Annexation A-4110

Dear Mr. Merritt:

I am enclosing herewith an affidavit of myself relative to the Annexation A-4110. The City Council, at its Monday night meeting held November 5, 1984, authorized me to sign the affidavit and have agreed that in the event the annexation is granted they would defer the sewer assessment and also would put the Stivers Nursery property in the Rural Service Taxing District.

We also received authorization from them relative to Annexation A-4111 in which they have agreed to limit the sewer assessments in that case to not in excess of \$3,000.00 for any one of the property owners.

Further, be advised that we are still working on the Senior Citizens deferral.

Very truly yours,


Kermit Hoversten

KH:ldw
Enc.