

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Kenneth F. Sette	Vice Chairman
Richard A. Sand	Commissioner
Gerald Eilers	Ex-Officio Member
Don Winkelman, Sr.	Ex-Officio Member

IN THE MATTER OF THE NOTICE OF INTENT)	<u>FINDINGS OF FACT</u>
FOR THE ANNEXATION OF CERTAIN LAND)	<u>CONCLUSIONS OF LAW</u>
TO THE CITY OF FOLEY PURSUANT TO)	<u>AND ORDER</u>
MINNESOTA STATUTES 414)	

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on October 31 1984 at Foley, 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 Don Winkelman, Sr. and Gerald Eilers, Ex-Officio Members of the Board. The City of Foley appeared by and through Norman Kemper and the Town of Gilmanton appeared by and through William A. Torell.

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 July 27, 1984, a copy of a Notice of Intent to Annex was filed with the Minnesota Municipal Board by the City of Foley. The Notice of Intent contained all 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:

The West 117.00 feet of the east 300.00 feet of the north 592.90 feet of the Northeast Quarter of the Southwest Quarter (NE 1/4 of SE 1/4) of Section Twenty-six (26), Township Thirty-seven (37) North, Range Twenty-nine (29) West, Benton County, Minnesota. Containing 1.59 acres of land, more or less.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Gilmanton Township on September 13, 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 1.59 acres in size, abuts the City of Foley by approximately 53% of its total boundary. The City of Foley is approximately 752 acres in size.

4. The natural terrain of the area is generally level. All but the southernmost lot are vacant lawns.

5. The City of Foley had a population of 1,271 in 1970, a population of 1,603 in 1980, and its current population is 1,650. It is projected that in five years the city will have a population of 1,750.

6. The Town of Gilmanton had a population of 861 in 1980 and its current population is 869.

7. The area proposed for annexation has no population.

8. The City of Foley has approximately 170 acres in residential use, approximately 106 acres in institutional use, approximately 32 acres in commercial use, approximately 24 acres in industrial use, and approximately 420 acres in agricultural use and vacant land.

9. The area proposed for annexation is vacant except for the southernmost lot, which contains a garage for the home immediately east of it.

10. The Town of Gilmanston has land in commercial use, residential use, and agricultural use.

11. In the past five years, the City of Foley has issued 22 building permits for one- and two-family residential units, 3 permits for barn and shed/silos, 5 permits for commercial use, and 3 permits for industrial buildings.

12. In the past five years, the Town of Gilmanston has issued 53 permits for one- and two-family residential units, 66 permits for barn and shed/silos and farm related buildings, 5 permits for commercial buildings, and 7 permits for industrial construction.

13. In the past five years there have been 42 permits for remodeling in the City of Foley and 51 permits for remodeling in the Town of Gilmanston.

14. The City of Foley has a Land Use Plan adopted in June of 1980, along with a zoning ordinance, subdivision regulations, official map, Minnesota Building Code, and floodplain ordinance.

15. The Town of Gilmanston has no existing plan as its planning is done by the county.

16. The County of Benton has a zoning ordinance, subdivision regulations, official map, shoreland ordinance, floodplain ordinance, sanitation ordinance, and human services program.

17. The present zoning for the area proposed for annexation is agricultural or residential.

18. The City of Foley presently provides its residents with water, sanitary sewer, storm sewer, fire protection, police protection, street

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

19. The City of Foley presently polices Norman Avenue as well as providing street lights to those homes fronting on Norman Avenue.

The city does not plow or maintain the alleyway immediately south of the area proposed for annexation. The alleyway is the only access to the garage located in the southernmost lot in the area proposed for annexation. The servicing of that roadway is by the property owner.

20. The city is willing to provide the area proposed for annexation with all of the services it presently provides the residents of the City of Foley if so requested by the property owners.

21. The Town of Gilmanton presently provides the annexation area with fire protection through a contract with the City of Foley, and township police protection is through the County Sheriff. The town does provide administrative services to the area proposed for annexation, as well as library service through a regional library system.

22. Taxable assessed valuation of the City of Foley in 1983, payable 1984, is \$5,013,325. The city's mill levy is 30.853. The city's fire insurance rating is 7.

23. The Town of Gilmanton had a taxable assessed valuation for 1983, payable 1984, of \$4,469,193. The town's mill levy is 4.072. The town has no bonded indebtedness.

24. The taxable assessed valuation of the area proposed for annexation for 1983, payable 1984, is approximately \$2,723.

25. The county's mill levy is 28.093. School District No. 51's mill levy for both the city and the area proposed for annexation is 41.845.

26. The City of Foley has capacity in its waste water treatment facility and existing sewer lines to service the area proposed for annexation.

27. The City of Foley has sufficient water capacity in its system and lines to service the area proposed for annexation.

28. The area proposed for annexation is presently served by the same school district as the City of Foley.

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

30. Gilman Township can continue to function without the area proposed for annexation.

31. There are no present plans for any development in the area proposed for annexation.

CONCLUSIONS OF LAW

1. Because the area proposed for annexation is not 60% or more bordered by the City of Foley pursuant to Minnesota Statutes 414.033, Subdivision 3, the Minnesota Municipal Board does not have jurisdiction to order the proposed annexation.

2. The area proposed for annexation is not now nor is about to become urban or suburban in nature.

3. Municipal government is not 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 not be furthered by annexation.

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

6. There is not a reasonable relationship between the increase in values

to the City of Foley and the value of benefits conferred upon the area proposed for annexation.

7. An order should be issued by the Minnesota Municipal Board denying the petitioned annexation of the area described herein.

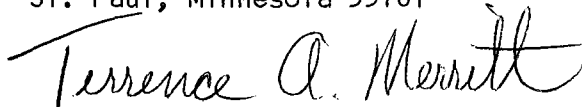
O R D E R

1. IT IS HEREBY ORDERED: That the request for the annexation of the property described in Findings of Fact 1 herein, be and the same is hereby denied.

2. IT IS FURTHER ORDERED: That the effective date of this order is June 3, 1985.

Dated this 3rd day of June, 1985.

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

A handwritten signature in black ink, reading "Terrence A. Merritt". The signature is fluid and cursive, with a large, stylized initial "T" and "M".

Terrence A. Merritt
Executive Director