

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chairman
Kenneth F. Sette	Vice Chairman
Richard A. Sand	Commissioner
Carol Kamper	Ex-Officio Member
William J. Pudwell	Ex-Officio Member

IN THE MATTER OF THE PETITIONS FOR)
THE ANNEXATION OF CERTAIN LAND TO)
THE CITY OF ROCHESTER 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 February 6, 1985, at Rochester, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Kenneth F. Sette, Vice Chairman of the Minnesota Municipal Board and County Commissioners Carol Kamper and William Pudwell, Ex-Officio Members of the Board. The City of Rochester appeared by and through Frederick Suhler, Jr., City Attorney, and the Town of Marion appeared by and through William Volkmar. The petitioners made no appearance. 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 October 3, 1984, a copy of petitions for annexation by all of the property owners were filed with the Minnesota Municipal Board. The petitions contained all of the information required by statute, including a description

of the territory subject to annexation which is as follows:

Lots 10, 11, 12, 13, 14, Block 1, Lots 1, 2, 3, 5, 6, 7, 8, 9, 10, 15, 16, 17, Block 2, Lots 12, 13, 14, 15, Block 3, Lots 5, 6, 7, 8, 9, 10, 11, 12, Block 5. All the above being in Rose Harbor Second Subdivision.

Lots 2, 3, 5, 6, 7, Block 10, Lots 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, Block 8, Lots 1, 4, 5, 6, 7, 8, 9, Block 9, Lots 2, 3, 6, 7, 8, 9, 10, 11, Block 6, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, Block 7, Lots 1, 2, 3, 4, 5, 6, 7, Block 1, Lot 7, Block 2. All of the above being in the Rose Harbor Fourth Subdivision.

Lots 5, 6, 7, Block 1, Rose Harbor Third Subdivision.

and

Lots 8 and 9, Rose Harbor Fourth Addition, Olmsted County, Minnesota.

and

Beginning at a point on the east line of the Northeast Quarter of Section 7, Township 106 North, Range 14 West, which 183 feet South of the Northeast Corner thereof, thence South 414.3 feet, thence Southwesterly 393.7 feet thence Northwesterly 150 to the Northeast Corner of Lot 7, Block 10, Rose Harbor Fourth Subdivision, thence North 238.7 feet, thence Northerly 178 feet, thence East 399 feet to the point of beginning.

and

Lots 1, 2, and 3, Block 1, Rose Harbor Second Addition.

and

Lots 8 and 9, Block 3, Rose Harbor Second Addition.

An objection to the proposed annexation was received by the Minnesota Municipal Board from Marion Township on December 14, 1984. 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, Subdivision 5.

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

3. The area subject to annexation is unincorporated, approximately 39

acres in size, and abuts the City of Rochester by approximately 9% of its perimeter. The City of Rochester is approximately 21.85 square miles in size.

4. The Town of Marion has a total area of approximately 34.66 square miles.

5. The area proposed for annexation rises from south to north approximately 140 feet in elevation. The slope and soil conditions are unsuitable for septic tank use. The area is not prime cropland, nor does it contain commercial forest land, unique natural areas, mineral resources, archeological sites or floodplain. The area has no public waters located on it.

6. In 1970 the City of Rochester had a population of 53,766, its population in 1980 was 57,890, and in 1983 its population was 59,307.

7. The Town of Marion had a population of 5,998 in 1970, a population of 5,299 in 1980, and a population of 6,132 in 1983.

8. The area proposed for annexation is vacant, a daisy-chained configuration, and potentially considered for residential development sometime in the future.

9. The City of Rochester has approximately 6,400 acres in residential use, approximately 2,112 acres in institutional and park use, approximately 712 acres in commercial use, approximately 1,206 acres in industrial use, and approximately 1,247 acres in agricultural use and vacant land.

In the City of Rochester, there remains land planned for approximately 700 acres of residential use, approximately 258 acres for commercial use, and approximately 250 acres for industrial use.

10. In Marion Township, land is zoned as follows: approximately 2,800.3 acres for residential use, approximately 231 acres for commercial use,

approximately 116 acres for industrial use, and approximately 18,179 acres for agricultural use.

11. The area proposed for annexation is vacant with 4.7 acres of unplatted land and approximately 34.3 acres of platted land in the Rose Harbor Second, Third, and Fourth Subdivisions. The lots do not form a continuing, totally self-contained unit. Rather, they are parts of each of those subdivisions.

12. The City of Rochester has issued 1,138 building permits in 1980, 990 in 1981, 1,191 in 1982, 1,707 in 1983, and 1,627 in 1984.

13. The Town of Marion has issued 61 building permits in 1980, 76 in 1981, 94 in 1982, 102 in 1983, and 54 through November, 1984.

14. The City of Rochester has a zoning ordinance, subdivision regulations, shoreland and floodplain regulations, an official mapping program, the Uniform Building Code, the Minnesota Plumbing Code, the NFPA Fire Code, and capital improvement and budget program.

15. Olmsted County has a zoning regulation, subdivision, shoreland and floodplain regulations, a building code, the Minnesota Plumbing Code, an official mapping program, sanitation ordinances, Human Services Programs, and the capital improvement and budget program.

16. Marion Township has no independent land use planning document.

17. The City of Rochester and Olmsted County adopted a revised Future Land Use Map based on the General Land Use Plan for the Olmsted County area. This area has been designated as low-density residential development. The area proposed for annexation is presently zoned R-1 (Low-Density Residential).

18. The Rochester Planning and Zoning Commission did not approve the proposed annexation.

The City of Rochester Common Council voted to not support the proposed annexation.

19. The City of Rochester provides its residents with water, sanitary sewer, storm shelter, fire protection, police protection, street improvements and maintenance, administrative services, recreational opportunities and library services.

20. Extension of municipal sewer and water to the area proposed for annexation and street improvements and maintenance would result in extremely high costs with at least approximately 60% of the assessment being deferred. Further, Marion Township is serviced by REA Co-op water system in that area. Annexation of this area would require compensation to the cooperative.

In the city's estimation, extension of municipal services is not fiscally appropriate at this time.

21. Marion Township provides the area proposed for annexation with fire protection and street improvements and maintenance.

22. The City of Rochester has 204.9 miles of improved roads as follows: 12.3 miles of Trunk Highway, 8.82 miles of County State Aid Highway, and 183.8 miles of local streets.

23. Marion Township has 96.67 miles of improved roads as follows: 14.97 miles of Trunk Highway, 19.81 miles of County Roads, 12.93 miles of County State Aid Roads, and 48.96 miles of Town Roads.

24. A portion of the annexation area abuts Eastwood Road, Southeast (County Road 144) for approximately 830 feet. Adjacent to the lots proposed for annexation are .60 miles of in-place town roads. In addition, there is another mile of platted, yet undeveloped town road right-of-way adjacent to the lots proposed for annexation.

25. In 1984 the assessed valuation of the City of Rochester is \$329,296,364.

26. In 1984 the assessed valuation of the Town of Marion is \$19,816,261.

27. The assessed valuation of the area proposed for annexation in 1984 is \$33,642.99.

28. The mill rate for Olmsted County in 1984 is 26.194 for the City of Rochester and 27.833 for the Town of Marion.

29. School District #535 has a 1984 mill levy of 63.924.

30. Marion Township mill levy in 1984 is 5.021. Marion Township has a bonded indebtedness of \$0 as of 12-31-83.

31. The City of Rochester mill levy in 1984 is 28.739. The bonded indebtedness for the City of Rochester, as of 12-31-83, is \$33,210,000.

32. The fire insurance rating for the City of Rochester is 3. The fire insurance rating for the Town of Marion is 8.

33. The proposed annexation, if completed, will not impact on School District #535, as all of the City of Rochester and the annexation area are within the same school district.

34. The town does not have the ability to provide public sewer and water to the area proposed for annexation.

35. The existing facilities are not capable of handling the needs of the the area proposed for annexation if it were annexed. Improvements and acquisitions of the REA water system are required according to the Rochester Public Utilities Department.

36. The petitioners presented no evidence as to any proposed development for the area proposed for annexation.

37. The City of Rochester is the only municipality adjacent to the area

proposed for annexation.

CONCLUSIONS OF LAW

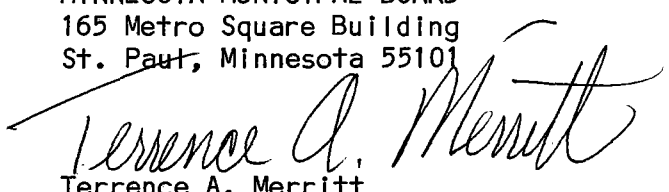
1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
2. The area subject to annexation is not now or is not about to become urban or suburban in character.
3. Municipal government is not presently required to protect the public health, safety, and welfare in the area subject to annexation.
4. The best interests of the area proposed for annexation will not be furthered by annexation.
5. Marion Township can carry on the functions of government without undue hardship even if the annexation area were annexed.
6. An order should be issued by the Minnesota Municipal Board denying the petitions for annexation described herein in Findings of Fact 1.

O R D E R

1. IT IS HEREBY ORDERED: That the petitions for annexation of 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 19, 1985.

Dated this 19th day of June, 1985.

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


Terrence A. Merritt
Executive Director