

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Shirley J. Mihelich	Chair
John W. Carey	Vice Chair
Kenneth F. Sette	Commissioner
Carol Kamper	Ex-Officio Member
Paul Stelplflug	Ex-Officio Member

IN THE MATTER OF THE PETITION 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 June 22, 1988 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 Shirley J. Mihelich, Chair, John W. Carey, Vice Chair, Kenneth F. Sette, Commissioner, and County Commissioners Paul Stelplflug and Carol Kamper, Ex-Officio Members of the Board. The City of Rochester appeared by and through Frederick Suhler, Jr., Attorney at Law, the Town of Cascade appeared by and through Stanley Hunter, Town Board Chair. 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 February 11, 1988, a copy of a petition for annexation by all of

the property owners was filed with the Minnesota Municipal Board; an amendment to the legal description was received on April 19, 1988 requesting the board to order annexation of additional property. The petition contained all of the information required by statute, including a description of the territory subject to annexation, which is as follows:

A part of the Southwest Quarter of the Northeast Quarter of Section 24, Township 107 North, Range 14 West, and the adjacent right-of-way of C.S.A.H. 22 located southerly of and adjacent thereto, Olmsted County, Minnesota described as follows:

Beginning of the northwest corner of the Southwest Quarter of said Northeast Quarter; thence North 89 degrees 50 minutes 53 seconds East, assumed bearing, along the north line of said quarter quarter section, 1312.83 feet to the northeast corner thereof; thence South 01 degrees 16 minutes 18 seconds East along the east line of said quarter quarter section, 1236.64 feet to the northerly right-of-way line of C.S.A.H. No. 22 as shown on Amended Olmsted County Highway Right-of-way Plat No. 43 (the next six courses are along said northerly right-of-way line); thence westerly 280.25 feet along a nontangential curve, concave southerly, central angle of 09 degrees 14 minutes 39 seconds, radius of 1737.02 feet, and the chord of said curve bears North 85 degrees 33 minutes 43 seconds West, 279.95 feet; thence South 89 degrees 48 minutes 58 seconds West, 682.77 feet; thence North 00 degrees 11 minutes 02 seconds West, 50.00 feet; thence South 89 degrees 48 minutes 58 seconds West, 181.05 feet; thence South 01 degrees 34 minutes 55 seconds East, 50.01 feet; thence North 89 degrees 04 minutes 25 seconds West, 165.11 feet to the west line of said Northeast Quarter; thence North 01 degrees 34 minutes 55 seconds West along said west line, 1211.75 feet to the point of beginning, and the adjacent right-of-way of C.S.A.H. 22 located southerly of and adjacent thereto.

Containing 38.51 acres more or less.

An objection to the proposed annexation was received by the Minnesota Municipal Board from the Town of Cascade on March 21, 1988. 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 38.51 acres in size, and abuts the City of Rochester by approximately 62.5% of its perimeter. The City of Rochester is approximately 15,431.2 acres in size.

4. The Town of Cascade is approximately 14,660 acres in size.

5. The area proposed for annexation contains no public waters or floodplain. A majority of the soils found in the area proposed for annexation are inappropriate for the development of septic systems. Prime agricultural soils in the area proposed for annexation are on the flatten hill tops along the east side and the northern edge of the area proposed for annexation. Approximately two-thirds of the area proposed for annexation is wooded.

6. The City of Rochester had a population of approximately 53,766 in 1970, approximately 57,880 in 1980, approximately 63,764 in 1987, and it is projected to have a population of approximately 67,223 in 1990.

7. The Town of Cascade had a population of approximately 2,442 in 1970, approximately 2,384 in 1980, approximately 2,381 in 1987, and it is projected to have a population of approximately 2,460 in 1990.

8. The area proposed for annexation had a population of approximately 6 in 1987, and it is projected to have a population of approximately 197 in 1990.

9. The City of Rochester has approximately 7,100 acres in residential use, approximately 2,212 acres in institutional and parks use, approximately 800 acres in commercial use, approximately 1,206 acres in industrial use, and approximately 3,500 acres in agricultural use or vacant land.

10. The Town of Cascade has approximately 1,936 acres in residential use, approximately 111 acres commercial use, approximately 346 acres in industrial use, and approximately 12,267 acres in agricultural use.

11. There are presently two single-family residences on the area proposed for annexation, a veterinary clinic and horse boarding area.

If the area proposed for annexation is annexed, the majority of the property is planned for extension of the Viking Hills Subdivision, which is a single-family development. There may also be commercial development proposed along the southerly edge of the area proposed for annexation along CSAH 22.

12. 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.

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

14. The Town of Cascade has no independent land use planning document.

15. 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. The area proposed for annexation has been designated for low-density residential development, with a small portion of the northwest corner designated for medium-density residential development.

The current zoning of the area proposed for annexation is A-4 (Agricultural Urban Expansion District) under the Olmsted County Zoning Ordinance.

16. The Rochester Planning and Zoning Commission did approve the proposed annexation.

The City of Rochester Common Council voted to support the proposed annexation.

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

18. The Town of Cascade provides its residents with storm sewer, fire protection, police protection, street improvements and maintenance, and administrative services.

19. The City of Rochester has 243.09 miles of highways, streets and roads.

20. The Town of Cascade has 67.06 miles of highways, streets and roads.

21. CSAH 22 is along the south side of the area proposed for annexation. There is a frontage road that services CSAH 22, which also provides access to the annexation area.

Alberta Drive north of the annexation area is planned to be extended through the annexation area and eventually connect with CSAH 22.

22. The City of Rochester had a 1987 assessed valuation of \$446,870,550.

23. The Town of Cascade had a 1987 assessed valuation of \$14,970,880.

24. The area proposed for annexation had a 1987 assessed valuation of \$36,058.

25. The mill rate for Olmsted County in 1987 is 36.899 for the City of Rochester and 39.966 for the Town of Cascade.

26. The 1987 mill levy for the school district is 61.284.

27. The City of Rochester mill levy in 1987 is 28.922. The bonded indebtedness for the City of Rochester is \$43,450,000.

28. The Town of Cascade mill levy in 1987 is 13.122. The Town of Cascade has a bonded indebtedness of \$0.

29. The fire insurance rating for the City of Rochester is 3. The fire insurance rating for the Town of Cascade is 9.

30. If the area proposed for annexation is annexed, there will be no impact on School District #535, as all of the City of Rochester and the annexation area are within the same school district.

31. The Town of Cascade does not have the ability to provide public sewer and water to the area proposed for annexation.

32. 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 now or is about to become urban or suburban in character.

3. Municipal government is 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 be furthered by annexation.

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

6. 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 in Findings of Fact 1 herein, be and the same hereby is annexed to the City of Rochester, Minnesota, the same as if it had been originally a part thereof.


2. IT IS FURTHER ORDERED: That the population of the City of Rochester is increased by 6 people.

3. IT IS FURTHER ORDERED: That the population of the Town of Cascade is decreased by 6 people.

4. IT IS FURTHER ORDERED: That the effective date of this order is August 11, 1988.

Dated this 11th day of August, 1988.

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


Terrence A. Merritt
Executive Director

M E M O R A N D U M

While approving the annexation, the board notes that the Town of Cascade objected to the loss of tax revenue from the property. Also, the town desired to avoid providing maintenance service to 35th Street and 16th Avenue, thus wanting the Municipal Board, if it approved the annexation to order the City of Rochester to take over that maintenance. The town had not been advised that development had been proceeding so rapidly, and that the December, 1987 timetable outlined by the developers' representative to the town had been revised. When the town was advised that the land was ready for immediate development, that objection was withdrawn. The town did not dispute that the area proposed for annexation was an appropriate area for development, and that for development to occur it is necessary to be within the City of Rochester.

The area of 35th Street and 16th Avenue is presently not before the board. For the board to have jurisdiction over the land, it would be necessary for the board to expand the area under consideration to include that area and the abutting property owners. The board has no testimony on the record before it that those property owners desire or need annexation to the City of Rochester. Thus, the board presently does not have jurisdiction to place the streets within the City of Rochester's jurisdiction.

The board is confident that the city, town, and developers can deal with the issues of road maintenance and loss of tax revenue.

The board hopes that the city, town, and developers cooperate and talk about possible future development in their area. The board is confident that the spirit of cooperation and discussion between the city and the town that has occurred, will continue, and will in fact be improved upon. *JMM 8-11-88*