

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

John W. Carey	Chair
Kenneth F. Sette	Commissioner
Shirley J. Mihelich	Vice Chair
Richard Jacobsen	Ex-officio Member
Darold Neperman	Ex-officio Member

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

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended on February 26, 1990 at Redwood Falls, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were John W. Carey, Chair, Kenneth F. Sette, Vice Chair, Shirley J. Mihelich, Commissioner, and County Commissioners Darold Neperman and Richard Jacobsen, Ex-Officio Members of the Board.

The petitioners appeared by and through Charles E. MacLean, Attorney at Law, the City of Redwood Falls appeared by and through John Schnobrich, Attorney at Law, the Town of Paxton appeared by and through Mark Parker, 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 November 20, 1989, a petition of all of the property owners was received by the Municipal Board to order annexation and a resolution supporting the annexation was received from the annexing municipality. The petition contained all the information required by statute, including a description of the territory subject to annexation, which is as follows:

Tract 1:

All the tract or parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: All that part of the NE Fr.¼ of Section 6, Township 112 North, Range 35 West of the 5th Principal Meridian, described as follows: Beginning at the Center of said Section 6, Township 112 North, Range 35 West; thence in an Easterly direction along the South line of said NE Fr.¼ a distance of 419.33 feet to the point of beginning of the Tract herein to be described: thence in a Northerly direction and parallel with the West line of said NE Fr.¼ a distance of 213.44 feet to a point; thence continuing North 23°59' West a distance of 575.23 feet; thence East and parallel with the North line of said NE Fr.¼ a distance of 920 feet; thence North and parallel with the West line of said NE Fr.¼ a distance of 475 feet; thence Easterly and parallel with the North line of said NE Fr.¼ a distance of 576 feet; thence Northerly and parallel with the West line of said NE Fr.¼ a distance of 703.40 feet to the North line of said NE Fr.¼; thence East along the North line of said NE Fr.¼ a distance of 33 feet; thence South and parallel with the East line of said NE Fr.¼ a distance of 703.40 feet; thence West and parallel with the North line of said NE Fr.¼ to the East line of said NE Fr.¼; thence

Tract 2:

All the tract or parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: Beginning at a point on the East Section line of the southeast corner of Section Six (6), Township One Hundred Twelve (112) North, Range Thirty-five (35) West, wherein said East Section line intersects with the centerline of County Ditch No. 4; running thence North along said East Section Line to the East Quarter corner of said Section: thence running West along the East-West Quarter line of said Section to the center of said Section; thence running South along the North-South Quarter line of said Section to the intersection of the North-South Quarter line and the centerline of County Ditch No. 4; thence running Easterly along the centerline of said County Ditch to the point of beginning.

Tract 3:

All that tract or parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: All that part of the Northeast Fractional Quarter (NEFr¼) of Section Six (6), in Township One Hundred Twelve (112) North, of Range Thirty-five (35) West of the Fifth Principal Meridian, described as follows: Beginning at a point 1643 feet East of the North Quarter Corner of Section 6, thence

in a Southerly direction and parallel to the West line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 703.4 feet, thence East parallel to the North line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 33 feet to the center of the former Harrison Street, thence North and parallel to the West line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 703.4 feet to the North line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$), thence West along the North line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 33 feet to the point of beginning.

Tract 4:

All that part of the NE Fr. $\frac{1}{4}$, Section 6, Township 112 North, Range 35 West described as follows: Beginning at a point 700 feet East and 375 feet South of the North Quarter Corner of said Section 6; thence in a Easterly direction parallel to the North line of said NE Fr. $\frac{1}{4}$ a distance of 800 feet; thence in a Northerly direction and parallel with the West line of said NE Fr. $\frac{1}{4}$ to the North line of said NE Fr. $\frac{1}{4}$; thence Easterly to a point 1643 feet East of the North Quarter Corner of said Section 6; thence in a Southerly direction and parallel to the West line of said NE Fr. $\frac{1}{4}$ a distance of 703.4 feet; thence West parallel to the North line of said NE Fr. $\frac{1}{4}$ a distance of 943 feet; thence Northerly parallel to the West line of said NE Fr. $\frac{1}{4}$ a distance of 328.4 feet to the point of beginning.

The property description was amended at the hearing to correct a clerical error in Tract 1 and is more particularly described as follows:

Tract 1:

All the tract or parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: All that part of the NE Fr. $\frac{1}{4}$ of Section 6, Township 112 North, Range 35 West of the 5th Principal Meridian, described as follows: Beginning at the Center of said Section 6, Township 112 North, Range 35 West; thence in an Easterly direction along the South line of said NE Fr. $\frac{1}{4}$ a distance of 419.33 feet to the point of beginning of the Tract herein to be described: thence in a Northerly direction and parallel with the West line of said NE Fr. $\frac{1}{4}$ a distance of 213.44 feet to a point; thence continuing North 23°59' West a distance of 575.23 feet; thence East and parallel with the North line of said NE Fr. $\frac{1}{4}$ a distance of 920 feet; thence North and parallel with the West line of said NE Fr. $\frac{1}{4}$ a distance of 475 feet; thence Easterly and parallel with the North line of said NE Fr. $\frac{1}{4}$ a distance of 576 feet; thence Northerly and parallel with the West line of said NE Fr. $\frac{1}{4}$ a distance of 703.40 feet to the North line of said NE Fr. $\frac{1}{4}$; thence East along the North line of said NE Fr. $\frac{1}{4}$ a distance of 33 feet; thence South and parallel with the East line of said NE Fr. $\frac{1}{4}$ a distance of 703.40 feet; thence East and parallel with

the North line of said NE Fr.¼ to the East line of said NE Fr.¼; thence South along the East line of said NE Fr.¼ to the SE Corner thereof; thence West along the South line of said NE Fr.¼ to the point of beginning.

The rest of the description contained no clerical errors. Parties present at the hearing indicated that there had been no confusion caused by the clerical error and agreed to its correction.

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

3. The area subject to annexation is unincorporated, approximately 109 acres in size, and abuts the City of Redwood Falls, hereinafter referred to as Redwood Falls, on the City's southeasterly border. The perimeter of the subject area is approximately 50% bordered by the city. Redwood Falls has a total area of approximately 2500 acres. The Town of Paxton, hereinafter referred to as Paxton is approximately 22,720 acres in size, which includes 960 acres of reservation land.

4. The soils in the subject area are generally granular silty clay and gravel. There are some wetlands, but no protected wetlands. There is presently an operating gravel pit. The area proposed for surface water holding ponds percolates water through its entirety.

5. Redwood Falls had a population of approximately 4,774 in 1970, a population of approximately 5,210 in 1980, and its current population is approximately 5,259. It is projected that in 5 years

it will have a population of approximately 5,290.

6. Paxton had a population of approximately 483 in 1970, approximately 449 in 1980, and its current population is approximately 459. It is projected that in 5 years it will have a population of approximately 465.

7. The subject area has no present population, nor has it had any population since 1970. It is projected that in 5 years it will not have any population.

8. The subject area consists of approximately 20 acres of agricultural land and 89 acres of vacant land. There is presently a gravel pit in the southern portion of the subject area.

It is anticipated that 90% of the subject area will be developed for public school use with a new middle school and high school with the remaining 10% of the land used for commercial development and some residential development.

9. Redwood Falls has approximately 1,800 acres in residential use, approximately 300 acres institutional use, approximately 100 acres commercial use, approximately 200 acres industrial use, approximately 50 acres agricultural use and approximately 50 acres of vacant land.

10. Paxton Township has approximately .5% of its land in residential use, approximately .5% of its land in commercial use, and approximately 99% of its land in agricultural use.

11. Redwood Falls has approximately 45 miles of municipal and state aid highways, streets and roads. Paxton Township has approximately 36 miles of highway streets and roads.

Plans for development of the subject area call for the

extension of Cook Street easterly through the subject area then northerly to a perpendicular intersection with Highways 71 and 19. There will be two access roads from the extension of Cook Street to the school parking lot. Additionally there is a pathway adjacent to the school from a point west of the school building proceeding south thence east and north around the school to a northeast point of the school which is an emergency vehicle access designed to be built with a 12 foot wide subgrade and an 8 foot wide bituminous surface.

The school district has dedicated a future easement for half of the road right-of-way. The easement is approximately 33 feet in width, along its northeasterly boundary, immediately south of the Gerber Property, which will be available for use to provide access to the property east of the Gerber and school properties.

The site plan for the proposed school construction includes additional roads to service land northwest of the proposed major extension of Cook Street, as needed.

12. Redwood Falls has subdivision regulations, a capitol improvements program and budget, and a comprehensive plan approved in 1979.

Paxton has an official map.

Redwood County has a zoning ordinance and a comprehensive plan. The county provides land use controls for Paxton.

13. Current zoning for the subject area is urban expansion.

If the subject area is annexed, the anticipated zoning would be PUD - Planning Unit Development and B3 - Auto Oriented Business.

The proposed zoning is consistent with development within Redwood Falls.

14. Redwood Falls provides the following services to its residents: water, sanitary sewer and waste water treatment, storm sewer, solid waste collection and disposal, fire protection, police protection, street improvements and maintenance, administrative services, and recreational opportunities.

Redwood Falls provides the subject area with fire protection through a contract with Paxton.

15. Paxton provides its residents with street improvements and maintenance, administrative services, and fire protection through a contract with the City of Redwood Falls. Paxton provides the subject area with administrative services, and fire protection through a contract with the City of Redwood Falls.

16. Paxton does not have a central sanitary sewer collection and disposal system or a central water distribution system. There was no evidence that Paxton has plans for a central sewer or water system.

17. Redwood Falls is the only city adjacent to the subject area that has indicated a willingness to extend municipal services to the subject area.

18. Provision of municipal water and sewer services will allow for the installation of a sprinkler system throughout the new school, as well as avoiding the need for an on-site septic system to service the building.

19. Redwood Falls does not extend municipal services outside its corporate limits.

20. The question on construction of the school was passed in a special election held on May 17, 1988, authorizing the borrowing of up to \$13,997,000.

21. The school district has completed the purchase of the land for the proposed new middle and high schools.

22. The gross tax capacity of Redwood Falls in 1989 is \$2,429,801. The gross tax capacity of Paxton in 1989 is \$552,865.

23. The gross tax capacity for the subject area is estimated at \$2,083.

24. For taxes payable in 1989, the tax rate for Redwood Falls is 33.766 and for Paxton is 1.990. The tax rate for the county in 1989 is 28.750 for Redwood Falls and for Paxton is 29.967. The tax rate for the school district for 1989 is 54.324 for Redwood Falls and for Paxton is 55.463. The 1989 special taxing district rate is .117 in Redwood Falls and .121 in Paxton.

25. The remainder of Paxton can continue to function without the area proposed for annexation.

26. The proposed annexation will allow the school district to construct its proposed new middle and high schools within the subject area.

27. All necessary governmental services can best be provided to the subject area by annexation to Redwood Falls.

28. All of the property owners in the subject area have petitioned the Municipal Board requesting 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 nature, and the annexing municipality is capable of providing the services required by the area within a reasonable time.

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

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

5. The remainder of Paxton can carry out the functions of government without undue hardship.

6. The annexation will have no effect on the area school district.

7. There is a reasonable relationship between the increase in revenue for Redwood Falls and the value of benefits conferred upon the subject area.

8. The annexation of all or part of the subject area to an adjacent municipality other than Redwood Falls would not better serve the interests of the residents who reside in the subject area.

9. The annexation proceeding has been initiated by a petition of all of the property owners and, therefore, this Minnesota Municipal Board Order is not subject to an annexation election.

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

O R D E R

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

Tract 1:

All the tract or parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: All that part of the NE Fr.¼ of Section 6, Township 112 North, Range 35 West of the 5th Principal Meridian, described as follows: Beginning at the Center of said Section 6, Township 112 North, Range 35 West; thence in an Easterly direction along the South line of said NE Fr.¼ a distance of 419.33 feet to the point of beginning of the Tract herein to be described; thence in a Northerly direction and parallel with the West line of said NE Fr.¼ a distance of 213.44 feet to a point; thence continuing North 23°59' West a distance of 575.23 feet; thence East and parallel with the North line of said NE Fr.¼ a distance of 920 feet; thence North and parallel with the West line of said NE Fr.¼ a distance of 475 feet; thence Easterly and parallel with the North line of said NE Fr.¼ a distance of 576 feet; thence Northerly and parallel with the West line of said NE Fr.¼ a distance of 703.40 feet to the North line of said NE Fr.¼; thence East along the North line of said NE Fr.¼ a distance of 33 feet; thence South and parallel with the East line of said NE Fr.¼ a distance of 703.40 feet; thence ~~East~~ and parallel with the North line of said NE Fr.¼ to the East line of said NE Fr.¼; thence South along the East line of said NE Fr.¼ to the SE Corner thereof; thence West along the South line of said NE Fr.¼ to the point of beginning.

Tract 2:

All the tract or parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: Beginning at a point on the East Section line of the southeast corner of Section Six (6), Township One Hundred Twelve (112) North, Range Thirty-five (35) West, wherein said East Section line intersects with the centerline of County Ditch No. 4; running thence North along said East Section Line to the East Quarter corner of said Section; thence running West along the East-West Quarter line of said Section to the center of said Section; thence running South along the North-South Quarter line of said Section to the intersection of the North-South Quarter line and the centerline of County Ditch No. 4; thence running Easterly along the centerline of said County Ditch to the point of beginning.

Tract 3:

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Township One Hundred Twelve (112) North, of Range Thirty-five (35) West of the Fifth Principal Meridian, described as follows: Beginning at a point 1643 feet East of the North Quarter Corner of Section 6, thence in a Southerly direction and parallel to the West line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 703.4 feet, thence East parallel to the North line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 33 feet to the center of the former Harrison Street, thence North and parallel to the West line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 703.4 feet to the North line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$), thence West along the North line of the Northeast Fractional Quarter (NEFr $\frac{1}{4}$) a distance of 33 feet to the point of beginning.

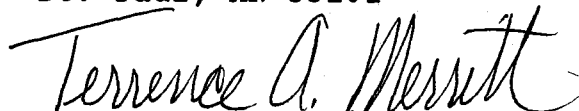
Tract 4:

All that part of the NE Fr. $\frac{1}{4}$, Section 6, Township 112 North, Range 35 West described as follows: Beginning at a point 700 feet East and 375 feet South of the North Quarter Corner of said Section 6; thence in a Easterly direction parallel to the North line of said NE Fr. $\frac{1}{4}$ a distance of 800 feet; thence in a Northerly direction and parallel with the West line of said NE Fr. $\frac{1}{4}$ to the North line of said NE Fr. $\frac{1}{4}$; thence Easterly to a point 1643 feet East of the North Quarter Corner of said Section 6; thence in a Southerly direction and parallel to the West line of said NE Fr. $\frac{1}{4}$ a distance of 703.4 feet; thence West parallel to the North line of said NE Fr. $\frac{1}{4}$ a distance of 943 feet; thence Northerly parallel to the West line of said NE Fr. $\frac{1}{4}$ a distance of 328.4 feet to the point of beginning.

2. IT IS FURTHER ORDERED: That the effective date of this order is April 18, 1990.

Dated this 18th day of April, 1990.

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


Terrence A. Merritt
Executive Director

M E M O R A N D U M

In approving this annexation to the City of Redwood Falls, the Board notes that Redwood Falls will be the responsible unit of government for any environmental impact statements. Since the provision of municipal services will come from the city, it will be the local unit of government addressing these concerns.

Surface water retention ponds are proposed for the southern portion of the subject area. The Board is confident that the school will construct any such ponds in a safe non-hazardous fashion insuring the protection of the students. The petitioners are to be commended for anticipating possible concerns for access to the land east of the area, by dedicating the northern 33 feet south of the Gerber Property as a future easement. The Board is confident that should the need for access to the east arise the parties will be able to address that issue.

Finally, the Board is somewhat concerned with the lack of elegant communication among the various governmental entities. The parties at the hearing appeared to be able to work quite well together. There was testimony concerning the cooperation for the extension of fire protection. However, concern was raised that the town was not always seeing the most up-to-date information concerning development proposals. The school will service both the city and the town, and the Board is confident that these three units of government will continue to improve their communication, so that the issues common to all can be effectively and economically addressed. TAM 4-18-90