

BEFORE THE MUNICIPAL BOARD

OF THE STATE OF MINNESOTA

Andrew D. Hultgren	Chair
Paul B. Double	Vice Chair
Charles W. DeVore	Vice Chair
Rose Arnold	Ex-Officio Member
Don Otte	Ex-Officio Member

IN THE MATTER OF THE PETITION FOR)	<u>FINDINGS OF FACT</u>
THE ANNEXATION OF CERTAIN LAND)	<u>CONCLUSIONS OF LAW</u>
TO THE CITY OF ST. CLOUD 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 November 18, 1998 at the Stearns County Administration Center, in the City of St. Cloud, Minnesota, and was continued from time to time. The continued hearing on April 22, 1999 was conducted by Andrew D. Hultgren, Chair, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Paul B. Double, Vice Chair; Charles W. DeVore, Vice Chair; and County Commissioners Rose Arnold and Donald Otte, Ex-Officio Members of the Board.

The petitioners, Roger and Sharon Minet, appeared pro se; the Town of LeSauk appeared by and through John H. Scherer, attorney at Law, the City of Sartell appeared by and through Stanley Weinberger, Attorney at Law; and the City of St. Cloud appeared by and through Jan Peterson, Attorney at Law. 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 September 24, 1998, a petition by property owners for annexation of 6 lots of land totaling approximately 3.5 acres to the City of St. Cloud, as well as a supporting resolution of the City of St. Cloud, was filed with the Minnesota Municipal Board pursuant to Minnesota Statutes Section 414.031, Subdivision 1(c).

2. The petition contained all of the information required by statute, including a description of the area subject to annexation, hereinafter referred to as "the subject area" and described as follows:

Lots Numbered One (1), Two (2), and Three (3) in Block Numbered One (1), and Lots Numbered Five (5), Six (6), and Seven (7) in Block Numbered (4), of Al's 2nd Addition, part of the Northeast Quarter (NE 1/4) of Section Numbered Six (6), in Township Numbered One Hundred and Twenty-four (124) North, of Range Numbered Twenty-eight (28) West; Southeast Quarter (SE 1/4) of Section Numbered Thirty-one (31), Township Numbered One Hundred Twenty-five (125) North, of Range Numbered Twenty-eight (28) West; Southwest Quarter (SW 1/4) of Section Numbered Thirty-two (32), Township Numbered One Hundred Twenty-five (125) North, of Range Numbered Twenty-eight (28) West.

3. The petition is for property in the Town of LeSauk designated for annexation to the City of Sartell pursuant to a previously filed, and Municipal Board approved, orderly annexation agreement between the Town of Le Sauk and the City of Sartell. (MMB Docket No. OA-276 (1992)).

4. On October 2, 1998, pursuant to its authority under Minnesota Statutes Section 414.0325 subd. 1(2), the Municipal Board initiated annexation proceedings for the same property to the City of Sartell consistent with the orderly annexation agreement between the City of Sartell and the Town of LeSauk. (MMB Docket No. OA-276-29).

5. The Municipal Board consolidated the two proceedings for purposes of hearing and directed the parties to meet at least three times over a period of sixty days to try to resolve contested issues. The parties were to report back to the Municipal Board by December 15, 1998 the results of those discussions. The parties reported that they could not resolve the contested issues at the local level.

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

7. The subject area is unincorporated, approximately 3.52 acres in size, and contains six fully developed residential lots.

8. Located on sandy loam soils, the subject area abuts the City of St. Cloud, hereinafter referred to as "St. Cloud," by approximately 30 percent of its perimeter.

9. St. Cloud is approximately 20,102 acres in size; the City of Sartell, hereinafter "Sartell" is approximately 3,840 acres in size, and the Township of Le Sauk, hereinafter referred to as "the Town," is approximately 9,200 acres in size.

10. St. Cloud had a population of approximately 42,566 in 1980, a population of approximately 48,812 in 1990, and has a current population of approximately 59,202 and a projected population of approximately 62,650 in five years. The current number

of households as is estimated at 21,833.

Sartell had a population of approximately 8,077 in 1997, and, the estimated current number of households is 2,869.

The subject area has a current population of approximately 19 persons with six current households.

11. St. Cloud has approximately 19% of its land in residential uses; 13% of its land in institutional uses; 4% of land in each, commercial and industrial uses; 36% of land is in agricultural; and, 24% of land is vacant.

The Township has approximately 11% of land in residential uses; .01% in commercial use; .02% of land in industrial use; 88% of township land in agricultural uses; and, 1% of land is vacant.

The subject area is fully developed with six single family homes.

12. County State Aid Highway 4, herein after referred to as "Co. Hwy. 4", borders the subject area its eastern and northern boundary. Bromo Avenue runs north through the subject area where it meets Co. Hwy 4.

There are no transportation issues or proposed changes within the area proposed for annexation.

13. The City of St. Cloud adopted a comprehensive plan in 1993; the Township adopted a comprehensive plan in 1994; and Stearns County adopted a comprehensive plan in 1998.

The subject area is compatible with the adjacent development withing the City of St. Cloud.

14. The subject area is included in an area designated for orderly annexation to the City of Sartell.

15. Stearns County has a zoning ordinance, subdivision regulations, shoreland ordinance, flood plain ordinance, wild and scenic river ordinance and a sanitation ordinance.

The Township has a zoning ordinance and subdivision regulations, a capital improvements budget and a fire code. The Township follows Stearns County regulations regarding shoreland, floodplain and wild and scenic river ordinances.

The City of St. Cloud has a zoning ordinance, subdivision regulations, capital improvements program and budget, a fire code, shoreland ordinance, a flood plain ordinance, wild and scenic rivers ordinance and a sanitation ordinance.

16. The subject area is zoned residential under the Township's comprehensive plan. If annexed, the subject area would maintain a R-1, single family residential zoning within the City of St. Cloud.

17. The City of St. Cloud presently provides its citizens with 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 facilities.

St. Cloud currently provides street sweeping and plowing, police patrol and recreational parks to the subject area.

18. Water and sewer utilities are located immediately adjacent to the subject area within the City of St. Cloud and could be extended to the subject area within two

to three months if the subject area were annexed.

19. The City of St. Cloud currently serves the area adjoining the subject area with water and sanitary sewer services and has sufficient capacity within its water and sanitary sewer facilities to service its present and future residents, including the subject area.

20. The Township provides its residents with fire protection through the Sartell/Le Sauk fire department, police protection through a contract with the County Sheriff, street improvements, some street maintenance, administrative services and recreational facilities to all its residents. Storm sewer is provided by a rural/ditch system.

21. Municipal water and sanitary sewer service from the City of Sartell are located two miles away from the subject area and are not estimated to be located near the subject area for approximately three to eight years.

22. Sanitary sewer for the subject area is presently provided by individual on-site septic systems. Some residents in the subject area have old septic systems which require repair and replacement. Such systems have dictated more frequent pumping and preventative conservation measures such as limited bathing and laundry.

23. Water service in the subject area is provided through private wells. Some residences have high nitrates in their well water indicating the presence of a high iron content. Stearns County Water Quality Test Results from one sampling in the subject area indicates the presence of some level of fecal coliform resulting from septic drainage which has permeated the water well sampled.

24. Ground and surface water quality could be damaged by failing and aging septic systems in the subject area.

25. The City of St. Cloud has a net tax capacity of approximately \$33,292,141. The City's tax rate for Stearns County is 37.114; the City of St. Cloud's tax rate is 33.875; the School District tax rate is 50.575 and the tax rate for the special taxing district is 2.501. The City of St. Cloud has a total bonded indebtedness of approximately \$108,415,000.

The Town has net tax capacity of approximately \$1,068,991. The Town's tax rate for Stearns County is 119.7070 (from Stearns County Auditor's Office). The Town's tax rate is 6.723; its tax rate for the School District is 57.807 (748) and 50.575 (742). The Town has a total bonded indebtedness of \$180,000.

26. The net tax capacity of the subject area is \$6,005; a county tax rate of 37.024; its tax rate for the Township is 6.723; its tax rate for the School District is 50.549.

27. No portion of the subject area is in Green Acres or in a rural service taxing district.

28. It is not anticipated that the annexation would have any impact on the area school districts or adjacent communities.

29. Neither the Town or County have central water or sanitary sewer systems. The Town would not be able to extend central sanitary sewer systems to the subject area for an estimated three to eight years.

30. Testimony from property owners in Lots 1, 2 and 3 indicated that those

properties were not experiencing problems with individual septic systems, nor were they likely to in the future due to recent upgrades to those systems.

31. Lots 1, 2, and 3 would not necessarily need to be immediately hooked-up to municipal water and sewer service with this annexation. Water and sewer lines to those properties may have to be extended along Co. Hwy 4, in addition to lines that would run down Bromo Avenue.

32. Requiring all properties in the subject area to hook-up to municipal services at one time would produce a financial hardship on some residents.

33. The City of St. Cloud has optional funding formulas available for qualified properties to help alleviate financial strain resulting from city assessments under certain circumstances.

34. If the subject area is annexed, the remainder of the town can continue to carry on the functions of government without undue hardship.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. The subject area as described in Finding of Fact No. 2 is now urban or suburban in character, in need of or will be in need of municipal services, and the annexing city is capable of providing the services required by the subject area this summer.

3. Municipal government is presently required to protect the public health, safety and welfare of the reduced area.

4. The existing township form of government is not adequate at this time or in the immediate future to protect the public health, safety and welfare of the subject area.

5. Neither the City of Sartell, nor the Town of Le Sauk can provide the municipal services necessary to protect the public health, safety and welfare of the subject area in a timely and efficient manner.

6. Annexation to the City of St. Cloud would be in the best interests of the subject area.

7. Annexation to the City of Sartell would not be in the best interest of the subject area.

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

9. An Order should be issued by the Minnesota Municipal Board annexing the subject area to the City of St. Cloud and ordering a five-year tax rate step up for Lot 1, and Lot 2 if such lot qualifies, with a recommendation that the hook-up charges for Lots 1,2 and 3 be back loaded.

ORDER

1. IT IS HEREBY ORDERED: That the property described in Findings of Fact 2 herein, is hereby annexed to the City of St. Cloud, Minnesota, the same as if it had originally been made a part thereof.


2. IT IS FURTHER ORDERED: That the tax rate of the City of St. Cloud on Lot 1 herein ordered annexed shall be increased in substantially equal proportions over

a period of five years to equality with the tax rate of the property already within the city. The tax rate on Lot 2, if services are delayed, shall also be increased in substantially equal proportions over a period of five years to equality with the tax rate of the property already within the city.

3. IT IS FURTHER ORDERED: That the effective date of this order is May 24, 1999.

Dated this 24th day of May, 1999

MINNESOTA MUNICIPAL BOARD
Suite 225 Bandana Square
1021 Bandana Boulevard East
St. Paul, MN 55108

A handwritten signature in black ink that reads "Christine M. Scotillo". The signature is written in a cursive, flowing style.

Christine M. Scotillo
Executive Director