

A-60-66

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Joseph Robbie	Chairman
Robert W. Johnson	Vice Chairman
Irving R. Keldsen	Secretary
George W. Matthews	Ex-officio
Robert F. Fitzsimmons	Ex-officio

IN THE MATTER OF THE PETITION
FOR THE ANNEXATION OF THE
VILLAGE OF ISLAND PARK TO THE
VILLAGE OF MOUND, PURSUANT TO
LAWS 1959, CHAPTER 686, SEC. 4

The petition for the proposed annexation of the Village of Island Park to the Village of Mound duly came on for hearing before the Minnesota Municipal Commission in the County Commissioners' Room in the Court House in Minneapolis, Hennepin County, Minnesota, on the 28th day of December, 1959, at 10:00 in the forenoon. All members of the Commission were present: Joseph Robbie, Chairman; Robert W. Johnson, Vice-Chairman; Irving R. Keldsen, Secretary; George W. Matthews, Chairman of the Board of County Commissioners, Ex-officio; and Robert F. Fitzsimmons, Hennepin County Auditor, Ex-officio. Donald W. Bailey, Village Attorney for the Village of Island Park appeared for and on behalf of the petitioners. Raymond Floetz, Village Attorney, appeared for and on behalf of the Village of Mound as their interests may appear. Elizabeth Bonham appeared as counsel for Minnetrista Township. No counsel appeared for any other party. Evidence and testimony were adduced from all parties appearing and indicating a desire to be heard. Certain exhibits were allowed in evidence.

The Commission having carefully considered all of the evidence, and upon all of the files and records, now makes and files the following Findings of Fact, Conclusions of Law, Order and Memorandum Opinion.

FINDINGS OF FACT

I.

The petition for the annexation of the Village of Island Park to the Village of Mound was filed pursuant to Laws 1959, Chapter 686, Section 4, Subdivision 1, and was signed by the requisite number of legal voters of the proposed annexing municipality of Island Park totaling more than 10% of the legal voters of such

municipality according to the number of votes cast for Mayor thereof at the last municipal election. The number of resident legal voters signing such petition was actually greater than the number of votes cast for Mayor at the last election in the Village of Island Park.

II.

The land area of the Village of Mound is approximately five square miles.

III.

The land area of the Village of Island Park is approximately six hundred acres.

IV.

The population of the Village of Island Park according to the 1950 federal decennial census was 1,357.

V.

The population of the Village of Mound according to the 1950 federal decennial census was 2,062. The area as shown as Three Points was annexed to the Village of Mound subsequent to the last decennial census and the population of Three Points in the year 1950 is not known.

VI.

The estimated population of the Village of Mound at the present time based on the school census and dwelling unit method of estimation is 2,730.

VII.

The estimated population of the Village of Island Park at the present time based on the school census and dwelling unit method of estimation is 1,570.

VIII.

The Village of Mound presently has a water system, a volunteer fire department employing twenty men, a police department employing two men full time and two men part time, a planning commission, and has enacted Zoning and Building Ordinances. The Village of Mound does not have a sewage system.

IX.

The Village of Island Park has no water or sewage system. Such village has a volunteer fire department employing twenty-three men, a police department employing two constables and a planning commission, and has enacted Zoning and Building Ordinances. Each of the Village Trustees is also a peace officer for the Village as needs may require.

X.

The debts and obligations of the Village of Mound are attached hereto and made a part hereof, as Exhibit "A".

XI.

The debts and obligations of the Village of Island Park are attached hereto and made a part hereof, as Exhibit "B".

XII.

The assessed valuation of the Village of Mound is as follows:

Real Estate	\$1,248,919.00
Personal Property	<u>101,787.00</u>
Total Assessed Valuation:	\$1,350,706.00

XIII.

The assessed valuation of the Village of Island Park is as follows:

Real Estate	\$ 442,405.00
Personal Property	<u>20,932.00</u>
Total Assessed Valuation:	\$ 463,337.00

XIV.

The petition is supported by all of the officers of the Village of Island Park who appeared and testified. The incumbent Mayor of the Village of Island Park, members of the Board of Trustees, the Chairman of the Planning Commission, and Secretary of the Planning Commission, all appeared and testified in support of the annexation. The Mayor-elect of Island Park testified his general approval of the annexation. From this and from the fact that more resident legal voters signed the petition than voted in the last election of Mayor of Island Park, and from the further fact that no one appeared to testify in opposition to the annexation, the Commission finds that there is common acceptance of the need and desirability of the proposed annexation by the people living in the Village to be annexed (Island Park.)

XV.

The Mayor and Village Manager of the Village of Mound both appeared and testified. The Village of Mound took a position of neutrality in the hearings. Nevertheless, the evidence indicated that the majority of the members of the Board of Trustees of the Village of Mound have voted their approval of this proposed annexation and the Commission so finds. No opposition was expressed by any witnesses from the Village of Mound, or by any other witnesses, to the proposed annexation.

XVI.

The result of the annexation will be to provide more economic and efficient governmental services such as water system, sewage disposal, road maintenance,

public recreation and planning, fire and police protection.

XVII.

The Village of Island Park is contiguous to the Village of Mound.

XVIII.

Due, proper and timely legal notice by posting and publication of the time and place of hearing of the petition was given in accordance with Laws 1959, Chapter 686, Section 4, Subdivision 1.

XIX.

The petition includes maps indicating boundaries of the proposed annexed municipality and of the annexing municipality and was complete as to all information required by law to be contained in such petition.

XX.

The primary motive of the annexation is not to increase the revenue of the annexing municipality and any increase will bear a reasonable relation to the value of the benefits conferred upon the annexing municipality.

XXI.

No other name was chosen by joint resolution of the municipalities involved in the petition.

CONCLUSIONS OF LAW

I.

The annexed municipality (Island Park) is so conditioned and so located as properly to be made a part of the annexing municipality (Mound).

II.

The annexation will be for the best interests of both municipalities.

III.

Upon completion of the annexation, the newly formed municipality of Mound shall be liable as a whole for any indebtedness thereafter incurred.

IV.

The Village of Island Park shall remain separately liable for all of its existing debts and outstanding obligations at the time the annexation becomes final, including but not limited to all of those debts and obligations listed in Findings of Fact No. XI above, and any other debts and obligations existing and outstanding at the time the annexation becomes final which do not presently appear in testimony or exhibits in this record.

V.

The Village of Mound shall remain separately liable for all of its existing

debts and outstanding obligations at the time the annexation becomes final, including but not limited to all of those debts and obligations listed in Findings of Fact No. X above, and any other debts and obligations existing and outstanding at the time the annexation becomes final which do not presently appear in testimony or exhibits in this record.

VI.

The newly formed municipality, when this annexation becomes final, shall have the necessary legal authority to separately assess the property of the former Village of Island Park and former Village of Mound as they existed at the time the annexation became final for the purpose of paying and retiring any debts and obligations existing at the time of annexation.

VII.

When this annexation becomes final, the new municipality shall assume the name of Mound, the annexing municipality.

VIII.

The number of license privileges existing in the Village of Island Park and Mound prior to annexation and pursuant to state law shall not be diminished as a result of creation of the single municipality of Mound by this annexation.

ORDER

Upon the petition of the required number of resident legal voters of the Village of Island Park for the annexation of such village to the Village of Mound, which came regularly on for hearing before the Minnesota Municipal Commission at 10:00 in the forenoon on the 28th day of December, 1959, in the County Commissioners' Room of the Court House, Minneapolis, Hennepin County, Minnesota, at which time testimony was heard and evidence taken, upon all of the files and records herein, the Commission being fully advised in the premises,

IT IS ORDERED: That such petition for annexation be, and it is hereby, affirmed.

IT IS FURTHER ORDERED: That the annexation be submitted to the Village Council of the Village of Mound for approval or rejection by resolution within thirty days of the date of this Order.

IT IS FURTHER ORDERED: That the name of the new municipality thus created shall be Mound. The newly formed municipality of Mound shall be liable as a whole for any indebtedness incurred after this annexation becomes final upon approval by the Village Council of the Village of Mound.

IT IS FURTHER ORDERED: That the Village of Island Park shall remain separately liable for its debts and obligations existing and outstanding at the time of annexation, including but not limited to the debts and obligations listed on Exhibit "B" attached to this Order and made a part hereof. Any other debts and obligations incurred by the Village of Island Park incurred prior to the time that this annexation becomes final shall also remain the separate liability of the Village of Island Park and the newly formed municipality of Mound may separately assess the property of the Village of Island Park for the payment of all debts and obligations referred to in this paragraph.

IT IS FURTHER ORDERED: That the Village of Mound shall remain separately liable for its debts and obligations existing and outstanding at the time of annexation, including but not limited to the debts and obligations listed on Exhibit "A" attached to this Order and made a part hereof. Any other debts and obligations incurred by the Village of Mound prior to the time that this annexation becomes final shall also remain the separate liability of the Village of Mound and the newly formed municipality of Mound may separately assess the property of the Village of Mound for the payment of all debts and obligations referred to in this paragraph.

Dated this 8th day of January, 1960.

BY THE MINNESOTA MUNICIPAL COMMISSION:

Irving R. Kaldsen,
Secretary

EXHIBIT "A"

The debts and obligations of the Village of Mound are as follows:

Project #7	\$ 150.00	
Project #8	18,000.00	
Project #14	6,000.00	
Project #15	6,000.00	
Project #16	1,345.00	
Project #17	<u>8,000.00</u>	
		\$39,495.00
Sinking Fund	22,499.00	
Total:		6,996.00
Ad valorem		
Project #4	32,000.00	
Project #17	<u>7,600.00</u>	
Sinking Fund	4,090.00	
Total:		\$35,510.00

EXHIBIT "B"

The debts and obligations of the Village of Island Park are as follows:

Bonded Indebtedness	\$158,000.00
Orders not paid for want of funds	31,106.66
Possible contingency liabilities	
U. S. Government, for Water Utility Construction Fund, and U. S. Government Sanitary Survey	13,610.00
Liquor Store Revenue Bonds	92,000.00
Cash Reserve to Retire Liquor Store Revenue Bonds	28,000.00

MEMORANDUM OPINION

The petition for the annexation of the Village of Island Park to the Village of Mound is affirmed subject to necessary ratification. This is the first merger petition filed pursuant to Laws 1959, Chapter 686, under the provisions of which the Minnesota Municipal Commission was established.

Section 4, Subd. 1, provides that such petitions "may be initiated by resolution, either by the proposed annexed or annexing municipality, or by resident legal voters of the proposed annexed municipality equivalent in number to 10% or more of the legal voters of the municipality, according to the number of votes cast for Mayor in the last municipal election . . ." Here, more resident legal voters than voted for Mayor in the last Island Park municipal election have signed the petition. Both the incumbent Mayor and the Mayor-elect of Island Park testified in support of merger and were corroborated by the testimony of the Chairman and Secretary of the Planning Commission and certain Island Park Trustees. There was no testimony or appearance at the public hearing in opposition to consolidation. The record is plain that the proposed merger meets with the general approval of the residents of Island Park.

Section 4 carefully protects the rights of the less populous municipality in any merger. These consolidations are technically treated as the annexation of one municipality by another under the provisions of Section 4. The less populous municipality or municipalities in such an annexation is designated as the annexed municipality and the municipality having the greater population is designated as the annexing municipality. The act assumes that the larger (or annexing) municipality can safeguard its own interests by the requirement that its governing body must approve the annexation by resolution but provides additional safeguards for the smaller municipalities to be annexed. For this reason, local acceptance by officials and residents of the annexed municipality is an important factor in the determination of a merger proceeding.

The unanimity with which the public officials of Island Park testified for annexation is not alone important because of its indication of general public approval within the annexed village. Their testimony has the greater significance of recognizing that the multiplicity of local governments within the Twin Cities metropolitan area involves waste and duplication to the taxpayers' disadvantage. These Island Park officials, who by supporting merger are, in effect, voting themselves out of

office, show a clear understanding that two contiguous villages cannot live cheaper than one and that annexation will "provide more economic and efficient governmental services such as water system, sewage disposal, road maintenance, public recreation and planning, fire and police protection." (A test provided by Section 4, Subd. 3, as to whether or not mergers should be affirmed.)

The testimony of the Mayor and Village Manager of Mound demonstrates the same insight.

We do not hesitate to find that Island Park is so conditioned and so located as properly to be made a part of Mound. (Section 4, Subd. 3) We applaud the public spirit and the cooperation of the village officials of both municipalities. We are convinced from the record that the resulting newly formed municipality of Mound will better serve the residents of both of the present villages.

The act provides that the newly formed municipality shall be liable as a whole for any indebtedness incurred after completion of the merger. It further requires that "the order (of this Commission) shall provide that each municipality shall remain separately liable for its debts existing and outstanding at the time of the annexation." (Section 4, Subd. 2). Our attention is invited to language occurring later in the same section that when the annexation is deemed complete

"....the annexing municipality shall assume and be charged with all the outstanding bonds and obligations of such annexed municipality unless the commission has provided otherwise (emphasis supplied) and in either event all moneys, claims and properties, including real estate, and the proceeds of all taxes levied uncollected and to be collected belonging to, held or possessed by such municipality shall become and be the properties of such annexing municipality with full power and authority to use and dispose of the same for public purposes as the council of such municipality shall deem best."

It is unnecessary to decide whether this language contradicts the express direction to the Commission to provide that each municipality shall remain separately liable for its debts existing and outstanding at the time of the annexation. Even if it is argued that the language contained later in Section 4 allows discretion to the Commission on a subject on which they already have a clear legislative mandate, the Commission still has the authority to order that each municipality remain separately liable for the debts and obligations existing and outstanding at the time of the annexation.

In any case, we hold that it is the clear intent of the Legislature, the plain meaning of Section 4, and the policy which will assure fairness and equity, to provide that each municipality shall remain separately liable for its debts

existing and outstanding at the time of the annexation. We further hold that the village council of the newly formed municipality has the power to separately assess the property of each municipality which is a party to the merger for the payment of its separate existing and outstanding debts at the time of consolidation. These provisions are incorporated in the order.

The Report of the Commission on Municipal Annexation and Consolidation submitted to the 1959 Legislature furnished the background study and recommendation for the law expressed in Chapter 686. One cannot read this study or the law which it fostered without perceiving the underlying philosophy that the merger of contiguous cities and villages, particularly within the metropolitan area, is to be encouraged in the public interest. Many of the conclusions of the Commission on Municipal Annexation and Consolidation resulted from the numerous problems created by fractionating the metropolitan area with 107 or more municipalities. The legislators recommended in their Report that continuing study be given to how to repair the damage caused by this multiplicity of small villages. Merger is one of the solutions.

The fair and equitable apportionment of pre-existing indebtedness to those who incurred the debts and obtained any advantages from the expenditures is not only sensible and just but may also cause some of the barriers to crumble which might otherwise stand in the way of accomplishing the legislative purpose of avoiding duplication and waste at the local level of government.

We readily conclude that the merger of Island Park and Mound is a progressive step in the direction of more effective and efficient local government which will inure to the benefit of both villages and will contribute toward reducing the extremely difficult problem of coordinating municipal services in the metropolitan area.

Mound and Island Park share a common boundary in the Lake Minnetonka area. They are one social, economic and cultural unit and the division of local governmental responsibility is an artificial one. They will have a combined population in excess of 5,000 in the 1960 census. As urban growth intensifies, the significance of municipal boundaries recedes.

Although there may have been good cause to create separate villages sharing common boundaries (here and elsewhere in the metropolitan area) before the full intensity of urban growth was felt, their swiftly expanding populations have

filled in and developed these villages to their respective boundaries and the separation in situations similar to Mound and Island Park is merely by a geographical line. In these cases, merger becomes but another step in the orderly development of local government in the area. Where this can be accomplished with local consent, the public interest is served.

BY THE FULL COMMISSION:

Joseph Robbie, Chairman