

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

John W. Carey	Chair
Kenneth F. Sette	Vice Chair
Shirley J. Mihelich	Commissioner

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

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on August 29, 1990 and was continued from time to time at Janesville, 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, and Kenneth F. Sette, Vice Chair of the Minnesota Municipal Board. The petitioners appeared by and through Charles Ingman, Attorney at Law, and the City of Janesville appeared by and through Norbert Smith, Attorney at Law. Janesville Township 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 May 29, 1990, a petition for detachment of certain

property from the City of Janesville, hereinafter referred to as Janesville, was filed by all of the property owners with the Minnesota Municipal Board. The petition contained all of the information required by statute, including a description of the property proposed for detachment, hereinafter referred to as the subject area, which is as follows:

Parcel 1

The SE 1/4 of the SW 1/4 and the S 1/2 of the NE 1/4 of the SW 1/4 of Sec. 34, Twp. 108 North, Range 24 West, Waseca County, Minnesota, except the following described tract, to-wit: Beginning at a point on the 1/8th line between the NW 1/4 of the SW 1/4 and the NE 1/4 of the SW 1/4 of said Sec. 34, 218 1/2 feet south of the south right-of-way of the Winona and St. Peter Railroad, thence east 66 feet, thence north 218 1/2 feet to the south line of said railroad right-of-way, thence west 66 feet along the south line of said railroad right-of-way, thence south along said 1/8th line 218 1/2 feet to the point of beginning, all being in Twp. 108 North, Range 24 West, Waseca County, Minnesota.

Parcel 2

The SW 1/4 of the SW 1/4, except the North 780 feet thereof, in Sec. 34, Twp. 108 North, Range 24 West, Waseca County, Minnesota. Subject to easements and agreements of record, if any.

2. Due, timely and adequate legal notice of the hearing was published, served and filed.
3. The subject area is situated in Janesville, and abuts the municipal boundary by approximately 60% of its perimeter.
4. The subject area is approximately 56 acres in size.
5. Janesville is approximately 580 acres in size.

6. The subject area is relatively flat terrain with a majority of it draining to the southwest and a portion of it draining to the northeast.

7. The subject area's western boundary abuts County Road No. 3.

Access to the residents in the subject area is by private drive which connects to a city street. The private drive has not been dedicated to the city. Until 1980, the private drive was plowed by Janesville.

8. Janesville has county and city roads.

9. Janesville's population in 1980 was approximately 1,898. It has an estimated population, from the 1990 census, of approximately 1,968.

10. The subject area has one home with a population of approximately two people.

11. Immediately west of the building site on the subject area is Hendricks Addition, a single-family residential subdivision approximately 20 acres in size. Prior to the land becoming Hendricks Addition, the land was a part of the farm which is located within the subject area and was owned by at least one of the petitioners.

West of County Highway No. 3 is a residential development with approximately nine homes and west of those homes are some manufactured houses.

12. There are few areas in Janesville that are developable.

There are presently two areas with plans for development. There is one area left for development within Janesville excluding the subject area.

13. Drainage from the Hendricks Addition travels southwest through the culvert system in the subject area to a culvert located within the city adjacent to County Highway No. 3. The water then flows west under the road and continues westward.

The culvert had been obstructed by piled dirt prior to the hearing.

There is presently a dispute between the petitioners and the city as to whether an easement exists for the use of the tile system within the subject area to drain Hendricks Addition.

Hendricks Addition naturally drains to the southwest.

14. Janesville presently provides its residents with water, sanitary sewer, fire protection, police protection, street improvements, maintenance and snow plowing, administrative services, electrical service, and garbage service.

Janesville presently provides the subject area with police protection, fire protection, electrical service and garbage service.

Janesville sanitary sewer and water are approximately 500 feet from the residence located in the subject area.

15. The subject area is presently served by an on-site septic system and well. Neither have been upgraded since the property owners have owned the land and are most probably the original

septic system and well from when the house was constructed approximately 70 years ago.

16. Janesville has an enacted a Storm Drainage District Plan that assesses improvements to the storm drainage system in the district. The subject area has land in Storm Drainage Districts 1 and 2.

17. Janesville Ordinance No. 203 provides for a Rural Service Taxing District and was enacted by Janesville in 1985.

The subject area is in the Rural Service Taxing District. The city taxes on the subject area are approximately \$502.00, while taxes in the Town of Janesville for the subject area would be approximately \$446.00.

CONCLUSIONS OF LAW

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

2. The subject area is adjacent to residential development and may be used for additional development. The loss of the subject area may impact Janesville's future development and create an undue hardship on Janesville.

3. The detachment of the subject area would unreasonably affect the symmetry of Janesville.

4. The subject area is not experiencing any significant detriment by being within the city, and the surface water drainage is a shared concern among the subject area, the area adjacent to the subject area, and the city. The loss of the subject area may

result in loss of control over drainage from a portion of Janesville, which could be an undue hardship for some if not all of Janesville.

5. An order should be issued by the Minnesota Municipal Board denying the petition for detachment of the area described herein.

O R D E R

1. IT IS HEREBY ORDERED: That the petition for the detachment of the property described herein in Findings of Fact 1 be, and the same hereby is denied.

2. IT IS FURTHER ORDERED: That the effective date of this order is March 14, 1991.

Dated this 14th day of March, 1991.

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


Terrence A. Merritt
Executive Director