

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

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

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IN THE MATTER OF THE PETITION FOR            )  
THE DETACHMENT OF CERTAIN LAND FROM        )                      FINDINGS OF FACT  
THE CITY OF MINNETONKA AND ANNEXATION      )                      CONCLUSIONS OF LAW  
TO THE CITY OF WAYZATA PURSUANT TO         )                      AND ORDER  
MINNESOTA STATUTES 414                        )  
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The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on October 10, 1990, at Wayzata, Minnesota, and was continued from time to time. 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, and Shirley J. Mihelich, Commissioner. The petitioner appeared by and through Brian Palmer, Attorney at Law, and the City of Minnetonka appeared by and through Robert W. Johnson, Attorney at Law. The City of Wayzata made no formal 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 July 5, 1990, a petition for concurrent detachment and annexation by the sole property owner was filed with the Minnesota Municipal Board.

The petition contained all of the information required by statute including a description of the area proposed for concurrent detachment and annexation, which is as follows:

Legal Description, Tract "A"

That part of Lots 7 and 9, Auditor's Subdivision No. 84, lying East of the following described line: Commencing at the Southwest corner of said Lot 9; thence North 89 degrees 52 minutes 10 seconds East, along the South line of said Lot 9, a distance of 238.00 feet to the actual point of beginning of the line to be described; thence North 01 degrees 51 minutes 08 seconds East, parallel with the East line of Lot 9, a distance of 1088.30 feet to the North line of said Lot 7 and said line there terminating. Excepting therefrom that part of Lots 7 and 9, lying East of a line 440.00 feet West of and measured at right angles to and parallel with the East line of Lot 8. Excepting therefrom that part taken by U.S. Highway No. 12.

ALSO: That part of the East 15 feet of the following described property: That part of Lot 9, Auditor's Subdivision Number Eighty Four (84), Hennepin County, Minnesota, lying West of a line drawn North, parallel with the East line of said Lot 9, distant 238 feet East from the Southwest corner of said Lot 9.

Which ~~lines~~ Northeastly of the following described line: Commencing at a point on the South line of said Lot 9, distant 238 feet East from the Southwest corner of said Lot 9; thence North parallel with the East line of said Lot 9, a distance of 132 feet to the point of beginning of the ~~line~~ being described; thence Northwestly deflecting 45 degrees left to an intersection with the West line of said East 15 feet, and said line there terminating.

Legal Description, Tract "B"

That part of Lots 7, 8, and 9, lying East of a line 440.00 feet West of and measured at right angles to and parallel

with the East line of Lot 8 and lying West of a line 220.00 feet West of and measured at right angles to and parallel with the East line of Lot 8. Excepting therefrom that part taken by U.S. Highway 12.

A resolution opposing the concurrent detachment and annexation was received from the City of Minnetonka on July 25, 1990. A resolution supporting the concurrent detachment and annexation was received from the City of Wayzata on August 30, 1990.

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

3. The area proposed for concurrent detachment and annexation, hereinafter referred to as "the subject area," is presently within the City of Minnetonka, hereinafter referred to as "Minnetonka," abuts the City of Wayzata, hereinafter referred to as "Wayzata," and is approximately 12.6 acres in size. The perimeter of the subject area is approximately 63% bordered by Wayzata.

4. Minnetonka had a population of approximately 35,776 in 1970, approximately 38,683 in 1980, and approximately 48,256 in 1990. It is projected that it will have a population of approximately 49,000 in 2000.

5. Wayzata had a population of approximately 3,700 in 1970, approximately 3,621 in 1980, and approximately 3,900 in 1990. It is projected that it will have a population of approximately 3,900 in 2000.

6. The subject area is developed as commercial property with undeveloped wetlands and has no population.

7. Minnetonka has a total acreage of approximately 17,920 acres.

8. Wayzata has a total acreage of approximately 2,046 acres.

9. The subject area has a total acreage of approximately 12.6 acres with approximately 7.7 acres developed and approximately 4.9 acres undeveloped.

There are no plans or available land for any further development in the subject area.

10. In the subject area, approximately one-third of the northerly portion is protected wetlands. The southerly portion of the subject area is filled and paved and developed with two automobile dealerships.

The soils in the southern portion of the subject area are classified as primarily cut and fill land and the soils in the northern portion of the subject area are classified as marsh with a small area classified as Hayden Loam with a 6% to 12% slope.

The subject area is generally flat, except for the berm south of the wetlands. The existing building and parking lot lie at a 957 foot elevation. The berm has a high point at 970 feet. The wetlands have an elevation of 944 feet.

11. The wetlands in the subject area provide drainage for the single family residential area to the north and the commercial property to the east.

Surface water drainage for the developed area is accommodated by three main parking lot catch basins with storm sewer pipe connection through the berm to the northerly wetlands.

12. The subject area and the Minnetonka area to the east are

presently zoned as "Planned I-394 District" under Minnetonka's zoning ordinance. The adjacent Wayzata property is zoned C-3, Service District.

Retail automobile sales and service is a permitted use in both zoning districts.

The Lexus automobile dealership was constructed on the boundary line between Minnetonka and Wayzata. Minnetonka and Wayzata cooperated, during the construction of the building, to insure that the necessary requirements were met.

13. The subject area is served by the north frontage road of I-394. No changes to the transportation network in the immediate area are planned. I-394 is directly south of the subject area.

I-394 and the north frontage road adjacent to the subject area are in Wayzata.

Currently, all Minnetonka police, fire, and other emergency vehicles must travel through that portion of frontage road in Wayzata to access the subject area.

14. The comprehensive plans for Minnetonka and Wayzata are consistent with the existing use of the subject area and surrounding property.

Wayzata and Minnetonka are both entirely within the Metropolitan Urban Service Area (hereinafter referred to as MUSA).

Wayzata would need to submit a comprehensive plan amendment to the Metropolitan Council for the subject area if it is annexed to Wayzata.

15. Wayzata provides water service to the subject area buildings in Minnetonka as well as the dealership buildings in Wayzata. The subject area is served by an eight inch main that provides adequate fire flow service to the dealership buildings.

16. Minnetonka currently provides sanitary sewer service to the subject area in Wayzata. Wayzata's sanitary sewer lines extend just to the west of the subject area, and additional improvements would need to be made in order for Wayzata to serve the subject area.

17. Wayzata and Minnetonka have cooperative agreements for exchange of utility services for developments on their adjoining borders. The sanitary sewer lines in the subject area and surrounding area are designed to follow topography and not jurisdictional boundaries. Water service does not follow jurisdictional boundaries but can be more efficiently provided as it has been installed.

There are no anticipated changes in the cooperative agreements between Wayzata and Minnetonka.

The Metropolitan Waste Control Commission provides sewer service to the subject area and both cities. Wayzata had a 1989 sewer flow of 205 million gallons per year (mgy), and is projected, by the Metropolitan Council 1988 Systems Statement to have a 1990 flow of 274-289 mgy and a planned year 2000 flow of 277-307 mgy. Minnetonka had a 1989 sewer flow of 2,169 mgy, and is projected, by the Metropolitan Council's 1988 Systems Statement, to have a 1990 planned sewer flow of 2015-2112 mgy and 2157-2324 for the year 2000.

18. Wayzata provides snow removal and maintenance of the frontage

road adjacent to the dealerships in Wayzata and Minnetonka.

Wayzata maintains approximately 27 miles of roadways, with an average of approximately 4.5 miles of roadway for every maintenance person. Minnetonka maintains approximately 240 miles of roadways with an average of approximately 9.2 miles of roadway for every maintenance person.

19. Electric service to the subject area is provided by Northern States Power and gas service is provided by Minnegasco. There would be no change in service with annexation of the subject area to Wayzata.

20. Each community has its own police force. The automobile dealerships in the subject area and adjacent thereto, receive police service from both Minnetonka and Wayzata. Minnetonka and Wayzata have a mutual aid agreement for police service. Minnetonka has approximately six or seven marked patrol cars on duty at any given time. Wayzata has one patrol car on duty generally, with two patrol cars on duty during the evening hours.

21. Minnetonka has a fire insurance rating of 5.

Wayzata has a fire insurance rating of 6.

Both fire departments are volunteer in nature with Minnetonka having at least five full time fire employees. Wayzata and Minnetonka have a mutual aid agreement for fire service.

22. There are no existing or potential environmental problems in the subject area. Any potential problems with runoff from the buildings and parking lots have been accommodated by the installation of sump, skimmer systems for water quality treatment to prevent contamination of

the wetland areas. The concurrent detachment and annexation of the subject area will not affect the area environmentally. Both Wayzata and Minnetonka require the berm to remain in its present place.

23. In 1990, Minnetonka had a total valuation of approximately \$2,919,067,870.00, a net tax capacity of approximately \$67,212,191.00, a tax rate of 15.766, and a total bonded indebtedness of approximately \$51,543,069.00.

24. In 1990, Wayzata had a total valuation of approximately \$348,088,000.00, a net tax capacity of approximately \$8,003,606.00, a tax rate of 17.658, and a total bonded indebtedness of approximately \$7,850,000.00.

25. In 1990, the subject area had a total valuation of approximately \$2,952,000.00, a tax capacity of approximately \$146,134.00, total taxes payable of approximately \$83,216.00, city taxes payable of approximately \$12,632.00, and special assessments of approximately \$12,365.00 which special assessments should continue to be paid to Minnetonka.

In 1990, the subject area total valuation was divided between Village Chevrolet, which had an estimated market value of \$2,333,900.00 and a tax capacity of \$113,778.00, and that portion of the Lexus Dealership in Minnetonka, which is approximately one third of the building, and which had an estimated market value of \$618,300.00 and a tax capacity of \$30,605.00.

26. If the subject area was concurrently detached and annexed, for Pay 1990 the Minnetonka tax rate would increase to 15.0046% from



15.039% and the Wayzata tax rate would decrease from 17.1803% to 16.8759%.

27. There will be no effect on the Wayzata School District if the subject area is detached from Minnetonka and annexed to Wayzata.

28. Minnetonka and Wayzata presently have the State Building Code in effect.

29. On March 21, 1991, the Minnesota Municipal Board moved to reduce the area under consideration before it to the following described property, hereinafter referred to as the "reduced area," which is the subject of the remaining Findings of Fact, Conclusions of Law, and Order:

That portion of the following described property located within Minnetonka:

That part of Lots 7, 8, and 9, Auditor's Subdivision Number 84, Hennepin County, Minnesota, according to the recorded plat thereof, and situate in Hennepin County, Minnesota, lying East of a line 440.00 feet West of and measured at right angles to and parallel with the East line of said Lot 8 and lying West of a line 220.00 feet West of and measured at right angles to and parallel with the East line of said Lot 8, excepting therefrom that part taken for U.S. Highway No. 12, together with appurtenant easements granted in Documents No. 5561614 and No. 5561615.  
Subject to and together with easements of record.

The portion of the Lexus dealership in Minnetonka is located in the above-described property, and the remainder of the description covers the rest of the Lexus Property.

30. There are no plans for any additional development in either the subject area or the reduced area.

31. The inclusion of all of the Lexus property under one

municipal entity will decrease confusion over its jurisdiction.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.
2. Concurrent detachment and annexation of the reduced area is in the best interest of that portion of Minnetonka consisting of the reduced area.
3. Concurrent detachment and annexation of the reduced area is in the best interests of Minnetonka and Wayzata.
4. Wayzata can provide the reduced area with the necessary governmental services.
5. Concurrent detachment and annexation of the remaining property is not in the best interests of Minnetonka and Wayzata.
6. An order should be issued by the Minnesota Municipal Board approving the reduced area described herein for concurrent detachment and annexation.

ORDER

1. IT IS HEREBY ORDERED: That the following described property situated in the County of Hennepin, State of Minnesota, be and the same is hereby detached from Minnetonka and annexed to Wayzata, Minnesota, the same as if it had been originally a part thereof:

That portion of the following described property located in  
Minnetonka:

That part of Lots 7, 8, and 9, Auditor's Subdivision Number 84, Hennepin County, Minnesota, according to the recorded plat thereof, and situate in Hennepin County, Minnesota, lying East of a line 440.00 feet West of and measured at

right angles to and parallel with the East line of said Lot 8 and lying West of a line 220.00 feet West of and measured at right angles to and parallel with the East line of said Lot 8, excepting therefrom that part taken for U.S. Highway No. 12, together with appurtenant easements granted in Documents No. 5561614 and No. 5561615.

Subject to and together with easements of record.

2. IT IS FURTHER ORDERED: That the petition for the remaining portion of the area described in Finding of Fact 1, herein, is hereby denied.

3. IT IS FURTHER ORDERED: that the special assessments owed Minnetonka on the property described in Article 1 of this Order shall be paid to Minnetonka.

4. IT IS FURTHER ORDERED: that the effective date of this order is June 28, 1991.

Dated this 1st day of July, 1991.

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

  
Terrence A. Merritt  
Executive Director