

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Kenneth F. Sette                      Chair  
Robert J. Ferderer                  Vice Chair  
John W. Carey                        Commissioner

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IN THE MATTER OF THE PETITION FOR )                      FINDINGS OF FACT  
THE DETACHMENT OF CERTAIN LAND TO )                      CONCLUSIONS OF LAW  
FROM THE CITY OF HOUSTON PURSUANT )                      AND ORDER  
TO MINNESOTA STATUTES 414            )                      AND MEMORANDUM  
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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 February 12, 1992 at Houston, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Kenneth F. Sette, Chair, and John W. Carey, Commissioner. The petitioners and the Town of Houston appeared by and through Donald L. DeVaughn, Attorney at Law, the City of Houston appeared by and through Duane Woodworth, 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 May 28, 1991, a copy of a petition for detachment by at least 75% of the property owners was filed with the Minnesota Municipal Board. The petition contained all of the information required by

statute, including a description of the territory subject to detachment, hereinafter referred to as "subject area," which is as follows:

The number of acres in the property proposed for detachment is 881.36 acres, more or less, and is described as follows:

The Northeast Quarter of Section 32, Township 104 North, Range 6 West.

The North Half of Section 33;

The Southeast Quarter of Section 33, except that part thereof described as follows:

All of Lots 8 through 13, Block 2, Crookston's Addition to Houston, Minnesota, as of record and on file in the office of the county Recorder for Houston County, Minnesota.

~~Together with~~ That part of the Southeast Quarter of the Southwest Quarter and that part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 104 North, Range 6 West, Houston County, Minnesota, described as follows:

Beginning at the Northwest corner of said Block 2 of Crookston's Addition to Houston; thence Southerly along the West line of said Block 2, a distance of 300.00 feet to the Southwest corner of said Block 2; thence Southwesterly deflecting to the right 80 degrees 02 minutes a distance of 65.10 feet to the East line of Erickson Street; thence Northerly deflecting to the right 99 degrees 08 minutes; and along said East line of Erickson Street, a distance of 302.20 feet to its intersection with the South line of Maple Street; thence Easterly deflecting to the right 89 degrees 52 minutes and along said South line of Maple Street, a distance of 66.20 feet to its intersection with the East line of Henderson Street; thence Northeasterly to the point of beginning.

All of Lots 14, 15 and 16 of Block 3, Crookston's Addition to Houston, Minnesota as of record and on file in the office of the County Recorder for Houston County, Minnesota.

~~Together with~~ That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 104 North, Range 6 West, Houston County, Minnesota, described as follows:

Beginning at the Northwest corner of Block 2 of said Crookston's Addition to Houston; thence Northerly a distance of 66.00 feet to the Southwest corner of said Block 3 of Crookston's Addition to Houston; thence continuing Northerly along the West line of said Block 3, a distance of 150.00 feet to the Northwest corner of Lot 16 of said Block 3; thence Westerly deflecting to the left 90 degrees 12 minutes along the Westerly extension of the North line of said Lot 16 of Block 3, a distance of 7.55 feet to its intersection with the East line of Henderson Street; thence Southerly deflecting to the left 90 degrees 50 minutes and along said East line of Henderson Street, a distance of 224.20 feet to its intersection with the South line of Maple Street; thence Northeasterly to the point of beginning.

That part of Fifth (5th) Street in Crookston's Addition, being sixty-six (66) feet in width, extending from the East terminus of Maple Street of the City of Houston East to a line drawn from the Southeast corner of Lot Fourteen (14) of

Block Three (3) to the Northeast corner of Lot Thirteen (13) of Block Two (2) of Crookston's Addition to Houston.

That part of the Northwest Quarter of the Southwest Quarter of Section 33, Township 104 North, Range 6 West, which lies North of Mons Anderson's Addition to Houston.

That part of the Northeast Quarter of the Southwest Quarter of Section 33, Township 104 North, Range 6 West, lying North of Mons Anderson's Addition to Houston, more particularly described as: Commencing at the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 33; thence South along the West line thereof to a point which lies 40 feet North of the North line of Block 3 of Mons Anderson's Addition to Houston; thence East to a point on the ~~West~~ East line of Chase Street, which lies 60 feet East and 40 feet North of the Northeast corner of Block 1 of Mons Anderson's Addition to Houston; thence Northwesterly to a point which is 850 feet West and 260 feet South of the center of said Section 33; thence North 260 feet to a point on the North line of the Northeast Quarter of the Southwest Quarter of said Section 33, which is 850 feet West of the center of said Section 33; thence West to a point of beginning and there ~~terminates~~ terminating.

The Southwest Quarter of Section 34, Township 104 North, Range 6 West.

The Northeast Quarter of Section 4, Township 103 North, Range 6 West.

That part of the Northeast Quarter of the Northwest Quarter of Section 4 described as: Commencing at the Northeast corner of the Northwest Quarter of said Section 4; thence West along the North line thereof, 464.9 feet, more or less, to the ~~West~~ East line of Chase Street, as extended South; thence South along the ~~West~~ East line of Chase Street, as extended, a distance of 594 feet; thence at a right angle West, 46.6 feet to a point which is 511.5 feet West of the North-South centerline of Section 4; thence South to the South line of the Northeast Quarter of the Northwest Quarter of Section 4; thence East 511.5 feet to the East line of the Northeast Quarter of the Northwest Quarter along the East line 1,320 feet, more or less to the point of beginning.

The Southeast Quarter of the Northwest Quarter of Section 4, Township 104 North, Range 6 West.

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

3. The petition stated the subject area is situated within the City of Houston, hereinafter referred to as "City", and abuts the northern, eastern and southern municipal boundaries.

4. The vast majority of the subject area has not been considered part of the City for over 80 years. The vast majority of the subject area is under the governmental jurisdiction of the Town of Houston, hereinafter referred to as "Town".

5. The subject area is approximately 881.36 acres in size.

6. The City is approximately 1600 acres in size.

The City has exercised authority over approximately 719 of the City's 1600 acres over the past 75 years.

7. The subject area has bluffs in the northern portion of the subject area and the southern portion of the subject area. With the remainder of the land generally flat. The subject area includes portions of the Root River.

8. The City has state, county and local roads.

9. Approximately 20% of the towns roads are blacktop.

10. The City had a population of approximately 1,013 in 1990, and a population of approximately 1,070 in 1980.

11. The Town had a population of approximately 423 in 1990.

12. The subject area has a population of approximately 55.

13. The subject area contains approximately 12 houses along the northern bluff of the subject area, 2 cemeteries and several houses in the southern portion of the subject area. There is also a gas station, car wash, and auto service building. Additionally, the town hall has been located in the subject area for many years.

14. The City over the past 90 years has annexed several portions of the subject area which was part of the original City incorporation, but had not been considered part of the City for over 80 years.

15. The subject area is approximately 21% of the tax base of the Town.

16. The subject area contributes approximately \$5,800.00 to the Town's budget through local real estate taxes.

17. The City is seeking funding for reconstruction of the dike along the southern part of the Root River.

18. That portion of the subject area located south of the river and northwest of the City is being considered for park purposes within the revised dike plan.

19. The City's existing Wastewater Treatment Plant is located immediately adjacent to the City, and in the north central portion of the subject area.

20. There have been approximately four or five homes built in the City in the past ten years.

21. The City has a tax rate of approximately 61.548.

22. On June 16, 1992, the Minnesota Municipal Board reviewed the evidence from the hearing and reduced the subject area to the following described property:

The reduced area is all that land lying outside of the land located between the following described line and the City limits of the City of Houston as testified to at the hearing as the old City limits:

Beginning at a point on the centerline of Section 32, in the Northwest Quarter in the center of the Root River thence Easterly along the middle of the River to the Eastern right-of-way of Trunk Highway 76 thence South to the centerline of Section 33, thence Easterly to the centerline center point of Section 33, thence South along the centerline of Section 33, Township 104 North, Range 6 West, to the centerline of State Trunk Highway 16 thence East to the centerline of Killborn Street thence South to the Southern boundary of Section 33, thence West to the centerline of Section 4, thence South to the centerline of the Northwest Quarter of Section 4, thence West along the centerline to that point on the centerline of the Northwest Quarter of Section 4, which is the extension of the Westerly right-of-way line of Chase Street thence North along the Westerly right-of-way line extension of Chase Street, to the existing Chase Street right-of-way.

The remainder of the Findings of Fact, and Conclusions of Law deal with the reduced area.

23. The City has received the local government real estate taxes from only the east side of Chase Street; the City has not received the taxes from the remainder of the land in the subject area.

24. The reduced area contains the City's Wastewater Treatment Plant; land receiving service along Chase Street; and the land immediately adjacent to the area which sought annexation in 1979. The northwest portion of the reduced area is included in a proposed park development under the new levy proposal.

25. Subsequent to the Municipal Boards reduction of the originally petitioned area, the Municipal Board received a copy of the Public Law of 1876 defining the boundaries of the City of Houston as follows:

SESSION LAWS 1876, PAGES 73 AND 74

CHAPTER IX

AN ACT TO AMEND AN ACT ENTITLED AN ACT TO INCORPORATE THE VILLAGE OF HOUSTON, IN HOUSTON COUNTY, AND STATE OF MINNESOTA.

*Be it enacted by the Legislature of the State of Minnesota:*

Section 1. That the act incorporating the village of Houston, Houston County, and State of Minnesota, approved February 19th, 1874, be so amended as to exclude from the corporate limits of said village and annex to the town of Houston, the following described lands, viz: The Southwest Quarter of Section Thirty-Four, Town One Hundred and Four, Range Six West, the East Half of Section Thirty-Three, Town One Hundred and Four, Range Six West, the Northwest Quarter of Section Thirty-Three, Town One-Hundred and Four, Range Six West, all that part of the Northeast Quarter of the Southwest Quarter of Section Thirty-Three, Town One-Hundred and Four, Range Six West, lying North of Elm Street, in Mons Anderson's Addition to the Village of Houston, the Northeast Quarter of Section Thirty-Two, Town One Hundred and Four, Range Six West, the Northeast Quarter of Section Four, Town One Hundred and Three, Range Six West, the East Half of the Northwest Quarter of Section Four, Town One Hundred and Three, Range Six West, and seven acres off the East side of the Northwest Quarter of the Northwest Quarter of Section Four, Town One Hundred and Three, Range Six West.

Sec. 2. This act shall be enforced from and after its passage.

Approved March 2d, 1876.

The Municipal Board took official notice of the Public Law of

1876.

26. The land described in the Public Law of 1876 contains none of the reduced area or the area originally petitioned for detachment.

27. The area petitioned for detachment which includes the reduced area, is pursuant to Public Law 1876, not a part of the City of Houston and therefore not properly the subject of a detachment petition.

CONCLUSIONS OF LAW

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

2. There is presently no land within the City of Houston in the petition for detachment.

3. An order should be issued by the Minnesota Municipal Board dismissing the petition and closing the file.

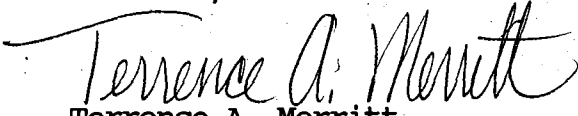
ORDER

1. IT IS HEREBY ORDERED: That the petition for detachment is hereby dismissed.

2. IT IS FURTHER ORDERED: That the effective date of this order is January 12, 1993.

Dated this 12th day of January, 1993.

MINNESOTA MUNICIPAL BOARD  
Suite 475, McColl Building  
St. Paul, Minnesota 55101

  
Terrence A. Merritt  
Executive Director

M E M O R A N D U M

The Municipal Board takes this opportunity to urge the City and Town to continue their spirit of cooperation.

The Board is confident that the City and Town will be able to work together for the construction of the new levy to the benefit of the community at large.

The matter before the Board is unusual since the subject area is not part of the City of Houston because of the Public Law of 1876. As the parties are aware, the existence of this Public Law was not found until after the original hearing had been completed. The Board in dismissing the petition for detachment notes that pursuant to the Public Law of 1876, all of the detachment petition area is not a part of the City of Houston, and therefore not an appropriate subject for a detachment proceeding. *JAM 1-12-93*