

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer Chair
Paul B. Double Vice Chair
Lea De Souza Speeter Vice Chair

IN THE MATTER OF THE PETITION FOR) FINDINGS OF FACT
THE DETACHMENT OF CERTAIN LAND FROM) CONCLUSIONS OF LAW
THE CITY OF OTSEGO AND ANNEXATION OF) AND ORDER
CERTAIN LAND TO THE CITY OF ALBERTVILLE) AND MEMORANDUM
PURSUANT 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 October 26, 1994, and was continued. The hearing was conducted by Terrence A. Merritt, then Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12 and was combined with D-312 Otsego/A-5402 Albertville to avoid duplicative cost, effort and evidence since the two petitions dealt with the same two cities. However, each petition was considered on its individual merits. Also in attendance were Robert J. Ferderer, Chair, and John W. Carey, then Vice Chair. The petitioner, Kent Roessler, appeared by and through Ernest F. Peake, Attorney at Law. The City of Otsego appeared by and through Gerald Von Korff, 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 and Memorandum.

FINDINGS OF FACT

1. On June 22, 1994, a copy of a petition for concurrent detachment and annexation by all 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 concurrent detachment and annexation, hereinafter referred to as "subject area," which is as follows:

The West Half of the Southwest Quarter of Section 35, Township 121 North, Range 24 West, County of Wright.

A supporting resolution was not received from the City of Otsego, hereinafter referred to as "Otsego." The Municipal Board, conducted proceedings in accordance with M.S. 414.061, Subdivision 5.

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

3. The subject area is unincorporated, approximately 80 acres in size, and abuts the City of Albertville, hereinafter referred to as "Albertville," by approximately 33% of its perimeter. Otsego is approximately 19,023 acres in size and Albertville is approximately 2,042 acres in size.

4. Otsego had a population of approximately 1,526 in 1970, a population of approximately 4,769 in 1980, and has a current population of approximately 5,689.

Albertville had a population of approximately 451 in 1970, a population of approximately 564 in 1980, and has a current population of approximately 1,547.

5. The subject area consists of Cordova and Webster silty clay loams, Dundas and Ames silt loams, Glencoe silty clay loams, Hayden loams, Nessel silty loams and Marsh.

6. Otsego has approximately 66.20 miles of highways, streets, and roads (MSA Designated).

Albertville has approximately 15.15 miles of highways, streets, and roads.

7. No transportation changes are proposed in the subject area except for residential streets.

8. Otsego has a comprehensive plan, adopted 1990.

Albertville has a comprehensive plan, adopted 1988.

9. Otsego has a zoning ordinance, subdivision regulations, an official map, capital improvements program and budget, a fire code, a shoreland ordinance, a floodplain ordinance, wild and scenic rivers ordinance, and a sanitation ordinance.

Albertville has a zoning ordinance, subdivision regulations, an official map, capital improvements program and budget, a fire code, a shoreland ordinance, and a sanitation ordinance.

10. The subject area is currently zoned A-1 agricultural.

11. If the subject area is detached from Otsego and annexed to Albertville, it is anticipated that the subject area will be zoned residential.

12. Otsego adopted an Urban/Rural Taxing District - but Albertville has not.

13. Otsego presently provides its residents with water, storm

sewer, solid waste collection and disposal, fire protection, police protection, street improvements and maintenance, administrative services, and recreational facilities.

Albertville presently provides its residents 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.

Albertville is willing to provide all of the services it presently provides to its residents to the subject area. Currently, the subject area has private wells for water and individual septic systems provides the sanitation.

14. No existing or potential environmental problems require the need for additional services. However, the proposed residential development will require municipal services.

15. Albertville has stated through Resolution No. 1995-10, that it has the capacity to provide governmental services and intends to do the same, subject to city approval process.

16. Otsego had a 1994 assessed valuation of \$158,932,700. Otsego's tax rate is 28.169; its tax rate for the County is 31.965; its tax rate for the School District is 60.134; and its tax rate for the Special Taxing District is 2.744. Otsego has a fire insurance rating of 9, and a total bonded indebtedness of approximately \$485,000.

Albertville had a 1994 assessed valuation of \$59,825,500. Albertville's tax rate is 37.954; its tax rate for the County is 31.722;

and its tax rate for the School District is 62.612. Albertville has a fire insurance rating of 6, and a total bonded indebtedness of approximately \$2,881,000.

No Testimony was received relating to the assessed valuation of the subject area.

17. It is not anticipated that the concurrent detachment and annexation would have any impact on the area school districts.

18. If the concurrent detachment and annexation is approved, the remainder of Otsego 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 is about to become urban or suburban in character, and will be in need of municipal services, and the annexing city is capable of providing the services required by the subject area within a reasonable time.

3. Municipal government is presently required to protect the public health, safety, and welfare of the subject area. Otsego does not have the capacity to provide municipal services to the subject area, while Albertville, which has the capacity, is willing to do so.

4. The concurrent detachment and annexation would be in the best interests of the subject area.

5. The City of Otsego can carry on the functions of government without undue hardship.

6. An order should be issued by the Minnesota Municipal Board approving the petition for the concurrent detachment and annexation of the the area described herein.

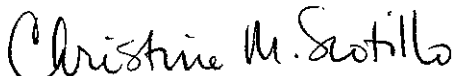
O R D E R

1. IT IS HEREBY ORDERED: That the property described in Findings of Fact 1 herein, be and the same hereby is detached from Otsego and annexed to Albertville, Minnesota, the same as if it had originally been made a part thereof.

2. IT IS FURTHER ORDERED: That the effective date of this order is December 13, 1995.

Dated this 14th day of December, 1995.

MINNESOTA MUNICIPAL BOARD
Suite 475, McColl Building
366 Jackson Street
St. Paul, MN 55101-1925


Christine M. Scotillo
Executive Director

D-311 Otsego/A-5384 Albertville

M E M O R A N D U M

In approving the concurrent detachment and annexation of the subject area, the Board recognizes the potential for on-going boundary disputes between Otsego and Albertville. Accordingly, the Board, subsequent to approving this petition, has ordered the two Cities into consolidation procedures. In granting this petition, the Board does not feel an individual property owner's investment should be held hostage while the two Cities pursue the lengthy process of studying whether consolidation is in their best interests, particularly since the petitioner still has additional governmental process to go through to realize the development potential of his property.

*CMS
12/10/95*

A-5644 Albertville/Frankfort Township
 A-5681 Otsego/Frankfort Township
 D-311 Otsego/A-5384 Albertville
 D-312 Otsego/A-5402 Albertville
 D-313 Otsego/A-5410 Albertville
 D-329 Otsego/A-5612 Albertville
 D-330 Otsego/A-5613 Albertville
 D-336 Otsego/A-5673 Albertville
 OA-424 & OA-424-1 St. Michael/Frankfort Township
 C-27mm Albertville/Otsego

BEFORE THE MUNICIPAL BOARD
 OF THE STATE OF MINNESOTA

Lea De Souza Speeter	Chair
Paul B. Double	Vice Chair
Robert J. Ferderer	Vice Chair

 IN THE MATTER OF THE JOINT RESOLUTION)
 AND AGREEMENT FOR ORDERLY ANNEXATION)
 AND CONCURRENT DETACHMENT AND)
 ANNEXATION BY AND BETWEEN THE TOWN)
 OF FRANKFORT, THE CITY OF ST. MICHAEL,)
 THE CITY OF ALBERTVILLE, AND THE CITY OF)
 OTSEGO.)

MEMORANDUM
AND ORDERS

The first of the docketed files referenced above was filed with the Minnesota Municipal Board in 1994. Since then, ten proceedings by property owners, the Cities of Albertville, Otsego and St. Michael, and the Town of Frankfort are pending before the Board. The majority of these files are contested matters.

As this regional dispute evolved, the Municipal Board has continued hearings, consolidated proceedings, and required meetings in an effort to allow the parties opportunity to resolve their border disputes locally. At the same time, however, the Municipal Board procedures provided a

necessary structure and timeline for these discussions.

On July 11, 1996, the Municipal Board received a Joint Resolution from the four communities of Albertville, Otsego, St. Michael and Frankfort. On July 25, 1996, the Municipal Board received an amendment to the Joint Resolution to more particularly describe the property identified in the Joint Resolution.

The Joint Resolution sets out a number of terms and conditions between and among the communities involved resolving contested boundary issues and is designed to dispose of the petitions currently pending before the Municipal Board.

It is apparent that the parties have labored hard to achieve this measure of consensus regarding their mutual border disputes. Such an agreement will certainly advance the public interest in stabilizing these communities to facilitate the planning and management of growth in this area.

The Municipal Board hereby accepts the Joint Resolution and amendment thereto and issues the attached orders to implement this settlement. The parties have agreed that these orders shall include a provision requiring them to fulfill the terms of the Joint Resolution. To the extent that the Board has the authority to so order, it shall be so ordered with the understanding that the constitutional rights of any person or entity shall not be affected.

Contested Annexations

A-5644 Albertville and
A-5681 Otsego

Dismisses Albertville's and Otsego's petitions
for annexation of certain lands in Frankfort
Township.

Concurrent Detachment and Annexations

D-337 Otsego/A-5692 Albertville Approves the Joint Resolution by both cities for concurrent detachment and annexation and disposes of the following files which were initiated by all of the property owners for substantially the same property:
D-311 Otsego/A-5384 Albertville
D-312 Otsego/A-5402 Albertville
D-313 Otsego/A-5410 Albertville
D-329 Otsego/A-5612 Albertville
D-330 Otsego/A-5613 Albertville
D-336 Otsego/A-5673 Albertville

Orderly Annexations

OA-424 & OA-424-1 St. Michael/
Frankfort Township Approves the orderly annexation as amended.
OA-432 & OA 432-1 Otsego/
Frankfort Township Approves the orderly annexation.
OA-433 & OA-433-1 Albertville/
Frankfort Township Approves the orderly annexation.

Consolidation

C-27mm Albertville/Otsego Rescinds the Board's Motion to Initiate.

In accepting the Joint Resolution, the Municipal Board congratulates the parties on their work and reminds them that continued success and cooperation among the parties will depend upon the faithful adherence to the provisions of the Joint Resolution to which they have agreed.

The Board commends the participants and the respective governing bodies for their hard work on this agreement.

The citizens of your area will benefit from your cooperation and foresight and the citizens of other communities will benefit from your example. Congratulations!

7/29/96
CMS

D-337 Otsego/A-5692 Albertville
 D-311 Otsego/A-5384 Albertville
 D-312 Otsego/A-5402 Albertville
 D-313 Otsego/A-5410 Albertville
 D-329 Otsego/A-5612 Albertville
 D-330 Otsego/A-5613 Albertville
 D-336 Otsego/A-5673 Albertville

BEFORE THE MUNICIPAL BOARD
 OF THE STATE OF MINNESOTA

Lea De Souza Speeter	Chair
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IN THE MATTER OF THE DETACHMENT)
 OF CERTAIN LAND FROM THE CITY OF)
 OTSEGO AND ANNEXATION TO THE CITY)
 OF ALBERTVILLE PURSUANT TO MINNESOTA)
 STATUTES 414)

ORDER

WHEREAS, petitioners D'Aigle, Kenco Properties and other property owners have filed petitions for concurrent detachment and annexation of certain properties from the City of Otsego to the City of Albertville. Two of these petitions, D-312 Otsego/A-5402 Albertville and D-311 Otsego/A-5384 Albertville, had been heard by the Board, appealed to the District Court, and were remanded to the Minnesota Municipal Board for further consideration and determination of whether or not the concurrent detachment and annexation is in the best interests of the municipalities involved. Other petitions, D-313 Otsego/A-5410 Albertville, D-329 Otsego/A-5612 Albertville, D-330 Otsego/A-5613 Albertville, and D-336 Otsego/A-5673 Albertville were scheduled to be heard by the Board on July 25, 1996; and

WHEREAS, the parties have been working towards a settlement of their respective boundary disputes; and

WHEREAS, on July 11, 1996, the Municipal Board received a Joint Resolution from the Cities of Albertville, Otsego, St. Michael, and the Town of Frankfort resolving their respective boundary disputes; and

WHEREAS, the City of Otsego and the City of Albertville agree that this Joint Resolution shall constitute their respective jurisdiction's joint resolution for concurrent detachment and annexation of substantially the same property pursuant to Minnesota Statutes Section 414.061 as requested in the above-described files by all of the property owners; and

WHEREAS, Otsego and Albertville agree that the concurrent detachment and annexation is in the best interests of both cities; and

WHEREAS, the Municipal Board hereby finds and determines that the concurrent detachment and annexation is in the best interests of both cities based on the Joint Resolution together with the record of the prior hearings on two of the petitions: D-311 Otsego/A-5384 Albertville and D-312 Otsego/A-5402 Albertville; and

WHEREAS, the Joint Resolution contained all the information required by statute including a description of the territory proposed for detachment and annexation, which is as follows:

In Township 121 North, Range 24 West, Sections 35 and 36, City of Otsego: The L Shape beginning at 60th and Kadler, running North on the Westerly section line of Section 35 (Kadler) to the Intersection of 70th and Kadler, then east on the northerly section lines of Sections 35 and 36 (70th) to the easterly section line of Section 36 (junction of McIver and 70th), then south on the easterly section line of Section 36 (McIver) until McIver enters Albertville near the Northeast end of Mud Lake, then following the Albertville border west to its Northwestern corner, then south on the Albertville border until it reaches the southerly section line of Section 35 (60th) thence to the point of beginning; and

WHEREAS, the area proposed for detachment and annexation is approximately 407.33 acres, is situated within the City of Otsego and abuts the municipal boundary of the City of Albertville.

WHEREAS, the population of the subject area is 27.

IT IS HEREBY ORDERED: That the above-described property be, and the same hereby is, detached from the City of Otsego and annexed to the City of Albertville, the same as if it had originally been made a part thereof.

IT IS FURTHER ORDERED: That the population of the City of Otsego is decreased by 27.

IT IS FURTHER ORDERED: That the population of the City of Albertville is increased by 27.

IT IS FURTHER ORDERED: That the following Municipal Board files are hereby closed:

D-311 Otsego/A-5384 Albertville
D-312 Otsego/A-5402 Albertville
D-313 Otsego/A-5410 Albertville
D-329 Otsego/A-5612 Albertville
D-330 Otsego/A-5613 Albertville
D-336 Otsego/A-5673 Albertville

IT IS FURTHER ORDERED: That the parties have agreed that these orders shall include a provision requiring them to fulfill the terms of the Joint Resolution. To the extent that the Board has the authority to so order, it shall be so ordered with the understanding that the constitutional rights of any person or entity shall not be affected.

IT IS FURTHER ORDERED: That the effective date of this order is July 29, 1996.

Dated this 29th day of July, 1996.

MINNESOTA MUNICIPAL BOARD
Suite 475 McColl Building
366 Jackson Street
St. Paul, MN 55101-1925


Christine M. Scotillo
Executive Director