

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Robert J. Ferderer Chair
John W. Carey Vice Chair
Paul B. Double Commissioner

IN THE MATTER OF THE PETITION FOR) FINDINGS OF FACT
THE DETACHMENT OF CERTAIN LAND) CONCLUSIONS OF LAW
FROM THE CITY OF WATERVILLE) AND ORDER
PURSUANT TO MINNESOTA STATUTES 414) AND MEMORANDUM OPINION

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on December 1, 1994 at Waterville, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Robert J. Ferderer, Chair, and John W. Carey, Vice Chair of the Minnesota Municipal Board. The petitioners appeared by and through Richard F. McGuire, Spokesperson, the City of Waterville appeared by and through John C. Peterson, Attorney at Law, and the Town of Waterville 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 October 7, 1994, a copy of a petition for detachment by 29 of 31 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:

Being a part of Section 22-109-23 Waterville Township. The South $\frac{1}{2}$ of NE $\frac{1}{4}$ excepting the South 132' of E 216' of SE $\frac{1}{4}$ of NE $\frac{1}{4}$; and all that part of Government lots 3, 4, and 5 W of the E Railroad Right-of-Way and N of the N Right-of-Way of State Highway #13. It is intended to include the Old Railroad Right-of-Way as it is now privately owned. It is also intended to include the Right-of-Way of County Road #3 and State Highway #13.

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

3. The subject area is situated in the City of Waterville, hereinafter referred to as "City," and abuts the municipal boundary by approximately 40% of its perimeter.

4. The subject area is approximately 133.57 acres in size.

5. The City is approximately 1,420 acres in size for its total land area excluding lakes.

6. The subject area is generally flat with the southwestern south central portion lying within the shoreland management area. In the eastern portion of the subject area there is at least one elevated area with swamp land around the residence. The subject area is north and east across the road from Lake Tetonka.

The City's western border is Lake Tetonka. Lake Sakatah is on the City's eastern border. There are state parks and wetlands to the south and southeast within the City.

The soils in the subject area are very gravelly with high infiltration rates, with a water table depth of less than six feet, and are coded as 944B, 945C, 94B, 944C, and 41B.

7. The City has a population of approximately 1,771.

8. The subject area has a population of approximately 40.

9. Immediately southeast of the subject area is Blower's Addition which is the most recent City area to receive city sewer and water. The sizing of the sewer and water lines can accommodate extension into the subject area as well as land in the city immediately west of the subject area.

10. The City has state, county and city roads. The subject area abuts State Highway #13, on the southern border, city roads on the southeastern border, County Road #3 on the subject areas eastern border and there is a city street within the subject area that provides the sole access to one of the residences in the subject area.

11. The City has a zoning ordinance, and a shoreland management ordinance. The City is working on a comprehensive plan.

The County of LeSueur, hereinafter referred to as "County," has planning and zoning, shoreland management rules, on-site sewer inspection, and is reviewing the draft land use management review policy, which calls for most development occurring next to cities to be incorporated within the cities.

12. The area is presently zoned agricultural holding.

13. The City has not assessed anyone the total amount for extension of municipal sewer and water. No individual property owner has been assessed for the inclusion of a lift station in a sewer project.

14. The City presently provides the subject area with fire protection, police protection, lights, street maintenance for the subject road within the area as well as to the city roads immediately adjacent to the area.

The Town presently provides its residents with fire protection through a contract with the city.

The County has no programs to provide sewer to the

unincorporated areas in the county.

15. The City would lose approximately \$8,484.00 in tax capacity, if the subject area were detached.

16. Given the flood plain and watershed constraints on the City, any expansion of the City would be north or to a lesser degree to the southwest of the City.

17. A company from Illinois has expressed some interest in constructing a plant in the city. The subject area does allow for commercial access to Highway #13. Additional residential development could be facilitated in the subject area through the extension of the sewer and water lines into the subject area.

18. In the subject area there is both commercial and residential development consisting of approximately 16 homes, an abandoned gravel pit, a well company, a marine sales and service company and a logging saw mill.

19. The Town was neutral on the detachment.

CONCLUSIONS OF LAW

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

2. The subject area has commercial and residential development and is adjacent to residential development and may be used for additional commercial or residential development. The land may be needed for reasonably anticipated future development.

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

4. 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 in Findings of Fact 1 herein, be and the same is hereby denied.

2. IT IS FURTHER ORDERED: That the effective date of this order is June 29, 1995.

Dated this 29th day of June, 1995.

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

A handwritten signature in cursive script that reads "Terrence A. Merritt". The signature is written in dark ink and is positioned above the printed name and title.

Terrence A. Merritt
Executive Director

M E M O R A N D U M

The Minnesota Municipal Board takes this opportunity to urge the City and the subject area residents and all of the citizens of the community to work on improving the lines of communication. Much of the testimony indicated that while the City was willing to take the residents' tax money, there were questions from the police department and others as to the servicing of the subject area. Additionally, residents raised concerns about the speed limit on Highway #13, which could have the potential for accidents that could injure children living in the subject area. From their perspective, the residents in the subject area felt their inquiries did not appear to be dealt with in the same fashion as the inquiries from the rest of the community. Improved communication will help to resolve these tensions.

The subject area is an excellent area for the City to develop. There already has been some interest shown in the area by outside developers. Additionally, the City has anticipated potential growth in this area by the sizing of the sewer and water mains that were installed to serve the Blower's Addition. The community has few options for growth and the subject area is one of them. *JAM 6-29-95*