

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MUNICIPAL BOUNDARY ADJUSTMENTS UNIT

In the Matter of the Petition for the  
Detachment of Certain Land from the  
City of Rockville Pursuant to Minnesota  
Statute, 414.06

**FINDINGS OF FACT,  
CONCLUSIONS AND  
DECISION**

The above-entitled matter came on for hearing before Administrative Law Judge Raymond R. Krause at 9:00 a.m. on August 19, 2008, at Rockville City Hall, 229 Broadway Street East, Rockville, Minnesota. The post-hearing submissions were received on September 26, 2008, and October 1, 2008. The record closed on October 1, 2008. At the hearing, Exhibits 1-26 and 500-501 were accepted as evidence. In addition, two written comments, submitted by the public, were also included.

Harry E. Burns, of Burns Law Office, P.A., appeared on behalf of Petitioners. James A. Mogen, of Rinke-Noonan, appeared on behalf of the City of Rockville. Maine Prairie Township was not represented by counsel at the hearing.

**STATEMENT OF THE ISSUES**

1. The issue in this proceeding is whether the Petition for Detachment should be granted based on the factors set forth in Minn. Stat. § 414.06.
2. The ALJ finds that the Petition should be granted.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On February 5, 2008, Petitioners filed a Petition for Detachment of property from the City of Rockville. The Petition, filed by property owners, seeks to detach approximately 3,840 acres from the City of Rockville pursuant to Minn. Stat. § 414.06.<sup>1</sup>
2. The property proposed for detachment (subject area or detachment area) is described as: Township 123N, Range 29W, Sections 31, 32, 33, 34, 35 and 36.

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<sup>1</sup> Petition, in MBA file.

3. On April 3, 2008, the Executive Director of the Municipal Boundary Adjustment Unit (MBA) conducted a brief preliminary hearing in the City of Rockville. Notice of the hearing was published in the Cold Spring Record on March 11, 2008, and March 18, 2008.

4. On May 15, 2008, the Director of MBA determined that this matter should be referred to an Administrative Law Judge for hearing and final decision.

5. A prehearing conference was conducted by the Administrative Law Judge on June 25, 2008, and the evidentiary hearing was scheduled for August 19, 2008. Notice of the hearing was published in the Cold Spring Record on July 22, 2008, and July 29, 2008.

### **Background – Consolidation of Rockville**

6. In 2002, Rockville Township and the cities of Pleasant Lake and Rockville consolidated into the City of Rockville. Before then, the detachment area was located in the southernmost part of Rockville Township.

7. The consolidation of the City of Rockville was a lengthy, involved process. In the 1990's, the cities of Pleasant Lake and Rockville and Rockville Township cooperatively provided services and facilities to their citizens, and their comprehensive plans considered the goals and plans of the other entities.<sup>2</sup>

8. In the late 1990s or early 2000s, State Highway 23, which runs through the City of Rockville, was converted into four lanes from St. Cloud to Cold Spring, Minnesota. The community leaders of the three municipalities believed that the conversion of Highway 23 would cause intense development pressure on the communities, including increased demands for extension of sewer and water services and residential, commercial and industrial development, and increased pressure to preserve open spaces.<sup>3</sup>

9. In October 2001, Rockville Township and the cities of Rockville and Pleasant Lake determined that combination would best equip the municipalities to improve services to the residents of all three municipalities, protect and preserve the municipalities' open spaces and agricultural nature, and allow the municipalities to maintain the independence of the community and ensure local control and decision making.<sup>4</sup>

10. It was estimated that the consolidation would save the three municipalities approximately \$77,000 a year through the consolidation of staff and resources.<sup>5</sup>

11. The municipalities established the Rockville, Rockville Township and Pleasant Lake Advisory Committee (RRP Committee) and initiated combination

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<sup>2</sup> Ex. 19, Appendix I.

<sup>3</sup> Ex. 19, Appendix I.

<sup>4</sup> Ex. 19; Testimony of Julie Zimmerman.

<sup>5</sup> See Ex. 19, Appendix I, p. 8.

proceedings with the Board of Government Innovation and Cooperation (GIC) pursuant to Minn. Stat. § 465.81, *et seq.*<sup>6</sup>

12. Because of the possibility that the combination statute (Minn. Stat. § 465.81) would be repealed during the 2002 legislative session, the RRP Committee sought special authority from the legislature to consolidate.<sup>7</sup>

13. In 2002, the legislature passed Minnesota Session Laws 2002, Chapter 296, which allowed the municipalities to develop a consolidation plan within one year of the effective date of the act. The special legislation directed that to become effective, the plan needed to be approved by the governing body and a majority of votes in each municipality.<sup>8</sup>

14. On April 18, 2002, the GIC, consisting of the State Auditor, Commissioner of Finance, Commissioner of Administration and two Administrative Law Judges, approved the combination plan, pursuant to Minn. Stat. § 465.81, *et seq.*<sup>9</sup>

15. On April 29, 2002, the three municipalities held special referenda on the consolidation plan. The consolidation passed in all three jurisdictions by a large majority. In the City of Pleasant Lake, 89.7% of the voters supported consolidation; 97.2% of the voters in the City of Rockville were in favor of the plan; and 78.9% of the voters in Rockville Township supported consolidation. Overall, 84.1% of the voters supported consolidation of the three municipalities.<sup>10</sup>

16. In 2002, the combined City of Rockville (City) initiated a review of the City's Comprehensive Plan. In 2004, the City adopted a new plan that called for protecting the natural and agricultural characteristics of most of the City, ensuring the preservation of open space and limited development away from the downtown area and transportation corridors, and ensuring planned growth for the industrial, commercial and residential demands for the City.<sup>11</sup>

17. In 2005, the City adopted new zoning ordinances and zoned most of the former township as a "Special Protection" district, with low development density, protections from conflicting uses, preservation of open spaces and agricultural uses, and tightly controlled residential growth.<sup>12</sup>

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<sup>6</sup> Ex. 19; Test. J. Zimmerman.

<sup>7</sup> Test. J. Zimmerman.

<sup>8</sup> Minn. Session Laws 2002, Ch. 296 (Ex. 1).

<sup>9</sup> Ex. 10; Ex. 11 (GIC Minutes, Apr. 18, 2002).

<sup>10</sup> Ex. 12; Test. of J. Zimmerman.

<sup>11</sup> Testimony of Cynthia Smith-Strack; Ex. 20.

<sup>12</sup> Test. of C. Smith-Strack.

## **Subject Area and Petition**

18. There are 3,840 acres and 84 property owners within the subject area. Eighty-three of the property owners within the subject area signed the Petition to Detach.<sup>13</sup>

19. The subject area consists of six square miles, or about 17% of the geographic area of the City. The subject area has a population of 118, or 4.5% of the City's total population. It has 15% of the City's road miles, and generates 5.75% of the City's tax capacity, which means that area residents pay 5.75% of all property taxes levied in the City, including taxes levied for debt payments.<sup>14</sup>

20. The subject area is bordered by the City to the north, Maine Prairie Township to the south, the City of Augusta to the east and Wakefield Township to the west.<sup>15</sup>

21. Maine Prairie Township has participated as a party in this matter and generally supports the detachment of the subject area. It believes the area will be best served by township government. If the Petition is granted, the subject area will consolidate with Maine Prairie Township.<sup>16</sup>

22. The City contracts for additional police services from Stearns County. Maine Prairie Township does not contract for additional services.<sup>17</sup>

23. Maine Prairie Township contracts for fire protection services from the City. It is likely that Maine Prairie Township will contract for fire protection services from the City for the subject area if detachment occurs.<sup>18</sup>

24. City sewer and water services are not provided in the subject area and the City has no plans to extend the services to the subject area. At its southern-most point, City sewer and water service runs along the southern edge of Grand Lake. The City would maintain right-of-way access to that water and sewer line if detachment occurs.<sup>19</sup>

25. Currently, City services afforded to the subject area include: 1.5 full-time public works employees; additional police patrols through a contract with the Stearns County Sheriff's Office, 3.5 full-time administrative employees, protection of shoreland areas, protection of agricultural areas from residential development, and protection of open spaces and natural resources.<sup>20</sup>

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<sup>13</sup> Testimony of Michael Loesch; Petition.

<sup>14</sup> Ex. 26, p. 5 and attached letter (Apr. 8, 2008).

<sup>15</sup> Ex. 500.

<sup>16</sup> Testimony of John Wicker; Maine Prairie Township.

<sup>17</sup> Test. of J. Wicker.

<sup>18</sup> Test. of J. Wicker.

<sup>19</sup> Testimony of James Pflapsen.

<sup>20</sup> Test. of J. Zimmerman; Testimony of Verena Weber; Test. of C. Smith-Strack.

26. The detachment of the subject property from the City will not cause changes in service levels provided to the remainder of the City community.<sup>21</sup>

27. The subject area is rural in character and consists of agricultural, wooded and wetland areas, and some 10-acre housing sites. Most of the area is zoned A-40 and A-80, which means one dwelling can be built per every 40 or 80 acres, respectively.<sup>22</sup>

28. Approximately 40% of the subject property is taxed as "Green Acres."<sup>23</sup>

29. There are two properties within the subject area that are zoned "commercial." One property is a flooring company and the other is a building contractor. Neither property is open to the public for retail use and, together, they are an insignificant fraction of the detachment area.<sup>24</sup>

30. Section 31 of the subject area is poor farmland because it is rocky and hilly, and is best suited for rural residential use.<sup>25</sup>

31. None of the subject area is zoned or used for industrial purposes. None of the sections within the area have been developed for urban residential purposes.<sup>26</sup>

32. The City has no plans to develop the subject area for urban residential, commercial or industrial purposes.<sup>27</sup>

33. After the hearing in this matter, the ALJ toured the subject area accompanied by counsel.

34. The City opposes the Petition because it believes the loss of tax revenue from the subject area will impact its budget and make it more difficult to efficiently provide city services.

35. The City also opposes the Petition because it fears that other sections of the City will seek to detach if this Petition is granted. Large portions of the City are agricultural and open space and thus susceptible to additional detachment petitions. The City asserts that if it loses too much area, it will be unable to effectuate the planning and zoning goals set forth in its Comprehensive Plan.

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<sup>21</sup> Ex. 26, p. 4.

<sup>22</sup> Ex. 500; Test. of M. Loesch; Test. of J. Wicker; Ex. 24.

<sup>23</sup> Testimony of Leigh Lenzmeier.

<sup>24</sup> Test. of J. Pflapsen.

<sup>25</sup> Test. of J. Pflapsen.

<sup>26</sup> Test. of J. Pflapsen.

<sup>27</sup> Test. of V. Weber; Test. of J. Pflapsen.

## **Shoreland Maintenance**

36. The northern border of the subject area runs along the southern edge of Grand Lake in the City of Rockville. A substantial amount of the subject area is within the Rockville Shoreland Overlay District.<sup>28</sup>

37. All municipalities have an obligation to manage shoreland areas.<sup>29</sup> The City has adopted the shoreland regulations of Stearns County; it does not have its own shoreland regulations.

38. A committee of the City council has been formed to draft new shoreland management controls that are different from those of Stearns County.<sup>30</sup>

39. Maine Prairie Township does not manage its own shoreland. Rather, Stearns County oversees the management of the Township's shorelands.<sup>31</sup> Maine Prairie Township would prefer that shoreland property not be included in the detachment area. It would prefer that shoreland property within the subject area remain part of the City.<sup>32</sup>

40. The surface water of the subject area drains into the lakes and rivers of the City of Rockville.<sup>33</sup>

## **Economic Repercussions of Detachment**

41. The City would lose approximately \$57,248 in tax revenues and approximately \$300 in Local Government Aid (LGA) if the subject area detaches. That revenue loss would be offset by a service-cost savings of approximately \$20,000. Overall, the City would suffer a loss of approximately \$38,000 in revenue.<sup>34</sup>

42. The \$20,000 service-costs savings consists of a \$1,000 savings in police services, \$14,000 savings in fire protection services, and a \$5,000 savings in street maintenance.<sup>35</sup> The \$5,000 street maintenance figure is the cost of snow removal, ditch mowing and road grading.

43. The City would see a further reduction in street maintenance costs if the figure included the cost of the major and minor maintenance necessary for the roads in the subject area in the next ten years, such as repaving. The City estimates that the ten-year maintenance budget for the roads in the subject area will be approximately

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<sup>28</sup> Ex. 500; Ex 24.

<sup>29</sup> See Minn. Stat. § 103F.221.

<sup>30</sup> Testimony of Scott Hedlund.

<sup>31</sup> Test. of S. Hedlund.

<sup>32</sup> Test. of J. Wicker.

<sup>33</sup> Test. of S. Hedlund.

<sup>34</sup> Testimony of David Drown; Ex. 26.

<sup>35</sup> Test. of D. Drown; Ex. 26.

\$986,000. The City does not currently levy for the projected costs of major and minor maintenance and the costs are not included in the City budget.<sup>36</sup>

44. In the past ten years, the City has suffered a significant decrease in the amount of LGA it receives. The City received approximately \$150,000 of LGA in 2002. The City's projected allotment of LGA for 2009 is approximately \$38,000.<sup>37</sup>

45. The City, which has a population greater than 2,500, may be subject to levy limits imposed by the legislature this year.<sup>38</sup>

46. The 2009 projected budget for the City is over \$2.3 million. The projected loss of tax revenue from detachment, approximately \$38,000, is 1.65% of the City's 2009 budget.<sup>39</sup>

### **Allocation of Indebtedness**

47. In 2005, the City issued two debt obligations to pay for a new city hall and a new fire station. The majority of costs were paid by a lease revenue bond paid over 21 years.<sup>40</sup>

48. After 2008, \$852,240 of City Hall debt will remain outstanding. At a tax capacity of 5.75%, the subject area's share of the outstanding City Hall debt is \$49,004.<sup>41</sup>

49. After 2008, \$1,789,760 of Fire Hall debt will remain outstanding. A portion of the fire station debt is paid by neighboring communities under fire service contracts. In 2009, the City's share of the debt, i.e., the amount not paid by other communities under a service contract, is calculated to be 96.3% of the total outstanding debt. Therefore the subject area's share of the outstanding Fire Hall debt could be calculated as follows:  $\$1,789,760 \times 5.75\% \times 96.3\% = \$99,103$ .<sup>42</sup>

50. The subject area's share of the outstanding Fire Hall and City Hall debt would then total \$148,107.<sup>43</sup>

51. The parties did not agree to a division of the costs of this proceeding.

Based on these Findings of Fact, the Administrative Law Judge makes the following:

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<sup>36</sup> Test. of D. Drown; Ex. 26; Ex. 22; Testimony of Rick Hanson; Test. of V. Weber.

<sup>37</sup> Test. of V. Weber.

<sup>38</sup> Test. of D. Drown; Test. of V. Weber.

<sup>39</sup> Test. of J. Pflipsen.

<sup>40</sup> Ex. 26, attached letter (Apr. 8, 2008).

<sup>41</sup> Ex. 26, attached letter (Apr. 8, 2008).

<sup>42</sup> Ex. 26, attached letter (Apr. 8, 2008).

<sup>43</sup> Ex. 26, attached letter (Apr. 8, 2008); Test. of D. Drown.

## **CONCLUSIONS**

1. The Administrative Law Judge has jurisdiction in this matter under Minn. Stat. §§ 414.06 and 414.12 and by the assignment by the Director of the MBA to the Office of the Administrative Hearings.

2. Proper notice of the hearing in this matter has been given and it is properly before this ALJ.

3. Petitioners have the burden of proof to demonstrate by a preponderance of the evidence that the statutory criteria for detachment have been met.

4. Minn. Stat. § 414.06, subd. 3, provides in part:

Upon completion of the hearing, the chief administrative law judge may order the detachment on finding that the requisite number of property owners have signed the petition if initiated by property owners, that the property is rural in character and not developed for urban residential, commercial or industrial purposes, that the property is within the boundaries of the municipality and abuts a boundary, that the detachment would not unreasonably affect the symmetry of the detaching municipality, and that the land is not needed for reasonably anticipated future development. The chief administrative law judge may deny the detachment on finding that the remainder of the municipality cannot continue to carry on the functions of government without undue hardship.

5. This proceeding was properly initiated by a Petition for Detachment signed by 83 of the 84 property owners in the subject area, and therefore satisfies Minn. Stat. § 414.06, subd. 1 and subd. 3.

6. Because the subject area is rural in character, and it has not been developed for urban residential, commercial or industrial purposes, the criterion set forth in Minn. Stat. § 414.06, subd. 3 is met.

7. Because the subject area is within the boundaries of the City and abuts a boundary of the City, the criterion set forth in Minn. Stat. § 414.06, subd. 3 is met.

8. The detachment of the subject area would not unreasonably affect the symmetry of the City. Detachment would only shift the southern border of the City north approximately one mile. The Petition therefore satisfies the corresponding criterion set forth in Minn. Stat. § 414.06, subd. 3.

9. Because the subject area is not needed for reasonably anticipated future development, the criterion set forth in Minn. Stat. § 414.06, subd. 3 is met.

10. Because the detachment of the subject area would not affect the City's ability to carry on the functions of government and the City would not suffer undue hardship, it satisfies the final criterion set forth in Minn. Stat. § 414.06, subd. 3.



11. Minn. Stat. § 414.06, subd 3, provides for allocation of debt between the entities as follows:

The detached area may be relieved of the primary responsibility for existing indebtedness of the municipality and be required to assume the indebtedness of the township of which it becomes a part, in such proportion as the chief administrative law judge shall deem just and equitable . . . .

12. Minn Stat. § 414.067, subd. 1 provides as follows for the allocation of outstanding debt to a divided municipality:

Township or municipality divided. Whenever the director chief administrative law judge divides an existing governmental unit, the director chief administrative law judge, or other qualified person designated by the chief administrative law judge with the concurrence of the parties, may apportion the property and obligations between the governmental unit adding territory and the governmental unit from which the territory was obtained. The apportionment shall be made in a just and equitable manner having in view the value of the existing township or municipal property located in the area to be added, the assets, value, and location of all the taxable property in the existing township or municipality, the indebtedness, the taxes due and delinquent, other revenue accrued but not paid to the existing township or municipality and the ability of any remainder of the township or municipality to function as an effective governmental unit. *The order shall not relieve any property from any tax liability for payment for any bonded obligation, but the taxable property in the new municipality may be made primarily liable thereon.* (Emphasis added).

13. Any conclusion more property denominated a finding is adopted as such.

Based upon these Conclusions, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

### ORDER

IT IS HEREBY ORDERED that:

1. The Petition for the Detachment of the Subject Area from the City of Rockville is **GRANTED**.
2. The subject area shall remain responsible for its share of the City's outstanding Fire Hall and City Hall debt in the amount of \$148,107, as calculated in Findings of Fact Numbers 47-50. The allocated amount of the Fire Hall debt shall not be collected if the same costs are covered by a fire protection contract between the City and Maine Prairie Township.

3. The Executive Director of the Municipal Boundary Adjustments Unit shall cause copies of this Order to be mailed to all persons described in Minn. Stat. § 414.09, subd. 2.
4. Pursuant to Minn. Stat. § 414.12, subd.3, the cost of these proceedings shall be divided as follows; to the City, 40%, to Petitioners, 50%, and to Maine Prairie Township, 10%.
5. This Order becomes effective November 5, 2008.

Dated: October 30, 2008



RAYMOND R. KRAUSE  
Chief Administrative Law Judge

Reported: Digitally Recorded

### NOTICE

This Order is the final administrative decision in this case under Minn. Stat. §§ 414.06, 414.09, and 414.12. Any person aggrieved by this Order may appeal to Stearns County District Court by filing an Application for Review with the Court of Administrator within 30 days of the date of this Order. An appeal does not stay the effect of this Order.<sup>44</sup>

Any party may submit a written request for an amendment of these Findings of Fact, Conclusions of Law and Order within 7 days from the date of the mailing of the Order.<sup>45</sup> A request for amendment shall not extend the time of appeal from these Findings of Fact, Conclusions of Law, and Order.

### MEMORANDUM

This is a detachment proceeding under Minn. Stat. Chapter 414 to consider a petition filed with the Municipal Boundary Adjustment Unit. Eighty-three of the eighty-four property owners of the southern edge of the City of Rockville seek to detach from the City and become part of Maine Prairie Township. The Petitioners seek to detach because the subject area is rural and agricultural and therefore better suited to township governance.

#### Statutory Factors

As set forth in Minn. Stat. § 414.06, subd. 3, a petition for detachment may be granted if: 1) the requisite number of property owners signed the petition; 2) the property is rural in character and not developed for urban, residential, commercial or industrial purposes; 3) the property is within the boundaries of the municipality and

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<sup>44</sup> Minn. Stat. § 414.07, subd. 2.

<sup>45</sup> Minn. R. 6000.3100.

abuts a boundary; 4) the detachment would not unreasonably affect the symmetry of the detaching municipality; and 5) the land is not needed for reasonably anticipated future development.

Here, all factors are met. The requisite number of property owners within the subject area signed the petition. The subject area is rural in character. It is, and always has been, agricultural land, and the City has done nothing to change the area's rural character since the consolidation in 2002. The subject area is within the boundaries of the City of Rockville and abuts the border of Maine Prairie Township. The detachment would shift the City's southern border to the north by approximately one mile and would not affect the symmetry of the City. Finally, the land is not needed for anticipated future development. City officials testified that the City had no plans to develop the property. In fact, the City revised its Comprehensive Plan and enacted zoning ordinances to ensure the subject area retained its rural character and open spaces.

The legislature has explicitly found that municipal government "most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial and governmental purposes."<sup>46</sup> Conversely, the legislature has found that township government "most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes."<sup>47</sup> Here, the subject area is undisputedly rural and all other statutory factors are met. The area is better suited to township governance and the Petition should be granted.

### **Undue Hardship**

Even if all the statutory factors are met, the petition for detachment may still be denied if the remainder of the municipality cannot continue to carry on the functions of government without undue hardship.<sup>48</sup> The City argues that the Petition should be denied because it will be unable to function on a reduced budget.

As discussed above, the City is projected to lose approximately \$38,000 in tax revenue from the subject area, or 1.65% of the City's 2009 \$2.3 million budget. The loss in tax revenue is statistically insignificant. Moreover, Maine Prairie Township will assume approximately 15% of the City's roads, many if not all of which are in need of maintenance which is not in the City's budget. Though the City has suffered drastic losses in LGA, and might be restricted by levy limitations in 2009, the minimal loss in revenue attributable to detachment will not cause the City to suffer undue hardship.

### **Detachment after Consolidation**

The City argues that because the City was formed under the combination statute, Minn. Stat. § 465.81, the detachment statute, Minn. Stat. § 414.06, does not apply. Minnesota law provides for the establishment of a new city from the combination of two or more cities and townships. The law allows multiple local governments to develop a

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<sup>46</sup> Minn. Stat. § 414.01, subd. 1a(2).

<sup>47</sup> *Id.*

<sup>48</sup> Minn. Stat. § 414.06, subd. 3.

plan to share services, and to provide specific goals for the merger, specific plans for the resulting entities and a procedure for merging the entities and combining their operations.<sup>49</sup> The law focuses on providing for efficiencies in government, and does not dictate the characteristics of the participating units or the final combined entity. For example, the statute has no requirement for the population, location, density, urbanization, infrastructure, or municipal services for the merging units or the final city.<sup>50</sup> The City argues that the current Petition should be denied because the legislature has expressed the preference for efficiency in local governments, long-range planning and cooperative efforts between local governments in Minn. Stat. chs. 465 and 414,<sup>51</sup> and detachment fails to meet the legislature's goals.

The City further argues that the detachment petition must be "subjected to scrutiny" to ensure detachment would not create inefficiencies in local governments. It argues that under section 414.06, the ALJ has discretion to approve or deny a petition for detachment and that the ALJ must consider the public policy of the law, in addition to the plain language of the statute. It argues that if a combined city must constantly defend its boundaries, it cannot plan for its future and the goals of the cooperation and combination laws are lost.

The City's arguments are unavailing. First, the detachment here furthers the legislative preference for township government of rural land. Though it is true that the legislature has supported long-range land use planning so that cities can efficiently provide services and preserve agricultural land and open spaces,<sup>52</sup> the legislature has also expressly stated that rural, agricultural land is better suited to township, rather than municipal, government. Detachment here furthers the legislature's preference for township government for agricultural and open space land.

Moreover, there is no reason to deny the Petition simply because the City was formed under the combination statute. Nothing in the detachment statutes concerns or pertains to whether the city was formed by combination. The statute states specific independent criteria for detachment, without reference to consideration of any goals of prior consolidation, or any required finding of a change in circumstances since consolidation. Likewise, nothing in the combination statute (or even the special legislation passed to allow the combination of the City of Rockville) prohibits a later detachment from the combined municipality. That is, the borders of the cities which consolidated under the combination statute or through GIC approval are not inviolate or immutable to later change. In fact, the boundary of the City of Rockville has already been modified in 2006, after consolidation, in a concurrent detachment and annexation proceeding.<sup>53</sup> The combination statute does not mention or prohibit boundary

<sup>49</sup> Minn. Stat. § 465.81, subd. 1.

<sup>50</sup> See Minn. Stat. § 465.80, *et. seq.*

<sup>51</sup> Minn. Stat. § 414.01, subd. 1a(5) ("long-range joint powers planning or other cooperative efforts among counties, cities, and towns should be encouraged").

<sup>52</sup> See, e.g., Minn. Stat. § 414.01, subs. 1a(3), 1a(5) and 1b(3); Minn. Stat. § 462.351.

<sup>53</sup> Information available from Municipal Boundary Adjustment Unit, <http://www.mba.state.mn.us>. In addition, the cities of Norwood and Redwood Falls were also combined under the combination statute, Minn. Stat. § 465.81, and the boundaries of those cities were modified after consolidation through orderly annexations and annexation ordinances.

modifications after combination. The fact that the City was formed in a combination process is irrelevant to the instant petition.

Though the City raises legitimate policy concerns arising from the juxtaposition of the combination and detachment statutes, the ALJ is not free to deny the petition because detachment would subvert the goals of consolidation. The detachment statute is not ambiguous. It provides that the ALJ may grant a petition for detachment if certain factors are met, and that the ALJ may deny the petition upon finding that the remainder of the municipality cannot continue to carry on the functions of government without undue hardship. No other reason for denial is given in the statute. Because section 414.06 is not ambiguous, there is no need to delve into the murky world of legislative intent. Under well-established principles of statutory construction, a court is not free to consider the legislative intent if the words of the statute are clear. Even though the City may not be able to fully realize its consolidation goals of efficiency and land use planning as easily if the subject area detaches, the City can still carry out the functions of government without undue hardship. The ALJ is not free to substitute his policy judgment for the clear language of the statute or deny the petition simply because detachment would hamper but not prevent the comprehensive plan from being implemented.

### **Shoreland Management**

The City has argued that the subject area should be reduced to exclude the shoreland area of Grand Lake so that the City can effectively enforce its newly enacted Shoreland Ordinance. Stearns County manages the shoreland in Maine Prairie Township, and the shoreland within the City. The City, however, is considering a new ordinance which, according to City officials, is more restrictive than the ordinance enforced by Stearns County.

The City's arguments are unavailing for three reasons. The proposed ordinance is not in record and the ALJ is unable to determine whether the City's proposed ordinance is more restrictive than that of Stearns County.

Secondly, if the ALJ were to exclude shoreland property from the detachment area, the remaining area would be so piecemeal that it would dramatically affect the symmetry of the City. For example, portions of Sections 32, 33 and 34 would have to be excluded from the detachment area because those sections include the shorelands of Grand Lake, Mud Lake and Marty Lake. It appears that there is shoreland in Sections 35 and 36 as well. The shoreland abuts so many individual parcels that it would be impractical to exclude only individual parcels from the detachment area. The ALJ is unwilling to exclude the shoreland in the detachment area because the result would lead to multiple parcels being arbitrarily divided between governments and lead to excessive confusion as to the boundary between Maine Prairie Township and the City.

Lastly, and most importantly, the ALJ is unwilling to exclude the shoreland because it will be effectively managed by Stearns County. As discussed, all municipalities have a statutory obligation to manage shoreland. Though many

municipalities adopt the Department of Natural Resources model shoreland ordinance, they are free to adopt ordinances which are more restrictive. As a result, the shoreland restrictions throughout the state vary according to the enforcing municipality. In other words, the mere fact that the City's proposed ordinance may be more restrictive than the ordinance enforced by the neighboring municipality, Stearns County, is not a rare occurrence that would justify the denial of the Petition. Rather, the City of Rockville and Stearns County must, as all local governments are required to do, work together to manage the rivers and shorelands. The subject area should not be reduced to exclude the shoreland areas.

### **Allocation of Debt**

Minn. Stat. § 414.06, subd.3, gives the ALJ the discretion to relieve the detached area of the primary responsibility for the existing indebtedness of the municipality as is equitable. The ALJ determines that it is not appropriate to entirely relieve the detached area from its share of the municipality's indebtedness. As calculated above, the subject area's portion of the outstanding City Hall and Fire Hall debt totals \$148,107. The detachment area was part of the City when the debt was incurred and was part of the tax base that the City depended on for repayment. It is fair, therefore, to allocate an appropriate portion to be retained by the Petitioners. With regard to the Fire Hall debt, if Maine Prairie Township contracts with the City for fire service to cover the detached area, the indebtedness is built into the contract cost and should not be double billed. If Maine Prairie Township does not contract for fire service to the detached area, the proportion of the indebtedness attributable to the detached area should continue as a liability for the Petitioners to pay.

It is unclear what effect Minn. Stat. § 414.067, subd. 1, has upon the allocation of preexisting indebtedness in a detachment proceeding. This language and the debt allocation language of Minn. Stat. § 414.06, subd. 3 are, for the most part, similar. Minn. Stat. § 414.067 absolutely prohibits the ALJ from relieving any liability for bonded indebtedness, whereas Minn. Stat. § 414.06 gives the chief administrative law judge the discretion to relieve some or all indebtedness. Since this Order does not relieve the Petitioners from their share of the bonded indebtedness, the ALJ need not resolve the possible conflict.

### **Division of Costs**

The parties did not agree to a division of the hearing costs between themselves. Pursuant to Minn. Stat. § 414.12, subd. 3, the cost of the proceedings is, therefore, allocated as follows; to the City 40%, to the Petitioners 50%, and to Maine Prairie Township 10%.

**R. R. K.**