

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

Robert W. Johnson	Chairman
Harold J. Dahl	Vice Chairman
Robert J. Ford	Member
Idor A. Pederson	Ex-Officio Member
Peter E. Tibbetts	Ex-Officio Member

IN THE MATTER OF THE RESOLUTION)	FINDINGS OF FACT,
OF THE TOWN OF FOREST LAKE FOR)	CONCLUSIONS OF LAW
INCORPORATION AS A VILLAGE)	AND ORDER

The hearing in the above-entitled matter was convened by a quorum of the Minnesota Municipal Commission on March 9, 1972, in the Forest Lake Township Hall, Washington County, State of Minnesota. A continued hearing was held at the same location on July 25, 1972. Appearances were entered by Robert Briggs, Attorney for Petitioners, and John Jergens for the Village of Forest Lake. Evidence was received and exhibits entered, and all persons were heard who desired to be heard. The Minnesota Municipal Commission, upon all records, files, evidence, arguments of counsel, and being fully advised in the premises, hereby makes and issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. The resolution of the Board of Supervisors of Forest Lake Township for incorporation as a village was filed on November 19, 1971 and was in all respects proper in form, contents, execution and filing.
2. Due, timely, and adequate legal notices of the hearing ordered by the Minnesota Municipal Commission were properly published, served and filed.
3. The area proposed for incorporation is the entire Town of Forest Lake.
4. The ^bpopulation of the Township according to the 1970 federal census was _a 3,018. Most of this population is concentrated in the suburban area surrounding the existing Village of Forest Lake.
5. The population of the Village of Forest Lake according to the 1970 federal census was 3,198.
6. Both the Town and the Village have experienced a rapid increase in population during the last decade which is projected to continue into the future.

7. The Township introduced uncontroverted evidence that 78% of the population increase projected to occur by the year 2020 will take place in the sewer districts abutting the existing village and that most of the remainder of the increase will take place in the suburban area immediately adjacent to those districts.

8. The quantity of land proposed for incorporation is approximately 21,327 acres, 95% of which is unplatted.

9. Two-thirds of the land within the Township is classified as rural for tax assessment purposes and the southern half consists almost entirely of rural farm land. The Township comprehensive sewer plan as to future land use assumes that at least 60% of the area will continue to be devoted to rural agricultural uses.

10. In the remaining one-third of the Township, the pattern of physical development is almost entirely residential. There was no evidence offered of industrial uses and commercial development within the area proposed for incorporation is limited to a few small stores and gas stations. The Township comprehensive sewer plan as to future land use assumes that at least 75% of non-farm development will continue to be residential.

11. There is a nucleus of population and urban development in the Township which consists of the existing incorporated Village of Forest Lake. There is no nucleus of population and urban development within the area proposed for incorporation outside of the existing Village.

12. Approximately 60% of the current and projected land use in the existing Village of Forest Lake is devoted to commercial, industrial and public facilities utilized for the most part jointly by Township and Village residents. The Village contains a park, hospital, library, post office, town hall, village hall, sewage treatment plant and four schools. All six churches within the area are located in the village. Residents of the Township use the village as their center for educational, social, religious, commercial and other activities.

13. The proposed Forest Lake sanitary sewer interceptor and Interstate Highway No. 35 will encourage increased residential, commercial and industrial development in the area under consideration. Comprehensive development policies are required to control land surrounding the existing Village to ensure orderly and economic expansion on its perimeters consistent with the existing residential, commercial and industrial patterns.

14. The Metropolitan Council "Guide Plan" for the entire metropolitan area published in December of 1968 recommended consolidation of Forest Lake Village and Township, because urban development extended beyond the village boundaries into the township, especially around the lake, and because of an increasing need for Village services and unified land use and utilities planning.

15. At our request, the Metropolitan Council professional planners did a thorough special study of the area, recommending that the commission deny the petition for incorporation and that the communities pursue merger into one municipal government.

16. The Metropolitan Sewer Board has jurisdiction over the entire area herein under consideration. Under Minnesota Statutes Chapter 449, Metropolitan Sewer Act, a comprehensive sewer plan must be prepared for the area in question and approved by the Metropolitan Sewer Board and the Metropolitan Council before construction of sewer facilities. Both communities have submitted comprehensive plans which are inconsistent. Preparation and implementation of such a plan would be best accomplished by one municipality.

17. The existing Village of Forest Lake has a comprehensive plan which encompasses a considerable part of the developed portion of the Township. The village has oversized its water and sewer mains in connection with the planned extension of these utilities into these suburban areas outside its borders.

18. The Village and Town employ a different category nomenclature in their zoning ordinances, and differ in their lot area requirements, setback and height regulations, among other characteristics.

19. Washington County has and provides adequate planning, zoning and subdivision regulation within the unincorporated area in the township.

20. The Lake of Forest Lake is split between the Village and the Town. The Lake and surrounding land should ultimately be placed within a single municipal jurisdiction to allow for unified land use and lake use control.

21. Village services include fire protection, full-time police protection, water, storm and sanitary sewers, road maintenance and building inspection. The Village extends police protection to persons in the Township on an emergency basis and fire protection to the entire township under a contract. It has eleven full-time employees.

22. The Town has one full-time employee and two elected part-time constables. Its services include building inspection, road maintenance and sanitary sewers.

23. There are existing and potential future problems of environmental pollution in the area and the services required for their alleviation could be provided most efficiently by a single unified municipality.

24. The bonded indebtedness of the Village was \$2,475,000 as of December 31, 1969, most of which was incurred to provide urban facilities, services and improvements utilized jointly by residents of the Village and Township. The bonded indebtedness of the Township is \$1,075,000 as of the same date, all of which was incurred to provide sanitary sewer facilities for Township residents.

25. The Village of Forest Lake has experienced a steady and continual growth in population, industry, commerce, education and construction. Several new industries have been located in and commenced operation in the Village. The Village is served by a branch line of the Burlington Northern Railway system as well as bus and trucking service. U. S. Highways No. 8 and No. 61 and Minnesota Highway No. 97 meet at Forest Lake and Interstate Highway No. 35 passes the boundary to the west including two interchanges partially within the Village. Forest Lake requires additional territory to accommodate projected expansion and such territory lies within the Township.

26. Incorporation of the Township would adversely effect the future ability of the Village of Forest Lake to provide the municipal services required by its citizens.

27. One effect of incorporation on adjacent and other communities in the state would be to exacerbate the uneconomic balkanization of municipal government which the Minnesota Municipal Commission is directed to curtail.

28. Incorporation of the Township would yield a village totally surrounding another village which would not in any way improve the provision of municipal services. It would require an extraordinary degree of cooperation among governmental officials to avoid waste, duplication and other inefficiency in the provision of those services.

29. Annexation or consolidation of all or a part of the Township with the existing Village would create a stronger municipality capable of rendering municipal services more efficiently to all of the residents of the area. Consolidation of the

Village and Town would double the adjusted market value of taxable property available to each and should decrease the costs of municipal borrowing. Such a municipality would also be eligible for special additional state aids as a municipality with a population of over 5,000.

30. The population of the area is characterized by interrelated and integrated social, cultural and economic ties. There is a unity of interest and community identity of the Township residents with the existing Village.

31. At both of the Interstate No. 35 interchanges at U.S. 8 and at Broadway, three quadrants are within the Township and one is within the Village. Both interchanges should be placed within one municipal jurisdiction to control traffic and commercial development.

32. Under special provisions of State law, the Township of Forest Lake already has Village powers and taxing authority and is capable of utilizing that power and authority to deal with the problems of the area without incorporation.

CONCLUSIONS OF LAW

1. That the Minnesota Municipal Commission duly acquired and now has jurisdiction over the within proceeding.

2. That the Township is basically rural and suburban in character and most of the rural land is not about to become urban or suburban in character.

3. That the area proposed for incorporation or a part thereof would be better served by annexation to or consolidation with the adjacent surrounded municipality of Forest Lake.

4. That the existing township form of government is adequate to protect the public health, safety and welfare.

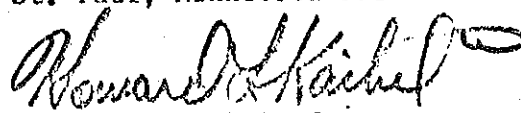
5. That the petition for incorporation should be denied.

ORDER

IT IS HEREBY ORDERED: That the petition for incorporation is in all respects denied.

Dated this 21st day of DECEMBER, 1972

MINNESOTA MUNICIPAL COMMISSION
304 Capitol Square Building
St. Paul, Minnesota 55101


Howard L. Kaibel, Jr.
Executive Secretary

MEMORANDUM

The purpose of the legislature in establishing the Minnesota Municipal Commission is outlined in the opening section of Chapter 414:

"The legislature finds that: (1) sound urban development is essential to the continued economic growth of this state; (2) municipal government is necessary to provide the governmental services essential to sound urban development and for the protection of health, safety, and welfare in areas being used intensively for residential, commercial, industrial, institutional and governmental purposes or in areas undergoing such development; (3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation; (4) annexation to or consolidation with existing municipalities or unincorporated areas unable to supply municipal services should be facilitated; and, (5) the consolidation of municipalities should be encouraged. It is the purpose of this chapter to empower the Minnesota Municipal Commission to promote and regulate development of municipalities so that the public interest in efficient local government will be properly recognized and served."

Under this and other provisions of the statute, the commission is forced today to deny the petition for incorporation.

We are convinced on the basis of the testimony and experience that the ultimate solution for this area must be one municipality rather than two. The parties and most of the witnesses have concurred in this judgment, but township officials have argued that incorporation first and consolidation later would be the best MEANS to that end.

We have serious doubts about this approach, noting that consolidation of two incorporated municipalities under the current statutes requires the approval of both municipal councils plus a referendum in each municipality. The virtual impossibility of achieving such a consolidation is suggested by history: only one successful attempt in the metropolitan area in twelve years under these requirements, Edina-Morningside in 1966.

Even if we were to agree as to the viability of this approach there would be no way under the statute to approve the incorporation. The commission may not approve an incorporation unless the area proposed is or is about to become urban or suburban in character or unless the township form of government is inadequate to protect the public health, safety and welfare. This is manifestly not the case in Forest Lake Township.

Today's decision should not be taken by village officials as an indication that the commission is ready to assent to a series of costly "piecemeal" annexations. On the contrary, the commission has increasingly served notice that more comprehensive solutions to boundary problems are in order. In February of this year, the commission issued a memorandum in connection with a Farmington annexation which contains language that bears repeating in the Forest Lake situation:

"However, we wish to emphatically express our intention to discourage further piecemeal annexations in the Farmington area. A long range boundary solution is needed. Procedures, such as orderly annexation, are available to bring about long range solutions.

"Local officials must accept the fact that boundary changes are necessary and will occur, and in good faith work for changes that will benefit the people of the entire area. We have yet to see evidence of this kind of attitude."

We have reached the same conclusion in the Forest Lake area. We urge local officials to examine either consolidation or orderly annexation as a long range solution. A description of both approaches follows.

Consolidation

The consolidation of a village and an unincorporated township is a simple procedure under the statute and has been utilized frequently. Unlike the consolidation of two incorporated municipalities, the order of the Municipal Commission is not subject to approval by governing bodies or referenda.

Three years ago the Village and Township appointed an independent joint committee to study boundary problems in this area. That committee unanimously recommended consolidation as the solution which would best serve all of the citizens of both communities. The one drawback cited by the committee, which apparently generated the most opposition in the township, was that all of the citizens would become liable for the bonded indebtedness previously incurred by each governmental entity. The Legislature has since amended the law to eliminate this drawback.

Under the statute, the commission could deal effectively with the problem of the substantial rural farm population by consolidating only part of the township and/or establishing a rural-urban taxing district.

Orderly Annexation

In 1969, the Legislature created an exceptionally valuable new vehicle for dealing with the problems of rapidly growing communities such as this one. This procedure, called "orderly annexation", allows the Town Board and Village Council to jointly evaluate where future growth of the village is most likely to occur. They then pass a joint resolution conferring jurisdiction on the commission to adjust municipal boundaries within the specified area only as development actually occurs.

Thereafter, annexations within this "orderly annexation" area can only take place when the property is actually developed and only when the village can provide municipal services. Anyone annexed under orderly annexation receives a 3 to 5 year "tax break" as taxes are gradually increased from the town mill levy to the village mill levy depending on how long it will take the village to provide full municipal services.

This procedure allows the village to plan today to service the growth that everyone concedes will take place while not annexing any land until that growth actually does occur. Farsighted municipal officials are enabled to size water and sewer mains and plant capacity, to plan placement of fire and police stations for maximum future response time, and to make the other crucial decisions required by rapid growth.

In developing the joint resolution, the communities can include a comprehensive agreement dealing creatively with the myriad of problems caused by boundary adjustment. The resolution can contain assurances, guarantees, complicated financial and other arrangements which can solve these problems. This agreement might contain timetables for boundary extensions and joint planning and zoning arrangements for the orderly annexation area. The communities can provide specific remedial advantages in their agreement for persons who would otherwise be hardest hit by annexations such as deferred assessments for water and sewer extensions past homes that have only recently invested considerably in wells or cesspools.

If such a cooperative approach were arranged it might be possible for the village to drop its policy of not extending most municipal services to residents outside its borders. This is a common policy of most municipalities of refusing

to extend such services even on a contract basis in order to encourage annexations. Under orderly annexation there will be no need for this policy as the village will be assured that their borders will be extended as development occurs. Perhaps the village could assume the responsibility for such services as road maintenance and police protection in the inaccessible northern portions of the township.

Orderly annexation has worked exceptionally well recently in communities faced with identical problems such as Worthington and Prior Lake. It has in most cases replaced the other procedures for boundary adjustment. Forest Lake presents an excellent opportunity for such a cooperative effort.

Whatever approach is utilized, the commission urges local officials to forget past battles and grievances in order to establish a comprehensive unified approach to community planning and development. The Washington County Planning Commission as well as the Municipal Commission are willing and anxious to assist in any way possible in such an endeavor. The key to such a solution is the good faith effort and constructive leadership of conscientious local public servants.