

BEFORE THE MUNICIPAL COMMISSION  
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Gerald J. Isaacs	Member
A. Lloyd Shannon	Ex-Officio Member
Edwin H. Hoff	Ex-Officio Member

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IN THE MATTER OF THE PETITION OF )	
THE TOWN OF HERMAN, ST. LOUIS )	
COUNTY, TO INCORPORATE AS A CITY )	<u>FINDINGS OF FACT,</u>
TO BE KNOWN AS "HERMANTOWN" )	<u>CONCLUSIONS OF LAW,</u>
	<u>AND ORDER</u>

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The above-entitled matter came on for hearing before a quorum of the Minnesota Municipal Commission on the 25th day of September, 1974, at Herman Town Hall and immediately recessed and reconvened pursuant to agreement of all parties at the Hermantown School at 4190 Ugstad Road, Town of Herman. The petition of the Town Board of Supervisors for incorporation as a municipality was filed with the Minnesota Municipal Commission on the 6th day of June, 1974, and hearings on said petition were held on September 25, 1974, and October 9, 1974.

Earl B. Gustafson of the law firm of Harper, Eaton, Gustafson and Wilson, 700 First National Bank Building, Duluth, Minnesota appeared on behalf of the petitioner, Town of Herman. Daniel C. Berglund, Assistant City Attorney, 400 Duluth City Hall, Duluth, Minnesota, appeared on behalf of the City of Duluth.

Testimony was heard and records and exhibits were received. All persons appearing and desiring to be heard were heard.

The Municipal Commission of the State of Minnesota, having read

and considered the petition herein, having considered all of the evidence adduced at said hearings, having considered the brief of counsel for the petitioners herein, and the brief of the City of Duluth, and being fully advised in the premises, upon all of the files, records and proceedings herein, hereby makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. The petition of the Town of Herman, for the incorporation thereof as a city to be known as "Hermantown", was duly filed pursuant to and in compliance with M.S.A., Chapter 414, as amended, and said petition was, in all respects, proper and complete in form, contents and execution.

2. Proper notice of the hearing on the petition for said incorporation was duly given as required by Statute. The Municipal Commission of the State of Minnesota was duly convened and had a lawful quorum. The petitioners and their counsel and counsel for the City of Duluth in opposition to the petition herein were present at, were heard and participated in the hearings. Documentary evidence was considered and admitted into evidence at the hearings. Statements from individual members of the public were invited and received.

3. The area proposed for incorporation as the City of Hermantown includes all of the Township of Herman, St. Louis County, Minnesota, described as follows:

All of Township of Herman, St. Louis County,  
Minnesota.

4. Approximately 2,860 acres of the township is platted  
approximately 4.1ma Approximately 2,860 acres of the township is platted, with

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approximately 18,146 acres being unplatted, as of June 6, 1974<sup>\*</sup>, the filing date of the petition herein.

5. The population of the Town of Herman as per the 1970 U. S. Census was 6,737 persons. The current revised population estimate approved by the Office of Local and Urban Affairs and recognized by the Department of Taxation is 7,170. The Head of the Lakes Council of Governments estimates that the population of the Town of Herman will be 8,219 by 1980, and 10,301 by 1990.

6. The assessed valuation of the Town of Herman for the year 1971 was \$2,268,415, and for the year 1972 was \$2,601,147. After abandonment of the assessor's one-third "full and true" classification, the valuation for the year 1973 was \$8,281,013, and for the year 1974 was \$8,599,405, with a steady increase in assessed valuation noted over the last several years.

7. The Township of Herman has a sewer and water system, both such facilities being owned and operated by the Township for a number of years.

8. Police protection for the Township is provided by two part-time constables and by the St. Louis County Sheriff's office.

9. Fire protection is provided by the Hermantown Volunteer Fire Department, which contracts with the Township for said fire protection.

10. The Township has available and made use of the services of a planner from Head of the Lakes Council of Governments and a comprehensive land use plan is in the process of being adopted and implemented. Also, the Township has adopted a zoning ordinance, as well as adopted the State Building Code by reference.

11. The Town of Herman has, in the past, been primarily rural in character; however, development pressures over the past fifteen (15) to twenty (20) years have changed the basic character of the Town of Herman from a rural community to a community of urban and primarily suburban character. Undeveloped areas in the Township are about to become urban or suburban in character.

12. The Township has several business establishments and a few industrial establishments located primarily along State Trunk Highway No. 53, the number thereof having increased steadily in the last few years.

13. It is anticipated that the population, assessed valuation and residential, commercial and industrial construction will continue to grow at an ever increasing rate in the future.

14. There is now, and will be in the immediate future, a need for ever increased governmental service in the Township of Herman and the city form of government is needed to protect the health, safety and welfare of the residents within the Township of Herman.

15. The area proposed to be incorporated ~~which is in~~ that area described in Findings of Fact Number 3 herein can be best served as one city in the matter of community planning, installation of thoroughfares, street systems, sewer and water systems, fire and police protection, recreational and other vital and necessary community services.

16. The township form of government in Herman Township is inadequate to cope with the problems of urban and suburban growth and development within the Township and does not efficiently and economically provide the necessary services for the residents.

17. The area proposed for incorporation which is that area described in Findings of Fact Number 3 herein contains no physical features which would render impractical provision of municipal services to all parts of the area by the proposed city.

18. The name of the proposed city is Hermantown.

19. The city plan of government suitable for the area to be incorporated is Optional Plan "A".

20. It is in the best interest of the public that the Town of Herman which is the area described in Findings of Fact Number 3 herein be incorporated as a city so that municipal services in the area can be more efficiently and economically provided to the residents thereof and to future residents thereof.

21. The proposed incorporation will not have a detrimental effect on adjacent communities or on adjacent or included school districts.

CONCLUSIONS OF LAW

1. The Municipal Commission of the State of Minnesota duly acquired and now has jurisdiction of the within proceedings.

2. The area to be incorporated as the City of Hermantown is situated in the County of St. Louis and described as follows:

All of the Township of Herman, St. Louis  
County, Minnesota.

3. The area to be incorporated as a city is such that the existing township form of government is not adequate to protect the health, safety and welfare of its residents, and future residents, in relation to the past and projected growth and development of the area.

4. The present and future needs for governmental services in the area to be incorporated and described above can best be provided by a single municipal government.

5. The Town of Herman, St. Louis County, Minnesota, is now partially urban or suburban in character and contains some undeveloped areas which are about to become urban or suburban in character.

6. The area proposed for incorporation presently has and will continue to have a sufficient assessed valuation to provide the tax revenue needed to pay for required municipal services.

7. The area proposed for incorporation presently contains a sufficient number of people to allow efficient and economical provision of municipal services.

8. The name of the new municipality shall be Hermantown.

9. The plan of government shall be Optional Plan "A".

10. Pursuant to Minnesota Statutes Annotated, Chapter 414, as amended, the Municipal Commission of the State of Minnesota determines as a matter of law that it is appropriate for the above-described area to incorporate as a city.

O R D E R

Upon the foregoing Findings of Fact and Conclusions of Law, and upon all the testimony taken and exhibits received and upon the record herein, the Municipal Commission of the State of Minnesota, being fully advised in the premises, pursuant to M.S.A., Chapter 414, as amended,

IT IS HEREBY ORDERED: that the following described area in the County of St. Louis be incorporated as the City of Hermantown:

All of Township of Herman, St. Louis  
County, Minnesota.

IT IS FURTHER ORDERED: that the primary election of officers in the new City of Hermantown shall be held on the 9th day of September, 1975, from 7:00 o'clock A.M. to 8:00 o'clock P.M.; that the polling place for the first election of officers shall be the present Town Hall of Herman Township, 3159 Maple Grove Road, and that the acting clerk for election purposes shall be Mrs. Nancy Sirois. The following shall be election judges for the first election of officers: Kay Sehnke, Ruth Wick, Marge Vest, Vivian Jampsa, Carl Hall, Art Olson. Alternate judges for the first election of officers shall be Jean Larson and Donna Koglin. The final or general election for new municipal officers shall be conducted in the same manner on the 4th day of November, 1975.

IT IS FURTHER ORDERED: the Acting Clerk shall prepare the official election ballot. Affidavits of candidacy may be filed by any person eligible to hold municipal office not more than four weeks nor less than two weeks before the election. At least one week before the first day to file such affidavits the Acting Clerk shall publish a notice in a newspaper qualified as a medium of official publication and of general circulation within the new municipality stating the first and the last dates on which such affidavits may be filed, the location of the clerk's office, the clerk's office hours and the amount of the filing fee.

IT IS FURTHER ORDERED: the Acting Clerk shall publish a notice of election in a newspaper qualified as a medium of official publication and of general circulation within the new municipality for two successive weeks immediately prior to the election date. The election notice shall state the purpose, date and polling places for the election, and the time the polls shall be open, which time shall be at least eight hours.

IT IS FURTHER ORDERED: the election shall be conducted in conformity with the laws for conducting city elections insofar as applicable. Any person eligible to vote at a township or municipal election within the area of the new municipality is eligible to vote at such election.

IT IS FURTHER ORDERED: that the plan of government for the new City of Hermantown shall be Optional Plan "A".

IT IS FURTHER ORDERED: that the Secretary of the Municipal Commission of the State of Minnesota shall cause copies of this Order to be mailed as provided by law.

IT IS FURTHER ORDERED: that a supplementary hearing may be held at a future date to be announced by the Commission to determine whether a special levy should be authorized to meet increased costs due to the incorporation.

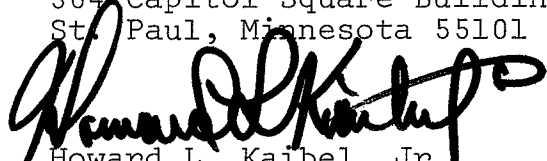
IT IS FURTHER ORDERED: that the population of the newly incorporated municipality shall be 7,170 for all purposes until the next state or federal census.

IT IS FURTHER ORDERED: that the effective date of issuance of this Order shall be July 11, 1975.

IT IS FURTHER ORDERED: that the effective date of the incorporation shall be December 31, 1975.

Dated this 5<sup>th</sup> day of February, 1975

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

  
Howard L. Kaibel, Jr.  
Executive Secretary



BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
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IN THE MATTER OF THE PETITION OF )	
THE TOWN OF HERMAN, ST. LOUIS )	
COUNTY, MINNESOTA TO INCORPORATE )	<u>FINDINGS OF FACT</u>
AS A CITY TO BE KNOWN AS "HERMAN- )	<u>CONCLUSIONS OF LAW AND</u>
TOWN" )	<u>ORDER FOR AUTHORIZATION</u>
	<u>OF SPECIAL LEVY</u>

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The Minnesota Municipal Board issued an order in the above-entitled matter on the 5th day of February 1975, to be effective December 31, 1975 incorporating the Town of Herman into the City of Hermantown.

On October 6, 1975 the Board received a request from the Town of Herman seeking a hearing to obtain Board approval of a special levy. A public hearing was held on the 12th day of November 1975, pursuant to Minnesota Statutes 414, as amended before the Minnesota Municipal Board to determine whether the City of Hermantown should be granted a special levy pursuant to Minnesota Statutes 414.01, Subd. 15. The City of Herman appeared by and through Earl B. Gustafson, its attorney. No other appearances were made. The hearing was conducted by Thomas J. Simmons, Chairman of the Board. Testimony was heard and records and exhibits were received.

After due and careful consideration of all of the 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. The Municipal Board received a request from the Town of Herman asking the Board to schedule a hearing for the purpose of considering a special levy on October 6, 1975.

2. A hearing was scheduled for November 12, 1975 and due, timely and adequate legal notice of the hearing was published, served, and filed.

3. The evidence at the hearing showed increased costs for such services as fire & police protection, road maintenance, and administration as the result of the Minnesota Municipal Board order incorporating the Town of Herman into the City of Hermantown.

4. These costs are substantially greater than 50% of the existing levy limit base.

#### CONCLUSIONS OF LAW

1. The Minnesota Municipal Commission has jurisdiction to grant a special levy pursuant to Minnesota Statutes 414.01, Subd. 15.

2. The City of Hermantown is required to provide additional services and bear the resultant increased costs because of the Board order incorporating the Town of Herman into the City of Hermantown. The total of these expenses justify the maximum special levy.

3. The Board should issue an order authorizing the City of Hermantown to implement a special tax levy to the maximum of its authority of three years and 50% of the existing levy limit base. (Pursuant to Laws 1975, Chapter 437, Article IV, Section 1, Subd. 5 of the Omnibus Tax Bill.)

#### O R D E R

IT IS HEREBY ORDERED: That the City of Hermantown is granted and is hereby authorized to implement a special tax levy for increased costs for the taxes levied in 1975 and payable in 1976 in the amount of \$52,197.60. and for taxes levied in 1976 and payable in 1977 in the amount of \$52,197.60, for taxes levied in 1977 and payable in 1978 in the amount of \$52,197.60.

Dated this <sup>6<sup>th</sup></sup> day of *January*, 1976

MINNESOTA MUNICIPAL BOARD  
165 Metro Square Building  
Saint Paul, Minnesota 55101

*William A. Neiman*

William A. Neiman  
Executive Secretary



**STATE OF MINNESOTA  
MUNICIPAL BOARD**

Suite 165 Metro Square  
7th & Robert Streets  
St. Paul, Minnesota 55101

October 15, 1976

**TO:** Parties of Record  
**FROM:** William A. Neiman *BN*  
Executive Secretary  
**SUBJECT:** I-50 Hermantown Special Levy

Upon motion of the City of Hermantown, the Municipal Board has rescinded its order of January 6, 1976 which had granted a special levy to the City of Hermantown.

This rescission is effective immediately.

WAN:b