

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Thomas J. Simmons	Chairman
Robert W. Johnson	Vice Chairman
Robert J. Ferderer	Member
Marvin Rau	Ex-Officio Member
Leo Kostek	Ex-Officio Member

 IN THE MATTER OF THE PETITION FOR)
 THE INCORPORATION OF THE CITY OF)
 PORT MILLE LACS PURSUANT TO)
 MINNESOTA STATUTES 414)

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on February 6, 1980 at Garrison, Minnesota. The hearing was conducted by Thomas J. Simmons pursuant to Minnesota Statutes 414.01, Subd. 12. Also in attendance were Municipal Board Member Robert J. Ferderer, and County Commissioners Leo Kostek and Marvin Rau, ex-officio members of the Board. The City of Garrison appeared by and through its Mayor, Arnie Cash, the Township of Garrison appeared by and through Douglas Anderson, the petitioners appeared by and through Gordon Middag, President of the Port Mille Lacs Civic Association, the Camp Lake Sportmen's Association appeared by and through Raymond A. Charpentier, and some property owners in Kathio Township appeared by and through Thomas A. Fitzpatrick.

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

I. On November 14, 1979, a petition of 100 or more property owners was received by the Minnesota Municipal Board requesting the Board to order incorporation of the area hereinafter described. This petition contained all the information required by statute including a description of the territory proposed for incorporation which is as follows:

TOWNSHIP	44 North,	Range 28 West
SECTION	22,23,24,25,26,	27,34,35,36
TOWNSHIP	44 North,	Range 27 West
SECTION	31	
TOWNSHIP	43 North,	Range 28 West
SECTION	1,2,3,10,11,12	
TOWNSHIP	43 North,	Range 27 West
SECTION	6,7,8,16,17,18,	19,20,21,
EXCEPTION OF	MILLE LACS INDIAN RESERVATION	

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

III. Geographic Features

- A. The area subject to incorporation is unincorporated. The proposed name for the new city is Port Mille Lacs.
- B. The total area of the territory subject to incorporation is approximately 23 square miles. There was insufficient testimony as to the number of acres platted and the number of acres unplatted.
- C. The natural terrain of the area, including general topography, major watersheds, soil conditions, rivers, lakes and major bluffs is: a great amount of swamp land of a wooded and non-wooded nature numerous lakes, and only scattered and discontinuous parcels of undulating uplands.

IV. Population Data

- A. The area subject to incorporation:
 - 1. The present estimated population is approximately 150.
- B. The Petitioners presented no evidence as to the population of Townships of Roosevelt, Kathio and Garrison.

V. Development Issues

- A. The pattern of physical development, including land already in use, in the process of being developed, and remaining for various uses.
 - a. In the area subject to incorporation there was no specific testimony as to the area in use, or area being developed and area remaining for various uses in the Townships of Roosevelt, Kathio and Garrison.
- B. Transportation:
 - 1. The present transportation network in the area subject to incorporation is: Privately owned roads, township, county, state and federal roads.
 - 2. Potential transportation issues include: the acceptance by the respective townships of the various private roads that are not up to township specifications.
- C. Land use controls and planning, including comprehensive plans, in the city and the area subject to incorporation: The petitioners presented no evidence as to the land use controls in the Townships of Roosevelt, Kathio and Garrison.
 - 1. In the County of Crow Wing and Mille Lacs:
 - a. Zoning: yes
 - b. Subdivision regulations: unknown
 - c. Comprehensive plan: unknown
 - d. Official Map: unknown
 - e. Capital improvements program: unknown
 - f. Fire Code: unknown
 - g. Building inspector: unknown
 - h. Planning Commission: unknown

VI. Governmental Services

- A. The Towns of Kathio, Roosevelt and Garrison provide the area subject to incorporation with the following services:
 - 1. Water: no
 - 2. Sewer: no
 - 3. Fire protection and rating: by Contract with the City of Garrison
 - 4. Street improvements: yes, to those roads accepted by the township
 - 5. Street maintenance: yes, to those roads accepted by the township

- B. The City of Garrison provides the area subject to incorporation with the following services:
 - 1. Fire protection and rating: by Contract with the respective townships
- C. A potential environmental problem should the area proposed for incorporation be incorporated is the resulting absence of shoreline zoning ordinances, until the new City council would inact them resulting in potential deterioration of the lake shore through uncontrolled dredging and development.

VII. Tax Base

- A. Evidence of the tax base in the Townships of Garrison, Kathio, and Roosevelt was not adduced.

VIII. Tax Data

- A. The Petitioners presented no evidence as to mill rates and bonded indebtedness in the Townships of Roosevelt, Kathio and Garrison nor in the area subject to incorporation.

IX. Incorporation of the City of Port Mille Lacs is not the best nor viable alternative for the area proposed for incorporation.

- A. The town governments are presently adequate to deliver services to the area proposed for incorporation.
- B. Necessary governmental services could not best be provided by incorporation or by annexation to an adjacent municipality.

X. Within the area proposed for incorporation:

- A. Population density varies substantially in that the majority of the residences are of a seasonal use nature with the permanent use homes scattered throughout the area.
- B. The relationship of suburban development to agricultural lands is that the majority of land is neither urban or suburban in nature.

CONCLUSIONS OF LAW

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

II. The petitioners failed to produce sufficient evidence to meet the statutory criterion for incorporation.

III. The area subject to incorporation is not now nor is about to become urban or suburban in character.

IV. Municipal government is not required to protect the public health, safety and welfare in the area subject to incorporation.

V. The best interest of the area subject to incorporation will not be furthered by incorporation.

VI. An order should be issued by the Minnesota Municipal Board denying the petition for incorporation of the area described herein.

O R D E R

I. IT IS HEREBY ORDERED: That the above-entitled Petition for incorporation of the property described in Finding of Fact I is denied.

II. IT IS FURTHER ORDERED: That the effective date of this order is July 10, 1980.

Dated this July 10, 1980

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101



Terrence A. Merritt
Executive Director

MEMORANDUM

The primary articulated motivating factor of the majority of petitioners seeking incorporation was their desire for better road maintenance. The Minnesota Municipal Board in denying the Petition for Incorporation does not wish to foreclose the Petitioners' attempts at improving their road conditions. The Petitioners' frustration was directed at the townships who refused to take over private roads that were not up to township specifications and at the original developer and the present development company whom the petitioners perceive as not having lived up to their representations and obligations.

At present the Minnesota Municipal Board has been advised that meetings have been held, subsequent to the hearing on the above-referenced matter, with county officials, township officers and affected property owners attempting to develop solutions to the property owners' concerns. The Minnesota Municipal Board urges that these meetings continue. Further, the Regional Development Commission for the area, presently under consideration before the Minnesota Municipal Board, has indicated a willingness to work with the affected area, also. The Minnesota Municipal Board applauds this interest and urges the petitioners, townships, and counties to fully avail themselves of this resource. Finally, extensive checking revealed no outstanding file on the developer within any of the contracted State of Minnesota agencies. The Minnesota Municipal Board apprises the petitioners and others similarly situated that the State of Minnesota Attorney General's office may be an appropriate avenue for them to pursue, depending upon the facts of the case.

The Minnesota Municipal Board is pleased that communication has begun with the various interested parties. This communication began at the conclusion of testimony at Garrison, Minnesota, on February 6, 1980 and it is the Minnesota Municipal Board's firm hope that it will continue at least until there has been an equitable resolution of the problems which generated the Petition for Incorporation.