

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

John W. Carey	Chair
Kenneth F. Sette	Commissioner
Shirley J. Mihelich	Vice Chair
Michelle Bogenrief	Ex-Officio Member
Wes Wittkowski	Ex-Officio Member

IN THE MATTER OF THE PETITION FOR THE)	<u>FINDINGS OF FACT</u>
INCORPORATION OF THE TOWN OF OTSEGO)	<u>CONCLUSIONS OF LAW</u>
PURSUANT TO MINNESOTA STATUTES 414)	<u>AND ORDER</u>

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended on August 15, 1990 in the Town Hall of the Town of Otsego, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were John W. Carey, Chair, Kenneth F. Sette, Vice Chair, and County Commissioners Wes Wittkowski and Michelle Bogenrief, Ex-Officio members of the Board. The Town of Otsego appeared by and through William Radzwill, Attorney at Law. There were no other appearances of record. 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 May 22, 1990 a copy of a petition for incorporation

by the Otsego Town Board was filed with the Minnesota Municipal Board. The petition contained all of the information required by statute, including a description of the territory for incorporation, which is as follows:

Sections 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36, Township 121, Range 24, Wright County, Minnesota.

Sections 7, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, the North Half of the Northeast Quarter, the North Half of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter and the West Half of the Southwest Quarter of Section 35, Government Lot 1, Government Lot 2, Government Lot 3, the Northwest Quarter of the Northwest Quarter, the East 20 acres of the South 60 rods of the Southeast Quarter of the Southeast Quarter and that part of said Southeast Quarter of the Southeast Quarter lying South of the Northerly line of Interstate Highway No. 94 of Section 36, Township 121, Range 23, Wright County, Minnesota.

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

3. The area subject to incorporation (hereinafter referred to as Otsego) is unincorporated, and approximately 19,023 acres in size including platted and unplatted lands. Otsego abuts the Cities of Elk River, Dayton, and Albertville and the Towns of Monticello, Big Lake, Hassen and Frankfort.

4. Otsego has soils of the Hayden-Dundas Peat Association, the Hayden-Lester-Peat Association, and the Esterville-Hubbard-Wadena Association.

The latter two types of soils are where the majority of development has occurred, and both types of soils have moderate to severe limitations for development through the use of on-site

septic systems.

5. Otsego is adjacent to the Mississippi River. Also located within Otsego are Rice Lake and an unnamed lake located at Odell and 67th Street, both are designated as protected by the Department of Natural Resources, hereinafter referred to as DNR.

6. The general topography of Otsego is characterized as fairly hilly in the southeastern and northwestern portions and fairly level throughout the rest of the town.

7. Otsego has a population of approximately 5,835 based on the Otsego Comprehensive Plan Inventory completed in February, 1990. The Minnesota State Demographer's Office presently estimates Otsego's population as 6,472. Otsego's population in 1970 was 1,526, in 1980 it was 4,769 and it is projected to be 6,310 by 1995, 6,780 by 2000 and 7,900 by 2010. The population grew by an estimated 1,066 people from 1980 to 1990 and approximately 4,755 from 1960 to 1990.

8. Otsego has the approximate amount of land in the following categories: 1,871 acres in residential use, 169 acres in institutional use, 49 acres in commercial use, no industrial use, 15,085 acres in agricultural use, 552 acres in vacant lands, 18 acres in railroad use, 780 acres in public rights-of-way, and 499 acres in lakes and rivers.

9. Otsego presently provides its residents with storm sewer, solid waste collection and disposal, street improvements and maintenance including snowplowing, administrative services, fire protection through a contract the City of Elk River and City of

Albertville Fire Departments, and police protection through a contract with the Wright County Sheriff's Office.

10. Otsego presently has no central sanitary sewer or water systems. Both services are provided by private individual systems. The River Bend Mobile Home Park near Highway 101 and River Road has a "consolidated" semi-public private sewer system; the treatment facility is maintained by the park owner, although Otsego has some joint responsibilities for the system's operation legally assigned by the Minnesota Pollution Control Agency.

Otsego has had its engineer commence a preliminary study of the sanitary sewage system needs of Otsego.

The City of Elk River has indicated a willingness to contract with Otsego over the next ten years for Elk River's excess capacity of 300,000 gallons of flow of sewage per day. Prior to the conclusion of the ten years it is anticipated that new studies will have been completed focusing on the most economical and efficient method of serving Otsego. Access to this capacity can be utilized by a sewer line extended either under the river or using the County 42 bridge located in the northeastern portion of Otsego, and immediately southwest of Elk River. The cost of a lift station and force main under the Mississippi River is estimated at \$100,000. It is anticipated that between 1,000 to 1,500 homes will be serviced by this capacity. There are no specific plans yet as to the distribution of this service.

11. Presently Wright County, hereinafter referred to as "the County," provides land use controls for Otsego.

The County has a zoning ordinance, subdivision regulations, capital improvements program and budget, fire code, shoreland ordinance, floodplain ordinance, wild and scenic rivers ordinance, and sanitation ordinance.

The County adopted a comprehensive land use plan in May, 1988.

The County planning and land use focuses on development in rural settings. While the land use plan is sufficient for rural settings, compliance with the plan in Otsego tends to create problems for an urbanized or urbanizing area.

Approximately 10 to 15% of the County's work in building permits and code enforcement occur in Otsego. Since Otsego is urbanizing and the County code reflects a rural perspective, approximately 60-70% of the code violations occur in Otsego.

12. Otsego has an official map and a capital improvements program and budget. The official map was adopted December, 1985 and the capital improvements program and budget were adopted in 1990.

Otsego contracts for the services of a planner.

Otsego now requires all plats in the town to include a split of each lot, so that the lot can be divided if sanitary sewer is available. Building is limited to one side of the lot. Many of the lots previously subdivided in the town are not able to be subdivided.

Zoning and Subdivision Ordinances and a comprehensive use

plan are prepared for Otsego, and are in the process of being adopted and implemented. Otsego has held a hearing for the adoption of the State Building Code.

Municipalities have the authority to charge developers user fees to offset the cost of evaluation of zoning or subdivision requests.

If Otsego is incorporated, it may receive approximately \$5,000 from DNR for the development of shoreland ordinances.

13. Otsego has experienced development pressures within the last ten to twenty years, changing the basic character of parts of Otsego from rural to urban and suburban.

The urbanization of portions of Otsego have created pressures on the undeveloped portion of the town, which presently should remain in agricultural production. The use of land controls suited for urban development is viewed as a method to protect the agricultural portion of Otsego while shaping and controlling the development of the urban or suburban portion of Otsego.

14. Otsego is served by Monticello School District 882 in the northwestern portion of the town, St Michael-Albertville School District 885 primarily in the southern central portion of the town, and Elk River School District 728 in the remainder of the town. District No. 728 serves the majority of Otsego and serves the vast majority of the urban and suburban portions of Otsego.

District No. 728 is considering constructing a middle school and/or an elementary school in the northeastern portion of Otsego. The location is based on the population increase and the

desire to locate buildings so that they can be accessed most efficiently by the school's population that is being served.

15. Otsego has several business establishments located primarily along County Road No. 39 and along State Highway No. 101. The number of such establishments has steadily increased in the past few years.

16. Otsego's population, assessed valuation, and residential and commercial construction is anticipated to continue to grow.

17. There are approximately 94.5 miles of interstate, county, and township roads in Otsego. Approximately one half of Otsego's roads are gravel and the remainder are sealed.

It is anticipated that State Highway Number 101 will be upgraded from a two-lane to a four-lane divided highway in 1994. Highway 101 is located in the eastern portion of Otsego. It provides access from Elk River into the Minneapolis/St. Paul metropolitan area.

18. Between 1984 and 1988 traffic counts on various streets throughout Otsego have generally increased. Some counts have increased by as much as over 5,500 cars per day. The traffic count increase corresponds generally to the population increase within Otsego. It is calculated that the increase in traffic volume is approximately 7.5% over that four-year period.

Interstate Highway 94 and Highway 101 are classified as primary arterials allowing for high speed access from Otsego to the metropolitan area.

19. The population of Otsego tends to be a bedroom community

with employment outside of Otsego for most residents, resulting in increasing transit needs.

20. The fire insurance rating for Otsego is 9.

21. There are presently no known pollution sources, but given the soil conditions and the development within particularly the northeastern portion of Otsego, it is anticipated that without central sanitary sewer, there will be negative environmental impacts. Surface water runoff has flooded areas, causing problems with the performance of the on-site septic systems.

22. The Cities of Elk River, Dayton and Albertville have indicated no opposition to the purposed incorporation and have indicated no willingness to annex portions of Otsego and service them with the necessary municipal services. The urbanized portions of Otsego are not adjacent to either Dayton or Albertville. The Town of Monticello is already an oversized township.

23. Otsego's assessed valuation for 1990 is approximately \$108,923,100. The assessed valuation for the platted and unplatted areas respectively is approximately \$48,596,100 and \$60,327,000, respectively.

24. The 1990 Tax Rate is as follows:

The County: 21.314

School District #728: 56.013

School District #882: 40.861

School District #885: 47.652

Otsego: 16.754

25. The total bonded indebtedness for Otsego is \$540,000.

Otsego presently has over \$1,300,000 in the bank.

26. The levy by Otsego is increasing, as is its assessed valuation.

27. Otsego has expressed an interest in creating an Urban/Rural Taxing District if Otsego is incorporated so that the taxes on the agricultural property are not burdensome, as municipal services are provided where needed.

28. Otsego is projected to receive an estimated \$250,000 to 300,000 in Minnesota State Highway Aids if incorporated.

Otsego presently allocates approximately 70% of its budget for road and bridge matters. The infusion of those Aids would not reduce that portion of the budget to \$0, but it would reduce some of Otsego's present budget costs.

29. If Otsego was incorporated, it would be able to keep the park dedication fees which average approximately \$13,000 a year. This money could be used for the acquisition or improvement of local parks. Presently, park dedication fees are used by the County for improvement of parks with a more county wide impact.

30. If Otsego is incorporated it will be eligible for Federal Highway funds in the area of approximately \$20,000 per year. The County aids would be reduced.

31. The name of the proposed City is Otsego.

32. The proposed city plan of government suitable for the area to be incorporated is Optional Plan "A" with a city council of five members, consisting of four councilpersons and the mayor. The mayor's term would be two years long.

33. Otsego's population is distributed enough throughout the town so that the most suitable method of electing all four councilpersons is an at-large vote of Otsego's residents. The Town Board favors this method of electing the councilpersons.

34. There is now and will continue a need for ever increasing governmental service in Otsego. The city form of government will be better able to protect the health, safety and welfare of the Otsego residents.

35. Otsego 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.

Division of Otsego into a smaller community and the attaching of portions of the town to other towns, may reduce the population level needed to qualify for Minnesota State Highway Aids.

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

CONCLUSIONS OF LAW

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

2. Incorporation is in the best interests of the Town of Otsego.

3. Municipal government is presently required to protect the

public health, safety, and welfare in Otsego.

4. The Town of Otsego has portions of it that are now urban or suburban or about to become so and there is no adjacent municipality capable of providing the necessary services to those portions of the town.

5. The best interests of the area will be furthered by incorporation.

6. The Minnesota Municipal Board should issue an order approving the incorporation, and ordering an election of new municipal officers.

O R D E R

1. IT IS HEREBY ORDERED: That the Town of Otsego, more particularly described in Findings of Fact 1 herein, be and the same hereby is incorporated into a city.

2. IT IS FURTHER ORDERED: That the city shall be named Otsego.

3. IT IS FURTHER ORDERED: That the plan of government for the new City of Otsego shall be Optional Plan "A". The city council shall have five members, consisting of four councilpersons and the mayor. The mayor's term shall be two years.

4. IT IS FURTHER ORDERED: That the City of Otsego shall elect all of its councilpersons and mayor at-large, and that there are no wards within the City of Otsego.

5. IT IS FURTHER ORDERED: That the ordinances of the Town of Otsego as well as the Land Use and Planning Controls of the County of Wright shall continue in effect within the former

boundaries of the Town of Otsego until repealed or replaced by the governing body of the new City of Otsego.

6. IT IS FURTHER ORDERED: That the population of the new City of Otsego is 6,472.

7. IT IS FURTHER ORDERED: That all license privileges be maintained as permitted by the Town including the number of liquor licenses already authorized by the State of Minnesota until repealed by the governing body of the new City of Otsego.

8. IT IS FURTHER ORDERED: That upon incorporation all money, claims or properties including real estate owned, held or possessed by the former town, and any proceeds or taxes levied by such town, collected and uncollected, shall become the property of the new City of Otsego with full power and authority to use and dispose of for such public purposes as the council deems best subject to claims of the creditors. This will include cash reserves/fund balances of the town and all public property and equipment held by the town.

9. IT IS FURTHER ORDERED: That the town's outstanding indebtedness, prior to incorporation, will be the financial obligation of property owners within that former tax district.

10. IT IS FURTHER ORDERED: That the first election of officers for the new City of Otsego shall be held on the 6th day of November, 1990. 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.

11. IT IS FURTHER ORDERED: That the hours of the election

shall be from 7:00 a.m. to 8:00 p.m.

12. IT IS FURTHER ORDERED: That the polling place and election judges for the election of officers shall be as follows:

Polling Place: The Town Hall of the Town of Otsego

Election Judges and Alternate Election Judges: Elaine Beatty, Sharon Berning, Joy Swenson, Judy Silverness, June Fenster, Arlene Lindenfelser, Kelly Bistodeau, Germaine Beaudry, Judy Roden, Marion Alexander, Olive Kolles, Judy Blesi, Jean Shanyo, Judy Vetch, Julie Berning, Catherine Sadowski, Kathy Lewis, Norm Freske, Karen Pouliot, JoAnn Martin, Judy Hudson, Judy Holstad, David Cecka, and Diane Pearson

13. IT IS FURTHER ORDERED: That the Acting Clerk for election purposes shall be Jerome Perrault.

14. IT IS FURTHER ORDERED: That 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 and not less than two weeks before the election.

The two persons receiving the two highest number of votes for councilperson, will be elected to terms ending January 1, 1995. The persons receiving the third and fourth highest number of votes for councilperson will be elected to terms ending January 1, 1993. The ballot shall be composed so that each voter shall be permitted to vote for four persons for councilpersons at-large and one person for mayor.

In all other respects, the election shall be conducted in conformity with the provisions of the Minnesota Statutes

concerning the conduct of municipal elections insofar as applicable.

15. IT IS FURTHER ORDERED: That the incorporation shall be effective on November 15, 1990.

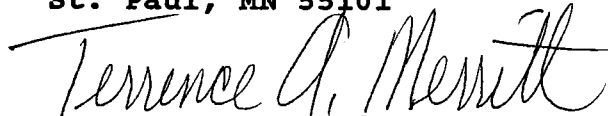
16. IT IS FURTHER ORDERED: That the first meeting of the City of Otsego Council shall be called by the mayor in accordance with the procedures set forth in Minnesota Statutes as soon as practicable.

17. IT IS FURTHER ORDERED: That the Minnesota Municipal Board retains jurisdiction for the purpose of determining the population of the newly incorporated municipality, if the present population determination is found to be incorrect and for the purpose of conducting a supplementary hearing to be held by the board to determine whether a special levy should be authorized to meet increased costs due to the incorporation.

18. IT IS FURTHER ORDERED: That the effective date of this order is September 21, 1990.

Dated this 21st day of September,
1990.

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


Terrence A. Merritt
Executive Director

M E M O R A N D U M

In approving the incorporation, the Board notes that the witnesses at the hearing affirmed and reaffirmed the petitioner's desire to create a Rural Service Taxing District for those portions of the new City of Otsego which remain in agricultural production. The Board is confident that those affirmations will be put into practice.

The Board is also confident that the new City of Otsego will not only develop a Land Use Plan which will address the issues that have created long-standing concern, but will also implement the plan so that the document is an integral part of the on-going development of the new City of Otsego.

TAM 9-21-90