

BEFORE THE MUNICIPAL BOARD  
OF THE STATE OF MINNESOTA

Robert J. Ferderer	Chair
John W. Carey	Vice Chair
Dorothy E. Kobs	Commissioner
James Kordiak	Ex-Officio Member
Dan Erhart	Ex-Officio Member

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

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The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended on July 14, 1993, in the Oak Grove Town Hall, Cedar, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Kenneth F. Sette, then Chair, Robert J. Ferderer, then Vice Chair, and John W. Carey, then Commissioner and County Commissioners James Kordiak and Dan Erhart, Ex-Officio Members of the Board. The Town of Oak Grove appeared by and through Timothy Keane, 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 28, 1993, a copy of a petition for incorporation by the Oak Grove 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 1 through 4, and; the south 1/2 of Section 5, and; the east 1/2 of the NE 1/4 of Section 5 and; the south 1/2 of Section 6 and; the NW 1/4 of Section 6 and; that part of the NE 1/4 of Section 6 lying north of the center line of County Road 24 and the west 1237.5' of the NW 1/4 of the NE 1/4 of Section 6 and; Sections 7 through 36, all within Township 33, Range 24, Anoka County, State of Minnesota.

Approximately 22,600 acres.

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 "Town," is unincorporated, and approximately 22,660 acres in size including approximately 2,113 homestead parcels and 641 non-homestead parcels. The Town abuts Burns Township to its West, the Cities of St. Francis to the North, East Bethel to its East, Ham Lake to its Southeast, Andover to its South and Ramsey to its Southwest.

4. The Town has generally sandy, glacial til soils with a flat to gently rolling terrain. A majority of the agricultural land in the area is Zimmerman sand. This is part of what is commonly referred to as the Anoka Sand Plain. The Town has approximately 609 acres of water.

The Rum River, Cedar Creek, Lake George, Swan Lake, Grass

Lake and approximately 4,759 acres of type 3-8 wetlands are located within the Town.

5. The Town had a population of approximately 1,674 in 1970, a population of approximately 3,926 in 1980, and has a current population of approximately 5,441.

6. The Town has approximately 5,529 acres in residential use, approximately 250 acres in institutional use, approximately 10 acres in commercial use, approximately 684 acres in agricultural use, and approximately 16,380 acres in vacant land.

In the past ten years, the Town has averaged approximately 56 new housing units per year.

It is anticipated that the density of any residential development that will occur in the remaining 16,380 acres of vacant land will average 64 units per 640 acres. There are presently approximately 120 to 130 vacant lots within the Town.

7. The Town presently provides its residents with storm sewer, fire protection, street improvements and maintenance, administrative services, and recreational facilities.

Presently sanitary sewer and water throughout the Town are provided by private systems. Along Lake George, there is a small community collector system that was created pursuant to Federal 201 money to correct an existing pollution problem.

Electrical service is provided by Anoka Electric.

The Town has developed a road maintenance program that provides for the grading of its roads approximately once per week. The recreational facilities include 33 parks, of which five are

ballfields. In addition, there are 250 acres of undeveloped open space for recreational use. The Town's zoning ordinance requires developers of new residential areas to donate ten percent of the land or pay a fee to be used for recreational purposes.

The Town is presently working to reduce its fire insurance rating.

8. The Town is the site of the Oak Grove Sanitary Landfill, which is an EPA superfund site. The landfill has been closed since 1984 and is presently the subject of a permanent closure under the direction of the EPA.

9. There is presently no known septic system pollution in the Town. Given the soil conditions and the development within the Town, it is anticipated that stringent sanitary septic system review and maintenance will be necessary to avoid negative environmental impacts.

10. The Cities of Andover, St. Francis and East Bethel have indicated no opposition to the proposed incorporation and have indicated no willingness to annex portions of the Town and service them with municipal services. None of the residents of the Town are seeking or have indicated any desire to seek annexation to an adjacent city for services.

11. The Town has a zoning ordinance, subdivision regulations, official map, capital improvements program & budget, fire code, shoreland ordinance and sanitation ordinance. The Town has hired a land use planner.

12. The Town adopted a comprehensive plan December, 1992,

pending final conditions of the Metropolitan Council. The primary focus of the Metropolitan Council's conditions were a systematic ongoing monitoring of on-site septic systems. The Town is working on development of ordinances to ensure private sanitary septic systems are properly monitored, pumped and maintained.

The comprehensive plan includes a number of triggering events that will require reinvestigation of the planning documents. Those triggering events center around the number of housing units that are created. When 400 housing units have been developed in the Town, the comprehensive planning group will be reconvened to restudy the need for changed service delivery.

13. The Town is served by St. Francis School District No. 15 and a small corner in the southern end is School District No. 11.

14. The Town's population, assessed valuation, and residential construction is anticipated to continue to grow.

15. There are approximately 116.3 miles of state, county and town roads in the Town. Approximately 25 miles of the 72 miles of Town roads are paved. In the 1980's, the Town developed a requirement that new developments must contain paved roads.

A county road running through swamps in the eastern portion of the Town, 221st Street, is a difficult dirt road to maintain. Sims Road is also difficult to maintain. Both of these roads are becoming major thoroughfares because the school district has chosen to build its elementary schools in the City of East Bethel, immediately east of the Town and accessible by these roads.

16. The population of the Town tends to be a bedroom

community with employment outside of the Town for most residents, resulting in increasing transit needs.

The Town is presently the twelfth most populous local governmental entity within the County of Anoka, hereinafter referred to as "County."

17. The Town's market value for 1993 is approximately \$163,792,600 with a tax capacity of \$2,170,215.

18. The 1993 tax rates are as follows: The Town's tax rate is 39.660; its tax rate for the County is 32.779; its tax rate for School District No. 11 is 63.717; its tax rate for School District No. 15 is 60.090; and its tax rate for the Special Taxing District is 1.032.

The Town's Fire Insurance rating is 9.

19. The total bonded indebtedness as of July 1, 1993 for the Town is \$1,295,751.

20. The tax rate of the Town is stable.

21. The Town is projected to receive an estimated \$193,000 in Minnesota State Highway Aids if it is incorporated. Presently, the Town receives approximately \$10,000 in highway money from the County for the past year.

22. The name of the proposed city is Oak Grove.

23. 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.

24. Oak Grove'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 Oak Grove's residents. The Town Board did not indicate a desire or need for a ward system method of electing the councilpersons.

25. There is now and will continue to be a need for increasing governmental services in Oak Grove. The city form of government will be better able to protect the health, safety and welfare of the Oak Grove residents.

26. Oak Grove can be best served as a 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 Oak Grove into a smaller community and the attaching of portions of the town to other towns or cities, may reduce the population level needed to qualify for Minnesota State Highway Aids.

27. The Town form of government in Oak Grove 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 Oak Grove.
3. Municipal government is presently required to protect the

public health, safety, and welfare in Oak Grove.

4. The Town of Oak Grove 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 Oak Grove, 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 Oak Grove.

3. IT IS FURTHER ORDERED: That the plan of government for the new City of Oak Grove 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 Oak Grove shall elect all of its councilpersons and mayor at-large, and that there are no wards within the City of Oak Grove.

5. IT IS FURTHER ORDERED: That the ordinances of the Town of Oak Grove, as well as the Land Use and Planning Controls and other ordinances of the County of Anoka, shall continue in effect



within the former boundaries of the Town of Oak Grove until repealed or replaced by the governing body of the new City of Oak Grove.

6. IT IS FURTHER ORDERED: That the population of the new City of Oak Grove is 5,441.

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 Oak Grove.

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 Oak Grove 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 Oak Grove shall be held on the 13th day of December, 1993. 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 Oak Grove Town Hall, 19900 Nightingale Street N.W., Cedar, MN 55011

Election Judges: Barb Jensen, Bernice Christiansen, Juanita Stewart, Peggy Wells, Sandra Christensen and Sandy Hanson

Alternate Election Judges: Sue Bearl and Bill Cameron.

13. IT IS FURTHER ORDERED: That the Acting Clerk for election purposes shall be Janice M. Olsen.

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, 1997, but the councilperson will serve until that councilperson's successor qualifies. The persons receiving the third and fourth highest number of votes for councilperson will be elected to terms ending January 1, 1995, but the councilperson will serve until that councilperson's successor qualifies. 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.

The mayor's term ends January 1, 1995, but the mayor will serve until the successor mayor qualifies.

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 December 20, 1993.

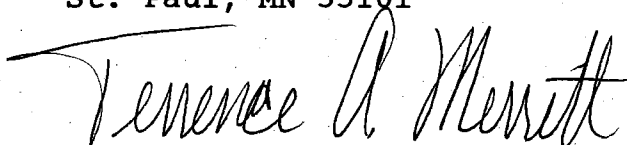
16. IT IS FURTHER ORDERED: That the first meeting of the City of Oak Grove Council shall be called by the mayor in accordance with the procedures set forth in Minnesota Statutes as soon as practicable.

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 October 25, 1993 .

Dated this 25th day of October, 1993.

MINNESOTA MUNICIPAL BOARD  
475 McColl 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 the concerns raised by the Metropolitan Council in its submitted memorandum and echoed in the testimony of witnesses concerning the need for appropriate plans and ordinances to avoid the unplanned premature extension of Metropolitan Sanitary Sewer into the area. To avoid such extension, the City, the Town prior to incorporation, will need to adopt an ordinance requiring solids removal from all systems not less than once every four years or more frequently and an ordinance specifying all on-site systems are to inspected at least biennially by an inspector licensed by the Town/City or County and certified by the MPCA to promote uniformity and a higher degree of environmental protection. The environmental protection of the new City of Oak Grove will be facilitated by the new elected officials.

The probable use of joint agreements among other communities by the City of Oak Grove, will assist in preventing needless duplication of new services, and the most effective use of existing services for the benefit of the citizens of the greater community.

By scheduling elections to fall on even years, the Board assists the Town in achieving its desire for more participation in the elective process. *JAM 10-25-93*